

# Beyond the Horizon

Local Perspectives on Peace, Justice and Accountability in Southeast Myanmar



**Karen Human Rights Group**  
Documenting the voices of villagers in rural Burma

# **Beyond the Horizon:**

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Southeast Myanmar**

Karen Human Rights Group  
September 2019

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For front and back cover photo captions, please refer to the final page of this report.

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## Contents

<b>Introduction.....</b>	<b>2</b>
Executive Summary.....	2
Recommendations.....	5
Methodology .....	11
Political Context.....	14
Terms and Abbreviations .....	18
<b>Chapter 1: Human rights abuses during the pre-ceasefire period: an enduring legacy .....</b>	<b>19</b>
A) Overview .....	20
B) Displacement .....	32
C) Impacts of human rights violations.....	36
Photos: Human rights abuses during the pre-ceasefire period: an enduring legacy .....	42
<b>Chapter 2: The situation in Southeast Myanmar since the signing of the Nationwide Ceasefire Agreement.....</b>	<b>46</b>
A) Life after the Nationwide Ceasefire Agreement .....	48
B) Local perspectives on the peace process.....	68
Photos: The situation in Southeast Myanmar since the signing of the Nationwide Ceasefire Agreement.....	72
<b>Chapter 3: The issue of justice in Southeast Myanmar.....</b>	<b>75</b>
A) Lack of accountability for pre-ceasefire human rights abuses .....	76
B) Perspectives on the current administration of justice in Southeast Myanmar .....	86
<b>Conclusion.....</b>	<b>94</b>
<b>Photos: Front and back cover.....</b>	<b>95</b>

# Introduction

## Executive Summary

Inhabitants of Myanmar's ethnic minority regions continue to struggle with the enduring effects of past human rights violations and abuses, both those suffered in the midst of war and those experienced as a result of militarisation and economic depredation. Efforts to address these abuses and their effects are hampered by on-going armed conflict, the existence of parallel justice systems, lack of political will, and by the fact that civil war and human rights abuses continue throughout the country, in both traditional and different forms. Despite significant improvements since the signing of the 2012 Preliminary Ceasefire Agreement between the Karen National Union (KNU) and the Myanmar government, the population of Southeast Myanmar continues to face a broad range of human rights violations. Reduction in armed conflict has paved the way for new and increased forms of abuse such as land confiscation, exacerbating existing forms of vulnerability and worsening conditions for some villagers. Conflict-affected communities also struggle with the effects of decades of armed conflict, ethnic discrimination and deeply ingrained societal trauma.

In 2015, the signing of the Nationwide Ceasefire Agreement (NCA) created some possibilities for positive change. As the peace process is now at a deadlock, it remains unclear to what extent it will be able to address the historical legacy of human rights abuse and emerging patterns of abuse in Southeast Myanmar. Indeed, the consequences of past abuses continue to impact the daily lives of local people, often combining with new forms of abuses to compound people's economic marginalisation. It is therefore paramount to guarantee that victims of human rights violations have access to both justice and reparation. Whether or not these concerns are being effectively addressed can only be determined by the civilians affected.

This report presents their perspectives on changing patterns of abuse, set against historical trends in Southeast Myanmar, as well as on access to justice and remedies for past and present human rights violations. In order to understand some of these changes, KHRG focused on asking villagers about their lives in the context of the 2015 NCA. However, it should be understood that many of the changes in terms of military behaviour and human rights abuses actually date back to the 2012 Preliminary Ceasefire Agreement. The report refers to both agreements throughout, in part as a reflection of the fact that many villagers see the two as part of one on-going process.

Chapter 1 looks at historical patterns of human rights abuses and violations in Southeast Myanmar during the pre-ceasefire period. It gives a review of the abuses that civilians faced mostly before 2012, with a focus on the phenomenon of displacement and the more enduring effects of human rights abuses. This history and its enduring legacy are crucial for understanding civilian perspectives in Southeast Myanmar, the challenges facing the peace process and the desire for justice among victims.

Section A highlights how the Tatmadaw carried out systematic attacks against Karen villages and subjected civilians in conflict-affected areas to a wide range of human rights violations. These included killings, torture and other inhumane or degrading treatment, the use of widespread sexual violence against women as a weapon of war, and destruction of property. The Tatmadaw also consistently used civilians as an unpaid labour force, including for military purposes, often subjecting victims to violence, threats and life-threatening conditions. It also engaged in looting and extortion, as well as in land confiscation along with other Myanmar government agencies.

Section B analyses the causes and consequences of conflict-related displacement. It shows that Karen and other communities routinely had to abandon their villages to flee from fighting between armed actors. In some instances, the Tatmadaw deliberately targeted villages or forced civilians to relocate with threats. Some people also left because they were afraid of being subjected to human rights abuses, while others had to abandon their village following land confiscations. Relatives of Karen National Liberation Army (KNLA) soldiers were usually targeted by the Tatmadaw, and therefore particularly vulnerable to displacement. Displaced populations had to leave behind their plantations, and therefore faced livelihood difficulties and food shortages, including in IDP or refugee camps. They were also affected by a wide range of health issues, mostly because of poor living conditions and lack of access to healthcare services.

Section C looks at the short- and long-term impacts of human rights abuses and conflict on livelihoods, health and education. As the majority of rural communities in Southeast Myanmar have long relied on subsistence farming or day wage labour, the loss or temporary absence of the main breadwinner as a result of human rights abuses had dire and sometimes long lasting livelihood consequences for families. Similarly, the loss of lands or livestock, either through confiscation or deliberate destruction, threatened the economic survival of many while heavy restrictions on freedom of movement by the Tatmadaw prevented villagers from carrying out their daily work or accessing healthcare. Several survivors of human rights violations interviewed by KHRG are still struggling with long-term physical health issues, including post-traumatic stress disorders. Fighting, attacks against villages, livelihood difficulties and displacement also affected access to education for Karen youth, leading many children to drop out of school. Some families whose main breadwinner died before 2012 are still unable to support the education of their children.

Chapter 2 examines villagers' current engagement with the peace process, how they feel that the ceasefire has affected their lives, and what they anticipate for the future. This chapter assesses whether past abuses have lessened and presents data on the new threats villagers confront.

Section A analyses the current situation in Southeast Myanmar and concludes that it has improved over the course of the peace process. Although some challenges remain, freedom of movement has increased, allowing some civilians to resume their livelihood activities. However, some communities still face hardship due to displacement and lack of lands or job opportunities. Interviewees from some areas reported to KHRG that they now feel safer than before, even though skirmishes between armed actors still occur in a context of increasing militarisation, sometimes resulting in displacement. Access to health and education has also improved in the region, but many challenges remain in that regard. KHRG has also documented the persistence of traditional forms of abuses, such as killings, sexual and gender-based violence, child rights violations, physical abuse, religious discrimination, forced labour and extortion; as well as emerging trends, such as an increase in land confiscation and a complete disregard for the rights of rural Karen populations over natural resources.

Section B looks at the perspectives of local communities on the current peace process. It appears that a significant number of the villagers interviewed by KHRG lack basic knowledge about the NCA and the peace process. Many expressed their desire to learn more and even to engage with decision-makers, to raise their suggestions and help achieve sustainable peace. However, a number of factors contribute to a lack of trust in the peace process and to the feeling that it will not bring about sustainable peace. These include ceasefire violations, on-going militarisation and clashes between the KNLA and the Tatmadaw in several areas of Southeast Myanmar, as well as the confiscation and use of customary land by the Myanmar military. Some civilians also expressed concern that the Tatmadaw is using the peace process to consolidate its power in

the region, and that fighting may resume in the future. Others voiced that sustainable peace is undermined by the slow pace of political reforms in Myanmar to create a democratic, federal governance structure; while some feel unsafe with the Tatmadaw proposal to move towards a single army model.

Chapter 3 considers issues of formal justice. First, it analyses the challenges around seeking justice for human rights abuses that occurred mostly before the peace process; and second, experiences engaging with the various justice systems in Southeast Myanmar after the signing of the NCA. The underlying question this chapter seeks to answer is whether the legal/judiciary infrastructure in Southeast Myanmar can now deal with human rights abuses that took place during the peace process.

Section A establishes, based on interviews conducted by KHRG, that the vast majority of abuses perpetrated before the ceasefire were met with impunity. Villagers identified several barriers to justice, including a fear of armed actors that prevented them from reporting human rights violations; the lack of judicial independence and due process of the Myanmar government justice system; a general lack of rule of law during the period of military dictatorship; and the absence of civilian jurisdiction over abuses committed by the Tatmadaw. Interviewees also suggested a wide range of solutions to deal with past human rights violations. These include prosecuting perpetrators under formal justice mechanisms or removing them from their positions of authority. Non-punitive approaches were also put forward, such as acknowledgement, apologies and guarantees of non-repetition. Several villagers also voiced their desire to recover their confiscated lands and to receive fair compensation for the abuses they suffered. Others stated that they would like to benefit from financial, material or psychological support programmes.

Section B looks at local villagers' perspectives on the current administration of justice in Southeast Myanmar, and concludes that none of the three local justice systems are equipped to deal with post-ceasefire human rights violations in a satisfactory way. The customary justice system is inconsistent, unable to deal with larger cases and to enforce judgements, and corruption at the village head level remains a problem. The Myanmar government justice system does not have jurisdiction over the Tatmadaw, is perceived as biased against ethnic minorities, lacks transparency, takes too much time to process cases and is plagued by bribery and corruption. In addition, it is too expensive for rural communities in Southeast Myanmar, who also often lack the Burmese language skills to engage in proceedings. It appears that the Karen community has a strong preference for the KNU justice system. However, it often fails to take action on villagers' complaints, applies legislation inconsistently and lacks both resources and qualified staff. It is also perceived as too lenient, and corruption and bribery undermine its credibility.

Each chapter contains key findings at the start of the chapter. The recommendations of villagers and of KHRG follow the Executive Summary. The report can be found online and in .pdf form, in English and Burmese, on KHRG's website.

The Appendix Section<sup>1</sup> includes all unpublished interviews that have been referenced in this thematic report. This is to ensure that the information presented in this report is verifiable and transparent.

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<sup>1</sup> The full Appendix is available in PDF form for download at [www.khrg.org](http://www.khrg.org)

## Recommendations

The following recommendations are derived from the interviewees' perspectives on peace, justice and accountability. KHRG has designed its recommendations in a way that voices their needs and ideas first and foremost. This section is also informed by KHRG field research, informal interviews with key informants, and input from KHRG field and advocacy staff.

Pursuant to the geographical context covered in this report, these recommendations pertain to, at the minimum, Southeast Myanmar.

### i. To the Tatmadaw and BGF

#### *Human rights and fundamental freedoms*

- Respect, protect and fulfil the fundamental human rights of civilians as listed in international human rights and international humanitarian law treaties to which Myanmar is a State Party.
- Respect the freedom of movement of civilians, including by refraining from imposing travel restrictions such as checkpoints and curfews, and ensure that civilians can travel safely.

#### *Peace, safety and security*

- Cease establishment of new military bases, supply of ammunition and weaponry, and reinforcement of troops in ceasefire areas unless agreed to by both parties, in compliance with Section 5(c) of the NCA.
- Halt all military activities, including target practice, taking place in or in the vicinity of villages and residential areas.
- Avoid movement of armed troops in areas controlled by the opposing forces pursuant to Section 8(b) of the NCA, and avoid armed confrontations with or use of force on other EAOs.
- Avoid road construction and improvement, and construction of other infrastructure, in EAO-controlled or mixed-control areas without prior consent from impacted civilians and relevant EAOs.
- Cease on-going violations of Section 9 of the NCA concerning the protection of civilians – including targeting civilians, other extrajudicial killings, land confiscations, forced labour, extortion and looting, and sexual and gender-based violence – and respect all other obligations under the aforementioned Section.
- Remove troops and military infrastructure from all civilian populated areas.

#### *Land confiscations*

- Cease on-going confiscations of civilians' lands and return all confiscated lands to their rightful owners, along with compensation for damage caused to these lands, in line with the Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons. Where lands have been used for military purposes, clearance of dangerous items and structures should be carried out prior to handing back the land.



*Justice and accountability*

- Refrain from retaliating against civilians who report human rights violations and abuses, and punish officials who have done so.
- Acknowledge past human rights violations and abuses, and guarantee non-repetition thereof.
- Cede jurisdiction over human rights violations committed by the Tatmadaw and BGF to civilian courts, and fully cooperate to ensure that these civilian courts have access to any resources necessary to prosecute perpetrators.

**ii. To the Tatmadaw and EAOs**

*Armed conflict, violence and the peace process*

- Comply with international humanitarian and human rights law in the conduct of hostilities, including protecting all civilians affected by situations of violence.
- Enforce a comprehensive ban on the use of landmines and undertake de-mining activities pursuant to Sections 5(a) and (e) of the NCA; ensure that all landmine-contaminated areas are clearly marked; and ensure that all civilians are informed of their existence.
- Avoid confrontations in areas where there is direct contact between troops, by acting immediately using radio, ground or other methods of communication pursuant to Section 7(a) of the NCA. Instead of responding with violence to violations of the NCA, signatories should, in coordination with each other, take appropriate measures to prevent armed clashes from happening and submit reports of breaches to the Joint Monitoring Committees.
- Allow humanitarian aid providers, media and human rights monitoring regimes full and unfettered humanitarian access to people in need in areas affected by conflict and other situations of violence.
- Hold inclusive and participatory dialogue on all relevant issues in the peace process with all relevant stakeholders; ensure participation of ethnic minorities and integrate a gender perspective in these dialogues.
- Establish dedicated mechanisms to take disciplinary action against the individuals responsible for violating the NCA.

**iii. To the Myanmar Government:**

*International human rights and humanitarian law treaties*

- Comply with international obligations for treaties to which Myanmar is a State Party, namely the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Covenant on Economic, Social and Cultural Rights (ICESCR), and Convention on the Rights of the Child (CRC), and Common Article 3 to the Geneva Conventions.
- Ratify all the core international human rights instruments, notably the International Covenant on Civil and Political Rights (ICCPR), Convention against Torture (CAT), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OPAC).
- Ratify the Convention on Cluster Munitions and Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.
- Ratify the Additional Protocol (II) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts.

*Land use and ownership*

- Abolish the Vacant, Fallow and Virgin Land Management Law (VFV); avoid confiscating civilians' land; and refrain from charging civilians with trespassing under the VFV.
- Immediately cease all coercive measures used to appropriate land.
- Halt all large-scale natural resource extraction, agriculture investment, and infrastructure projects in ethnic areas until all stakeholders have provided free, prior and informed consent.
- Carry out the research, pilot studies and consultation required by the 2016 National Land Use Policy and then, enact a comprehensive National Land Law that fully recognises and protects customary land tenure and traditional cultivation practices in line with the 2016 National Land Use Policy; ensure that provisions on the protection of land rights for IDPs are included.
- Ensure there is an effective and accessible mechanism to provide restitution where possible for people affected by such land confiscations. Where restitution is not possible, this mechanism should provide proper compensation.

*Policy and governance*

- Cultivate and build trust in local communities to build sustainable relationships.
- Provide genuine opportunities for rural communities to meaningfully engage with the government and participate in decision-making processes.
- Remove the Tatmadaw and its influence from all branches within the Myanmar government and fully transition to civilian rule.
- Address threats to the rule of law, including political and military influence on the judiciary and law enforcement agencies, corruption and bribery, and lack of transparency of the judiciary, and take concrete steps to strengthen it.

*Health*

- Improve access to basic healthcare infrastructures and services, including services for maternal, child and reproductive health, especially in rural communities and scarcely populated villages, towns and cities.
- Ensure that all healthcare services, goods, and facilities are available, accessible, acceptable and of good quality for all without discrimination, in conformity with its obligations under article 12 of the ICESCR.
- Ensure that existing healthcare facilities in ethnic areas are sufficiently staffed, have adequate essential medical supplies and medicines, and operate with reliable and consistent working hours.
- Ensure that doctors and other healthcare professionals are qualified and sufficiently and properly trained.
- Cooperate with ethnic healthcare systems, share all information necessary to ensure effective coverage of patients, and recognise the credentials of ethnic health workers in hiring processes.

*Education*

- Take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse in schools, in conformity with Myanmar's obligations under article 19 of the Convention on the Rights of the Child.

- Ensure that all education services, materials, and facilities are available, accessible, acceptable and of good quality for all without discrimination, in conformity with its obligations under article 13 of the ICESCR.
- Consult with local communities, ethnic group education departments and community-based education providers to ensure that Karen language and history are taught in Myanmar government schools and that sufficient time is allocated for this in the curriculum. Hire enough ethnic teachers in order to do this effectively, and make sure that they receive pay and benefits commensurate with their Burmese counterparts.
- Ensure that all displaced children can access primary and secondary education regardless of their economic situation.
- Cooperate with ethnic education systems and recognise the credentials of ethnic teachers in hiring processes.

#### *Justice and accountability*

- Take all measures necessary to ensure accountability and end impunity for all human rights violations and abuses that pre- and post-date the NCA.
- Establish independent and impartial mechanisms to investigate, in a transparent, fair, and timely manner, allegations of all violations and abuses of international human rights law and violations of international humanitarian law (pre- and post-NCA).
- Secure close cooperation with existing and future local, national, regional or international criminal authorities, courts, tribunals, organisations and/or investigative mechanisms on issues related to alleged human rights violations and crimes committed against civilians in Southeast Myanmar.
- Repeal article 445 of the 2008 Constitution of the Republic of the Union of Myanmar, which codifies impunity for members of the State Law and Order Restoration Council, the State Peace and Development Council and the Government potentially responsible for gross human rights violations.
- Permanently remove all persons responsible for gross human rights violations and crimes from all positions of authority and prohibit their future participation in political life.
- Establish psychosocial support programmes for victims of (gross) human rights violations.
- Fulfil the right to effective remedy for victims of (gross) human rights violations, through both judicial and/or non-judicial means, including through compensation, restitution, and reparation. This should be in line with the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

#### **iv. To the Myanmar government and KNU/KNLA**

##### *Humanitarian aid*

- Allow humanitarian aid providers, media and human rights monitoring regimes full and unfettered humanitarian access to people in need in areas affected by conflict and other situations of violence, and coordinate with each other in doing so.

##### *Education*

- Ensure that teachers cease infliction of corporal punishment on children in schools; respect children's right to protection from corporal punishment and other cruel or degrading forms of punishment, in conformity with Myanmar's obligations under the Convention on the Rights of the Child. Train teachers adequately in non-violent disciplinary mechanisms.

- Provide free primary education and work towards providing free secondary and higher education.
- Ensure access to education, without discrimination, for all children in Southeast Myanmar by making more middle and high schools available in rural areas and scarcely populated villages, towns and cities.
- Ensure that all schools in Southeast Myanmar are equipped with sufficient financial and other resources and trained teachers who are fairly and equally remunerated.

#### *Livelihoods*

- Address livelihood concerns of civilians affected by, inter alia, land confiscations, destruction of property, landmines, displacement, and human rights violations and abuses through e.g. education opportunities, community development programmes and food security programmes.

### **v. To the KNU/KNLA**

#### *Policy and governance*

- Conduct legal awareness workshops for civilians and local administrators to increase their awareness on KNU laws.
- Establish and promote an accessible and transparent complaint mechanism to address local communities' grievances in a timely manner.
- Address challenges related to the rule of law – including bribery and corruption, weak administration of justice by the KNU judiciary and law enforcement bodies, and the lack of legal professionals within the justice system – and take concrete steps to strengthen it.
- Hold meaningful and inclusive consultations with Karen CBOs and civilians in decision and policy-making processes; ensure their opinions are taken into account.

#### *Armed conflict and other situations of violence*

- Comply with all duties and responsibilities stipulated in the Geneva Call's Deed of Commitment for the Prohibition of Sexual Violence in Situations of Armed Conflict and towards the Elimination of Gender Discrimination and the Deed of Commitment for the Protection of Children from the Effects of Armed Conflict.

#### *Justice and accountability*

- Take all measures necessary to ensure accountability and end impunity for all human rights violations and abuses that pre- and post-date the NCA.
- Secure close cooperation with existing and future local, national, regional or international criminal authorities, courts, tribunals, organisations and/or investigative mechanisms on issues related to alleged human rights violations and crimes committed against civilians in Southeast Myanmar.

### **vi. To business enterprises and investors**

- Respect human rights of civilians in Southeast Myanmar in accordance with the United Nations Guiding Principles on Business and Human Rights.

- Before implementing any economic or infrastructure project, consult with and receive approval from local communities in accordance with the principles of free, prior and informed consent. This includes:
  - holding timely consultations to ensure that the concerns of the local community are taken into account prior, during and following project implementation.
  - providing relevant information on the nature, size, reversibility and scope of the project, tailored to the local linguistic and cultural contexts.
  - guaranteeing consent and transparency throughout the consultation process by documenting issues raised by the local population.
  - facilitating the participation of groups traditionally excluded from decision-making processes, including women and minorities.
  - meaningfully engaging in negotiations by taking steps to formalise and follow-through with commitments made to local community members.
  - ensuring that no manipulation or coercion occurs during the implementation of the project.
- Before acquiring or leasing land for their operations, conduct assessments to understand the customary land practices, and recognise the rights of both formal and customary landowners in the area; do not rely on assurances from Myanmar government that no displacement or land confiscations occurred.
- Immediately cease all coercive measures used to appropriate land and ensure proper compensation for those affected, regardless of their possession of a land title. In particular, refrain from taking advantage of the lack of recognition of customary land tenure in Myanmar's legal framework by subjecting customary landowners to judicial harassment to take over their lands.
- Carry out a thorough environmental and social impact assessment analysis before implementing any economic or infrastructure project, and make the results available to communities in local languages; take measures to provide fair compensation to local communities that are affected by the negative environmental impacts of on-going activities.
- Refrain from collaborating with companies associated with members of the Myanmar security forces; refrain from colluding with members of the Myanmar government, security forces or other armed actors in implementing economic or infrastructure projects.
- Train private security personnel in carrying out their duties without violating the rights of local communities; take measures to provide fair compensation to individuals who were subjected to human rights abuses by private security personnel and to hold perpetrators to account.

## Methodology

### Field research

KHRG trains and supports local people throughout Southeast Myanmar to document the human rights issues that affect their communities. KHRG's recruitment policy does not discriminate based on gender, ethnic, religious background or political affiliation. We train anyone who has local knowledge and is motivated to improve the human rights situation in his or her community. KHRG researchers conduct interviews with local people to gain a better understanding of the issues that affect them.

### Verification

KHRG researchers follow a verification policy that includes gathering data from multiple sources, assessing the credibility of sources, and comparing the information with their own understanding of local trends. Due to the vast quantity of data collected by KHRG, KHRG uses an information processing procedure to assess each individual piece of information prior to translation in order to ensure the quality and accuracy of the information. Recognising that everyone has competing viewpoints and interests, KHRG filters all information received with an awareness of reporting biases.

### Analysis for this report

Between November 2018 and April 2019, KHRG researchers conducted interviews with 150 people in Kayin and Mon states, as well as Tanintharyi and Bago regions. These interviews were held with a diverse group of people to ensure that their perspectives were representative of different segments of the population. KHRG then selected 95 interviews that contained particularly relevant and strong information for the purpose of this report.

Of these, 59 were men and 36 were women. The majority were Buddhist and Christian, though there were several animists (4) and one Muslim. Similarly, although most were Karen, there were also Shan (1), Bamar (5), and mixed Karen-Bamar (1).

KHRG researchers conducted the interviews in S'gaw Karen and Burmese languages. All participants were informed of the purpose of the interviews and consented to be featured in this report.

This report is partially based on an initial analysis of KHRG's documentation for the period between October 2015 and April 2019. To complement the information provided by the interviewees, KHRG also used other sources where appropriate.

### Sources and referencing

The information in this report comes directly from the testimonies of villagers collected during the reporting period, and from documentation analysed and collected by KHRG researchers. In order to make this information transparent and verifiable, all interviews have been footnoted to 82 source documents, which are available in Appendix: Raw Data.

## **Specialist feedback**

Informal interviews were conducted with four members of Karen civil society during the analysis phase of this report. These included representatives from the Karen Women's Organization (KWO), the Committee for Internally Displaced Karen People (CIDKP), the Karen Information Center (KIC), and the Karen Civil Society Network (KCSN). These interviews are referenced where relevant in the report. A draft of this report was also reviewed by a number of local and international experts. KHRG is grateful for the feedback that all stakeholders generously offered throughout this process.

## **Research areas and geographical terminology**

KHRG operates in seven areas in Southeast Myanmar: Thaton, Toungoo, Nyaunglebin, Mergui-Tavoy, Hpapun, Dooplaya and Hpa-an. When KHRG receives information from the field, it organises data according to these seven areas. These are commonly referred to as 'districts' and are used by the KNU, as well as many local Karen organisations, both those affiliated and unaffiliated with the KNU. KHRG's use of the district designations in reference to our research areas represents no political affiliation; rather, it is rooted in the fact that many rural communities commonly use these designations. However, in order to standardise place names, even though the KNU administrative system is used, Township and District names are in Burmese language.

Additionally, KHRG uses the term 'Myanmar' in its analysis. The country was officially named Burma until the military regime changed the name to Myanmar in 1989.

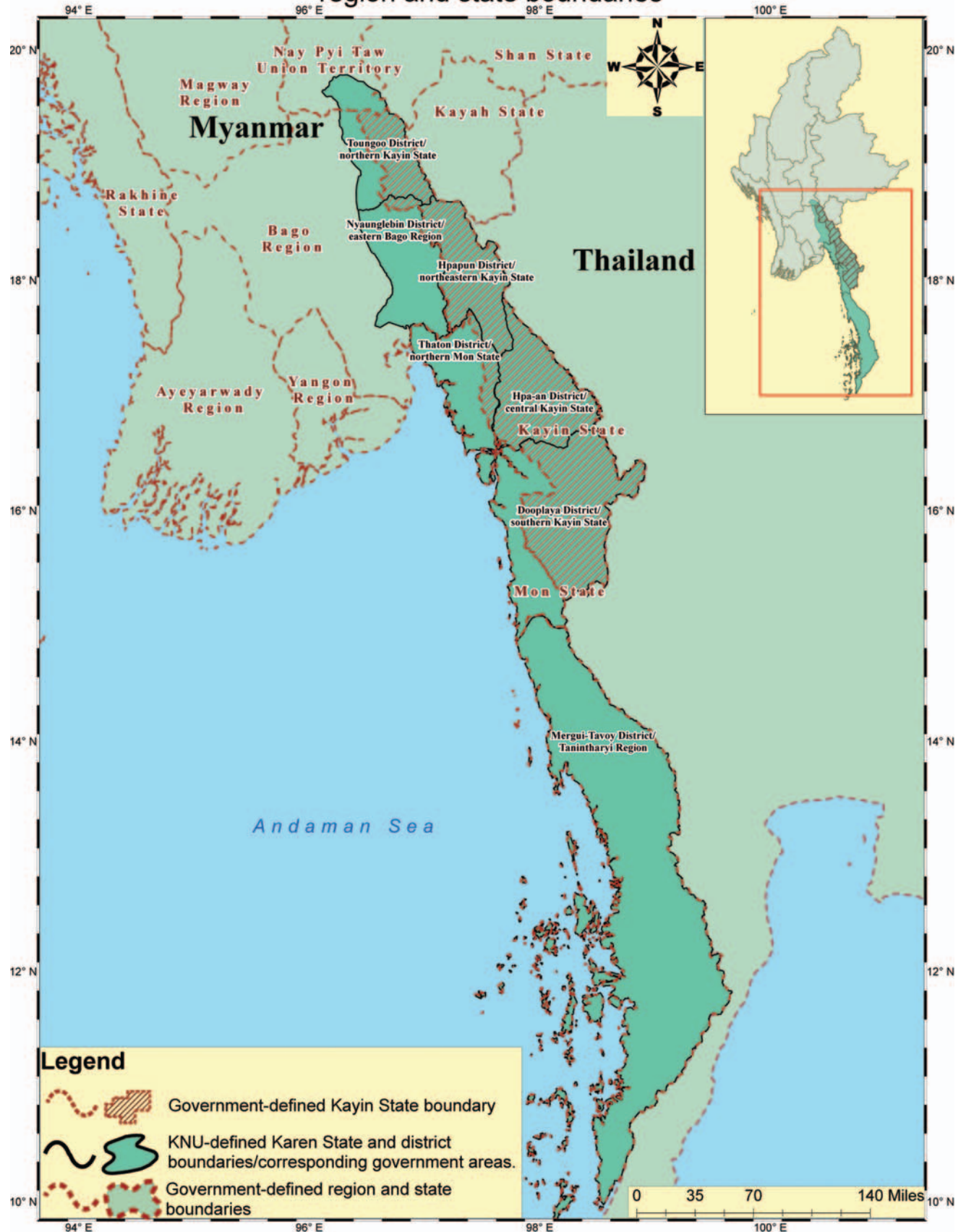
## **Censoring of names, locations, and other details**

Where quotes or references include identifying information that KHRG has reason to believe could put villagers or KHRG researchers in danger, particularly the names of individuals or villages, this information has been censored. Village and personal names have been censored using single or double-digit letters beginning from A--- to Z---. The censored code names do not correspond to actual names in local languages or to coding used by KHRG in previous reports. The censored names in the body of this report also do not necessarily correspond to the censored names in the Appendix: Raw Data. All names and locations censored according to this system are actual names and locations on file with KHRG.

## **Independence and obstacles to research**

KHRG is independent and unaffiliated. Access to certain geographical areas has sometimes been facilitated by the KNLA, particularly in cases where documentation activities required crossing vehicle roads near Tatmadaw army camps or in areas that were likely to be mined. Other groups were not willing to facilitate research by KHRG. During our reporting period, a number of armed groups, including the Tatmadaw, BGF and DKBA were obstacles to the safety of our researchers.

### KNU-defined Karen State and Myanmar government-defined region and state boundaries



Karen Human Rights Group (KHRG)



## Political Context

KHRG's 2017 report *Foundation of Fear*<sup>2</sup> explored villagers' voices about what had changed in their lives over the previous 25 years and what they felt was needed for the future. It looked at themes of security, peace, and justice — areas in which villagers had experienced improvements but felt, at best, cautious optimism for the future. Testimonies included in that report were recorded, in many cases, in the wake of the 2012 signing of a preliminary ceasefire between the KNU and Myanmar government (the first of its kind signed by the KNU); the 2015 signing of the NCA by the Myanmar Military and eight Ethnic Armed Organisations (EAOs) (now ten), including the KNU/KNLA, KNU/KNLA-Peace Council (KNU/KNLA-PC) and DKBA (Democratic Karen Benevolent Army); and the transfer of power from the military's Union Solidarity and Development Party to the civilian-led National League for Democracy (NLD) in March 2016, following the November 2015 general elections.

The following table shows the armed groups operating in KHRG's research area and their status regarding the NCA:

<b>Gov't/Tatmadaw</b>	Signed 15 Oct 2015	The Tatmadaw is the Myanmar military, which held exclusive control of the government until 2011. Despite the transition to civilian rule, it still controls the ministries of Defence, Border and Home Affairs, as well as 25% of the Parliament.
<b>BGFs</b>	Bound by Tatmadaw	The Border Guard Force battalions of the Tatmadaw were established in 2010. They are mostly composed of former soldiers from ethnic armed groups that have agreed to join the military.
<b>KNU/KNLA</b>	Signed 15 Oct 2015	The KNLA is the military wing of the KNU, and is by far the largest EAO in Southeast Myanmar. It has been fighting for autonomy since Myanmar's independence.
<b>KNU/KNLA-PC</b>	Signed 15 Oct 2015	The KNU/KNLA-PC is a breakaway faction of the KNLA, formed in 2007 when its leader agreed to a cessation of hostilities with the Tatmadaw.
<b>DKBA (Benevolent)</b>	Signed 15 Oct 2015	In 1994, the Democratic Karen Buddhist Army (DKBA) split from the KNLA over religious considerations. In 2010, the majority of DKBA troops transformed into BGFs, but one faction refused and changed its name to Democratic Karen Benevolent Army in 2012.
<b>NMSP/MNLA</b>	Signed 13 Feb 2018	The Mon National Liberation Army (MNLA) is the military wing of the New Mon State Party (NMSP), and is the main Mon EAO operating in Mon State. It has existed in some form since 1958.
<b>DKBA (Splinter)</b>	Not a signatory	The DKBA (splinter) was formed in 2015, when its members broke from the main DKBA. It has not signed the NCA.

<sup>2</sup> KHRG, "Foundation of Fear: 25 years of villagers' voices from southeast Myanmar", October 2017.

The Tatmadaw has troops stationed in all townships in Southeast Myanmar, although there are pockets where these troops cannot go. Likewise, the KNLA has troops throughout KNU-defined Karen State, but there are some areas that these troops are unable to access. The MNSP/MNLA has troops on the border between government-defined Mon and Kayin states, but is headquartered in Ye Township. The DKBA (Benevolent) operates in Sone Si Myaing, Kawkareik Township, Doolaya District. The DKBA Splinter group operates in the area around the Hatgyi dam and access roads in Hpa-an and Hpapun Districts. The BGFs are based mainly around the Myaing Gyi Ngu area, Hlaingbwe Township, Thaton District; Shwe Ko Ko area, Nabu Township, Hpa-an District; Bu Tho and Dwe Lo townships, Hpapun (Mutraw) District; and Kyaikdon area, Kawkareik Township, Doolaya District. The KNLA-PC mainly operates in Htoh Hkaw Koh village, Nabu Township, Hpa-an District.<sup>3</sup>

The NCA proposes a roadmap for the peace process, features a Code of Conduct for all armed actors to follow, and calls for a Joint Monitoring Committee. The Committee has nationwide, state and local bodies,<sup>4</sup> and it is supposed to monitor violations of the NCA and address grievances about the process as well.<sup>5</sup> Unfortunately, the positive changes promised by the NCA have not yet materialised. Instead, human rights abuses and the issues underlying the conflict have continued, with negative consequences for the inhabitants of Southeast Myanmar. This report explores villagers' thoughts and concerns about the future as they fit into the context of this post-NCA period.

In part, the lack of positive improvements can be attributed to the fact that there has not been significant progress in the peace process. The KNU, seen by many as the de facto leader of the EAOs at the table with the Tatmadaw, has demanded a federal, democratic system of government and has walked away from negotiations multiple times in the face of perceived bad faith on the other side.<sup>6</sup> Negotiations have suffered because of a weak monitoring process, a lack of accountability, violations of the NCA or its Code of Conduct, and failure to engage in constructive dialogue that respects the roadmap(s) set out by those involved.

The 2012 Preliminary Ceasefire Agreement and the rotation of Tatmadaw troops to conflict zones in other parts of the country, notably in Shan, Kachin and Rakhine states, reduced the levels of violence and human rights abuse experienced by Karen communities. However, there continues to be violence.<sup>7</sup>

One driver of fighting in Southeast Myanmar has been the Asia Highway,<sup>8</sup> which is being built westward from Myawaddy, on the Thai-Myanmar border. The Asia Highway is a proposed overland shipping route financed by the Asian Development Bank (ADB). In July of 2015, fighting began on the stretch being built from Myawaddy to Kawkareik, first between the DKBA (actually the part of the DKBA that would become the DKBA Splinter shortly thereafter) and the Tatmadaw, and then the BGF also became involved, fighting alongside Tatmadaw troops. According to local civilians, this fighting resulted in the displacement of over 1,000 villagers and had devastating

<sup>3</sup> Myanmar Peace Monitor, "Armed Ethnic Groups- EAOs Current Status 2016: Armed Groups Profile", April 2019.

<sup>4</sup> Section 12(b), The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, October 2015.

<sup>5</sup> Section 3, The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, October 2015.

<sup>6</sup> "Amid concerns, KNU to continue non-participation in peace process", *Myanmar Times*, 12 November 2018.

<sup>7</sup> KHRG, "Truce or Transition? Trends in human rights abuse and local response in Southeast Myanmar since the 2012 ceasefire", May 2014.

<sup>8</sup> KHRG, "Beautiful Word, Ugly Action: The Asian Highway in Karen State", August 2016.

effects on those living in the area: a middle-aged woman was injured by grenade shrapnel in Kawkareik Township; two villagers were killed by the fighting in Hlaingbwe Township; a school damaged by a grenade fired by an M79 grenade launcher in Kawkareik Town; and villagers as far as around Kyaikdon Town reported feeling frightened because of the nearby fighting.<sup>9</sup>

Another tense area is the proposed Hatgyi dam site and its surroundings, which have been traditionally controlled by Karen armed actors.<sup>10</sup> The Myanmar government has been blamed for increasing political and military tensions in the region, based in part on its efforts to control this area.<sup>11</sup> In 2013, two BGF battalions operating under the control of the Tatmadaw were tasked with securing the areas around the proposed construction site. Local communities reported that the Myanmar government ordered the BGF to ensure that no KNLA soldiers were based near the site.<sup>12</sup> General Baw Kyaw Heh, second-in-command of the KNLA, stated in 2015 following fighting in the area between the Tatmadaw and KNLA: *“It is clear that the Hatgyi dam and similar projects are obstructing the peace process in Burma”*, while speaking at Ei Tu Hta camp, home to 4,000 IDPs from earlier fighting in Hpapun District.<sup>13</sup>

Skirmishes continue in Southeast Myanmar, between the Tatmadaw and the KNLA,<sup>14</sup> between the KNLA and MNLA,<sup>15</sup> and involving other, smaller armed factions such as the DKBA and BGFs.<sup>16</sup> The Tatmadaw continues to extend its activities, threatening the peace process and villagers’ safety, while causing widespread fear. For example, it has engaged in extensive road-building in Brigades 2, 3, and 5 in order to more easily move troops and resources around and through these areas.<sup>17</sup> Since early 2018, Hpapun District has become the target of coordinated, multi-battalion Tatmadaw operations that have led to the forced displacement of over 2,500 people.<sup>18</sup>

Multiple actors, including foreign and domestic companies, engage in land confiscation and development activities with negative effects on villagers, often abetted by military actors who provide security and intimidation. This is fuelled by a culture of impunity for powerful actors, and made easier by legislation such as the Vacant, Fallow, and Virgin Lands Management (VFM)

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<sup>9</sup> KHRG, “Fighting between Tatmadaw and DKBA soldiers along the Asian Highway displaces villagers in Dooplaya District, July 2015”, September 2015.

<sup>10</sup> For more information about the proposed Hatgyi dam and the environmental concerns it raises, please see, KHRG, “Dreaming of Home, Hoping for Peace: Protracted Displacement in Southeast Myanmar”, May 2019; and KHRG, “Development or Destruction? The human rights impacts of hydropower development on villagers in Southeast Myanmar”, July 2018.

<sup>11</sup> Hein Ko Soe, “Activists damn Salween plans”, *Frontier Myanmar*, 20 October 2016.

<sup>12</sup> KHRG, “Hpapun Field Report: January to December 2013”, March 2016.

<sup>13</sup> “Salween dam projects jeopardise fragile ceasefire accords”, *Bangkok Post*, 12 May 2015.

<sup>14</sup> KHRG, “Attacks on villagers, ongoing fighting and displacement in Hpapun and Toungoo districts from January to April 2018”, May 2018.

<sup>15</sup> KHRG, “A month after the New Mon State Party joins the NCA: Skirmishes occur between the MNLA and the KNLA in Win Yay Township, Dooplaya District”, September 2018.

<sup>16</sup> KHRG, “Recent fighting between newly-reformed DKBA and joint forces of BGF and Tatmadaw soldiers led more than six thousand Karen villagers to flee in Hpa-an District, September 2016”, December 2016.

<sup>17</sup> KHRG, “Toungoo Situation Update: Tatmadaw military activities continue in Htantabin and Thandaunggyi townships”, January 2019; KHRG, “Nyaunglebin District: Tatmadaw road construction activities lead to confrontations with the KNLA, displacement and property damage in Kyaukkyi Township”, April 2019; KHRG, “Hpapun Situation Update: Tatmadaw road construction activities result in skirmishes with the KNLA and displacement in Lu Thaw Township”, January 2019.

<sup>18</sup> SaferWorld, “Security, justice and governance in south east Myanmar; Justice provision in south east Myanmar”, January 2019.

Law.<sup>19</sup> In some cases, these projects create private spheres of influence, with negative social consequences to complement the typical environmental and livelihood-related ones.

There have been improvements in access to social services during the ceasefire period, including in education, health, and benefits of improved local administration. These have meaningful positive effects on villagers, who often struggle to access resources, and should not be understated. However, these increased services have also been perceived by many Karen villagers as means of Burmanisation. For example, there are more schools in mixed-control areas now, but the curriculum they teach often does not include Karen language or Karen cultural education.<sup>20</sup> In addition to slowly eroding diversity and local culture, this trend is also indicative of a lack of democratic decision-making.

With this grounding in the facts of the present at the regional and national levels, the following chapter rewinds back to the abuses that took place during the pre-ceasefire period, and proceeds chronologically from there, through the testimonies of the villagers of Southeast Myanmar.

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<sup>19</sup> KHRG, “Do Not Trespass Land Confiscation by Armed Actors in Southeast Myanmar”, May 2019; and KHRG, “The Day After: Contemplating the Impact of the Vacant, Fallow, and Virgin Law Amendments”, March 2019.

<sup>20</sup> Kim Jolliffe, “Ceasefires, Governance and Development: The Karen National Union in Times of Change”, *The Asia Foundation*, December 2016, 44-64.

## Terms and Abbreviations

BGF	Border Guard Force
CBO	Community Based Organisation
CSO	Civil Society Organisation
DKBA	Democratic Karen Benevolent Army
DKBA (splinter)	Democratic Karen Buddhist Army (splinter)
EAOs	Ethnic Armed Organizations
FPIC	Free, Prior and Informed Consent
IDP	Internally Displaced Person
KHRG	Karen Human Rights Group
KNLA	Karen National Liberation Army
KNU	Karen National Union
KNU/KNLA-PC	KNU/KNLA-Peace Council
KWO	Karen Women's Organization
MNLA	Mon National Liberation Army
NCA	Nationwide Ceasefire Agreement
NLD	National League for Democracy
VFV	Vacant, Fallow and Virgin Land Management Law

## Chapter 1: Human rights abuses during the pre-ceasefire period: an enduring legacy

### Key findings

1. As part of its “four cuts” counter-insurgency strategy, the Tatmadaw carried out widespread and systematic attacks against Karen communities, subjecting villagers in conflict-affected areas to a wide range of human rights abuses. These included killings, torture and other inhumane or degrading treatment, the use of widespread sexual violence against women as a weapon of war, and destruction of property – and sometimes of entire villages.
2. The Tatmadaw consistently used Karen villagers as an unpaid labour force, including for military purposes, often subjecting victims to violence, threats and life-threatening conditions. They also engaged in looting and extortion, as well as in land confiscation along with other Myanmar government agencies and departments.
3. During the pre-ceasefire period, Karen and other communities routinely had to flee from the fighting, and the Tatmadaw forced civilians to relocate with threats on several occasions. Some people also left due to fear of being subjected to human rights abuses, while others had to abandon their village following land confiscations.
4. Displaced populations had to leave behind their plantations and means of subsistence, and therefore faced livelihood difficulties and food shortages. They were also affected by a wide range of health issues, mostly because of poor living conditions and lack of access to healthcare services.
5. Human rights abuses had long-lasting consequences for the victims and their relatives. The loss or temporary absence of the main breadwinner had dire livelihood consequences for families, and the loss of lands or livestock threatened the economic survival of many. Additionally, heavy restrictions on freedom of movement by the Tatmadaw prevented villagers from carrying out their daily work.
6. Several survivors of human rights abuses are still struggling with long-term physical health issues, including post-traumatic stress disorders. Some interviewees reported that this still prevents them from working for their livelihood to their full potential.
7. Fighting, attacks against villages, livelihood difficulties and displacement affected access to education for Karen youth, leading many children to drop out of school.

## A) Overview

During the pre-ceasefire period, armed actors operated regularly in civilian areas, putting local people in danger of being caught in the crossfire. A female respondent from Kyainseikgyi Township, Dooplaya District explained how her house was targeted by the Tatmadaw in an attempt to kill KNLA soldiers: *“Once, the Tatmadaw [knew] that [KNLA] soldiers had entered the village and were at my house, so they fired their guns [at my house]. [...] I had to drag my children out of the house. The bullets hit my house’s stilts and got stuck there. I almost couldn’t save my children.”*<sup>21</sup> A male respondent from the same township confirmed that the Tatmadaw did not hesitate to fire low-precision explosive weapons at civilian areas if they suspected the presence of KNLA soldiers: *“In the past, you had to be afraid of every group. If the KNU came into the village, you had to be afraid that the Tatmadaw would come and fire mortar shells.”*<sup>22</sup> Karen civilians were also directly targeted by the Tatmadaw as part of their counter-insurgency operations.

The “four cuts” (*“pyat lay pyat”*)<sup>23</sup> is a strategy developed by the Tatmadaw in the 1960s to suppress support from ethnic communities for EAOs by cutting off the four main links between them: food, funds, intelligence and recruits. As part of this strategy, entire townships across Southeast Myanmar were labelled as “black areas”, where anyone encountered would be considered a member of a Karen armed group and shot on sight. Civilians in other areas were subjected to heavy travel restrictions, as a male respondent from Mone Township, Nyaunglebin District confirmed: *“The Tatmadaw prohibited us from traveling outside of the delimited area, and ordered us to obtain permission letters [to travel]. We could be arbitrarily arrested or killed if we did not respect their rules. [...] Many villagers were killed while they went to fish or to find vegetables in the forest outside of the delimited area.”*<sup>24</sup>

Though the “four cuts” campaigns were aimed at reducing support for insurgent groups, the Tatmadaw targeted all Karen civilians in its operation areas, subjecting them to a wide range of human rights abuses. These included torture, forced labour, arbitrary arrest and imprisonment, extrajudicial executions, the destruction of food, medical supplies and homes, and the forced relocation of civilian populations to areas under the control of the Tatmadaw. The overwhelming majority of the villagers interviewed by KHRG experienced or witnessed human rights abuses committed by the Myanmar military during the pre-ceasefire period.

### Killings

As part of the “four cuts” strategy, the Tatmadaw carried out systematic attacks on Karen villages in black areas, often killing local civilians without any prior evaluation of whether they posed a threat. A male respondent from Kyaukkyi Township, Nyaunglebin District whose village was attacked and destroyed by the Tatmadaw shared his experience with KHRG: *“In 1997, the Tatmadaw came to our village and burnt down all the houses. They shot local people on sight. It was a terrible experience. [...] When the Tatmadaw left, we had to collect the dead bodies of our neighbours and bury them. [...] Some people were arrested by the Tatmadaw and they never returned. They were killed in the forest.”*<sup>25</sup> A male respondent from Ler Muh Lah Township, Mergui-Tavoy District reported a similar incident: *“Back in 1996 and 1997, we suffered a lot. At that time, when Tatmadaw soldiers came into our village, they tortured and killed villagers. Elderly people were killed mercilessly. I witnessed the killing of an elderly man and another man*

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<sup>21</sup> See Source #1.

<sup>22</sup> See Source #2.

<sup>23</sup> KHRG, “COMMENTARY”, July 1997.

<sup>24</sup> See Source #3.

<sup>25</sup> See Source #4.

from A--- village by the Tatmadaw [...]. The elderly man was very old, and he could not even walk.”<sup>26</sup>

Along with a wide range of other travel restrictions, the Tatmadaw also enforced a strict shoot on sight policy across some areas of Southeast Myanmar, and gunned down any civilian caught travelling there. A male respondent from Kyaukkyi Township, Nyaunglebin District explained to KHRG how Tatmadaw soldiers opened fire on a mother and her two children next to his village: “One woman and her two children were shot while traveling to another village to visit her father-in-law. [...] The woman was shot in her thigh and rib, so it took her a long time to recover, but she is still alive today. [...] Her children were shot in the head so they died right away. She left her dead children behind and kept running. When she reached the village, she could not even walk. We had to carry her and take care of her.”<sup>27</sup> A woman from his village was killed under similar circumstances, as he explained: “[She] was also shot when she came back from her plantation. The Tatmadaw shot her on her way back home, and she died right away. Her two children were still very small at that time.”<sup>28</sup>

In some instances, the Tatmadaw also arbitrarily arrested civilians and subjected them to torture before killing them. A male respondent from Bu Tho Township, Hpapun District reported that around 30 years ago two of his relatives were beaten and killed by Tatmadaw soldiers while they were working on their rice plantation: “[Tatmadaw soldiers] arrested my niece and one of my cousins in a paddy field. After that, they punched and beat them. We were afraid to go and help them at the time. Finally, the Tatmadaw killed them and buried them [together] in a hole. My cousin’s wife faced difficulty raising her children alone after the death of her husband.”<sup>29</sup>

The Myanmar military would kill suspected KNLA soldiers on sight, as a female interviewee from Kyaukkyi Township, Nyaunglebin District said: “Killings, conflict and human rights violations happened because the Tatmadaw did not want the [KNLA] to exist. If they knew that you were a Karen soldier, they would kill you immediately.”<sup>30</sup> A male respondent from Dwe Lo Township, Hpapun District explained that the mere suspicion of belonging to the KNLA could get civilians killed: “[The Tatmadaw] arrested our children and said that they would keep them for only two or three days, but my sons never returned. It has been 13 years already. I never heard about my children after that. We lost four people in total [...]. My sons were arrested by Tatmadaw Battalion #9, under the authority of Battalion Commander Myo Aung. [...] People told me that they murdered them at Battalion #9’s camp, but we did not witness the incident. [...] They arrested these four villagers because the Tatmadaw accused them of being KNLA soldiers.”<sup>31</sup>

The Tatmadaw also killed civilians who hosted or provided any kind of support to KNLA soldiers, to deter others from doing so. A female respondent from Thandaunggyi Township, Toungoo District explained that, in September 1994, Tatmadaw soldiers arrested a civilian and the KNLA soldier they found in his hut and killed both of them: “It happened in B--- village. A villager who was staying at his hut during the harvest period was visited by a KNU corporal. [...] [He] was arrested along with the KNU soldier. [...] The Tatmadaw took both of them from B--- village to K--- in the evening. They spent the night there. In the morning, they had to dig their own graves one mile away from K---. Then, the Tatmadaw soldiers killed them mercilessly.”<sup>32</sup>

<sup>26</sup> See Source #5.

<sup>27</sup> See Source #6.

<sup>28</sup> See Source #6.

<sup>29</sup> See Source #7.

<sup>30</sup> See Source #8.

<sup>31</sup> See Source #9.

<sup>32</sup> See Source #12.



## Torture and other inhumane or degrading treatment

Physical abuse was widespread during the pre-ceasefire period, and Tatmadaw soldiers routinely tortured civilians in conflict-affected areas of Southeast Myanmar. A male respondent from Htantabin Township, Toungoo District recalled how he had witnessed a man get severely beaten after talking back to Tatmadaw soldiers: *“He was beaten so hard, and tied up with rope. He got beaten hard with a pestle. He fell and writhed [in agony] on the ground. His nose, ears and mouth were bleeding. [...] Then, he lost consciousness and the Tatmadaw soldiers walked over him and kicked his chest and head with their jungle boots.”*<sup>33</sup> Civilians felt obligated to please Tatmadaw soldiers, who were likely to physically abuse them at the slightest irritation, as a woman from Thandaunggyi Township, Toungoo District confirmed: *“The villagers would get beaten by the Tatmadaw whenever the Tatmadaw soldiers asked them where KNU soldiers were. Most of the villagers there were uneducated so they did not have the [Burmese] language skills to answer the Tatmadaw soldiers’ questions. [...] It happened in 1997, 1998. Villagers and even the village administrator could not protect them.”*<sup>34</sup>

Karen civilians were also tortured in retaliation for KNLA attacks against Tatmadaw soldiers. A male respondent from Mone Township, Nyaunglebin District reported to KHRG that, in the late 1990s, everyone in his village was physically abused after a skirmish between the KNLA and the Tatmadaw: *“When we were in J--- village, fighting broke out and Tatmadaw soldiers got injured. When they came back, they tortured us by calling everyone they saw and making them stay in the hot sun. They ordered men to lie down on the road and they stepped on them. I think it was around 1998 or 1999. It happened like this: a Tatmadaw military trainer was shot dead and his gun was taken by the KNLA. The rest of the soldiers from that group were angry, so they came and tortured us.”*<sup>35</sup>

Several civilians reported that persons suspected or accused of being affiliated with the KNU, and relatives of KNLA soldiers were arrested and tortured during the pre-ceasefire period, for purposes of both retaliation and interrogation. A female interviewee from Tanintharyi Township, Mergui-Tavoy District explained to KHRG how her grandmother was badly tortured in 2000 because the Tatmadaw wanted to find her uncle, who was a KNLA soldier at the time: *“One day, [the Tatmadaw] came into my house and arrested my grandmother [and mother] [...]. The soldiers took them for questioning, but my mother was soon released. [...] They detained my grandmother and tortured her. They asked when my uncle would come back and where he was hiding. They tortured her and cut her neck before releasing her. Fortunately, she did not die. I remember a lot because I was already eight at the time. The soldiers [then] came back into our house and shot her with a gun, punched her and kicked her. I was with my grandmother when it happened. When I saw the soldier torturing her, I held his leg tightly to [try to] make him stop. Then, he kicked me off him and I fell off the house onto some water containers. I did not break my arms or legs, but my tooth. It was the worst experience I ever faced.”*<sup>36</sup>

A male respondent from Mone Township, Nyaunglebin District similarly reported that the Tatmadaw had tortured his parents because some of his relatives were working for the KNU: *“When the Tatmadaw heard about that, they arrested my parents and tortured them. [...] My father said he was laid down on the road and all the soldiers from the [military] column stepped on him. He almost died. [...] My mother also got beaten, [to the point that] her teeth fell out.”*<sup>37</sup>

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<sup>33</sup> See Source #11.

<sup>34</sup> See Source #12.

<sup>35</sup> See Source #13.

<sup>36</sup> See Source #14.

<sup>37</sup> See Source #15.

He also explained that two of his friends, who were village heads at the time, were arrested and subjected to electric shock torture by the Tatmadaw to coerce them into disclosing his own location.<sup>38</sup>

A female respondent from Kyaukkyi Township, Nyaunglebin District explained that the Tatmadaw did not let anyone contact or send food to KNLA soldiers, and that several people who communicated with their relatives enlisted in the KNLA were tortured. People from her village were also physically abused because the community hosted KNLA soldiers in their houses when they came to collect taxes. She told KHRG about her community's fear, during that period, of becoming collateral damage from the conflict: *"We were so afraid of [the Tatmadaw] because we lived between the two groups. We were innocent victims at that time. When two buffaloes fight, the grass gets damaged."*<sup>39</sup> A female interviewee from Bilin Township, Thaton District spoke about her brother who, in 1980, was kept in a hole for a month with a friend on suspicion of bringing food to the KNLA: *"He had to stay under the ground until he was almost dead. When he got out, he had jaundice."*<sup>40</sup> Another female respondent from Mone Township, Nyaunglebin District reported that her husband was tortured harshly because he communicated with the KNU: *"My husband was [...] arrested by the Tatmadaw. Then, Tatmadaw soldiers beat him severely. After that, he got sick and was taken to the hospital. It happened on December 14<sup>th</sup>, 1993. He was arrested and beaten by [Infantry] Battalion #351."*<sup>41</sup>

Several respondents reported that Tatmadaw soldiers used to torture village heads, especially for failing to follow the Tatmadaw's instructions. A female interviewee from Kyonedoe Township, Dooplaya District told KHRG: *"Men were afraid to be village heads because the Tatmadaw tortured them frequently. [...] It was very dangerous to be a village head at that time because we lived between two armed groups. We had to be very careful."*<sup>42</sup> She explained that because of this, women often had to replace men as village heads: *"In most places, women took the risk to be village heads, as men were afraid. Men were tortured severely. They were tied and hit by Tatmadaw soldiers. [...] Women had more courage to confront the Tatmadaw because they were unlikely to be tortured as severely as men."*<sup>43</sup>

Though this perception generally held true, the Tatmadaw did beat some female village heads severely during the pre-ceasefire period. A female respondent from Bilin Township, Thaton District reported how her mother, who was serving as a village head, was arrested and tortured after failing to report that the KNLA had opened fire in the area: *"The Tatmadaw came into the village and arrested my mother. At that time, my mother was old, over 60 years old. They took her with them, with her hands tied behind her back, to the army camp in C--- village. Tatmadaw soldiers tortured her, punched her and put her in a pillory. I did not witness how brutally she was tortured, but afterwards her body was covered in bruises [...]"*<sup>44</sup>

### **Coerced confessions and conditions of imprisonment**

Several respondents reported that, during the pre-ceasefire period, the Tatmadaw routinely imprisoned Karen village authorities, religious figures, and civilians who had or were suspected of having connections with insurgent armed groups. Detainees were typically tortured during

<sup>38</sup> See Source #15.

<sup>39</sup> See Source #8.

<sup>40</sup> See Source #16.

<sup>41</sup> See Source #17.

<sup>42</sup> See Source #21.

<sup>43</sup> See Source #21.

<sup>44</sup> See Source #18.

the pre-trial detention phase, mainly to extract confessions. A former village head from Kyaukkyi Township, Nyaunglebin District who was accused of having a connection with the KNLA and imprisoned from 2005 to 2012, told KHRG that he was subject to a wide range of torture methods by the Tatmadaw for interrogation purposes, including beatings, electric shocks, and deprivation of water.<sup>45</sup>

A female respondent from Mone Township, Nyaunglebin District shared a similar experience. Her husband was arrested in August 2007 and sentenced to 40 years in prison because he was in contact with the KNU as a village head. She recalled how he was beaten on a daily basis during his interrogation: *“My husband was tortured and beaten with a bamboo stick every night. Blood would come out of his mouth whenever the Tatmadaw hit him.”*<sup>46</sup>

The Tatmadaw abused some civilians in custody so seriously that they died from it. A male respondent from Kyauk T’Ga Township, Nyaunglebin District who served an eight-year sentence at Toungoo prison after hosting a person accused of having and planting landmines, told KHRG: *“Three other villagers from the Toungoo area were also tortured and imprisoned with us. Unfortunately, they died in prison because of the torture.”*<sup>47</sup>

After the interrogation phase, detainees were usually brought to court and formally sentenced to prison after unfair trials. Several respondents reported that they faced dire and sometimes life-threatening incarceration conditions, such as this former village head from Kyaukkyi Township, Nyaunglebin District: *“Living in jail was like living in hell. The food that we give to our dogs and pigs is better than the food we got in jail. [...] I could not drink clean water, I could not breathe fresh air, I could only eat stale food. My health condition was really poor.”*<sup>48</sup>

The female respondent from Mone Township, Nyaunglebin District connected the deficiencies of her husband’s prison diet to the subsequent deterioration of his health: *“I was not able to go [visit him] for five years. I went there again after a while and saw they ate very bad, smelly food. It smelled like goat. I think that eating like that all the time caused him gastric problems.”*<sup>49</sup> She also explained that the prison would usually not provide healthcare services to inmates: *“He said whenever someone felt sick [...], they would only be given paracetamol, so he asked me to buy medicine for him. I bought it and told him to look after himself.”*<sup>50</sup> Despite her efforts, her husband ultimately died in prison because of the lack of medical care and access to what would have been life-saving surgery: *“People said he died because of gastric problems, but when the doctor autopsied his dead body, he found that [his appendix] had burst.”*<sup>51</sup>

## **Sexual violence against women**

The Tatmadaw employed widespread sexual violence against civilian women as a weapon of war in Southeast Myanmar.<sup>52</sup> The systematic nature of these attacks was attested to by a male respondent from Ler Muh Lah Township, Mergui-Tavoy District: *“At the time of the conflict, the Tatmadaw soldiers raped women whenever they came into our village.”*<sup>53</sup> Women’s experiences

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<sup>45</sup> See Source #19.

<sup>46</sup> See Source #20.

<sup>47</sup> See Source #22.

<sup>48</sup> See Source #19.

<sup>49</sup> See Source #20.

<sup>50</sup> See Source #20.

<sup>51</sup> See Source #20.

<sup>52</sup> KHRG, “Foundation of Fear: 25 years of villagers’ voices from southeast Myanmar”, October 2017.

<sup>53</sup> See Source #4.

with sexual violence, their constant exposure to it and their fear of it, especially during the pre-ceasefire period, have been significant and pervasive, and widely documented by KHRG.<sup>54</sup>

Several interviewees reported to KHRG that they had witnessed cases of sexual violence by the Tatmadaw during the pre-ceasefire period. A female interviewee from Tanintharyi Township, Mergui-Tavoy District shared such an experience with KHRG: *“In D--- village, one day, some Tatmadaw soldiers attempted to rape my grandmother Naw E---’s daughter when she was coming from the betel nut plantations. She rescued her daughter by telling her to run away and she took the risk [of being raped by the Tatmadaw herself instead]. Then, the Tatmadaw soldiers brutally raped her and threw her into a well. I do not remember the month exactly but I guess it was in January 2000 because it was during the cold season.”*<sup>55</sup> Another man from the same township recounted a similar incident: *“I have witnessed it personally. [...] It [rape] happened throughout the years of 2001 and 2002. In F---, a mother and her daughter were raped by Tatmadaw Battalion #101 soldiers.”*<sup>56</sup>

Tatmadaw soldiers inflicted sexual violence on women as retaliation for cooperating with the KNLA. A female respondent from Kyaukkyi Township, Nyaunglebin District recalled: *“In the past, we had to give food to KNLA soldiers who came back from the war. When the Tatmadaw heard about it, they came to arrest us. At that time, they arrested a married couple, raped the woman in front of her husband along the P’Reh Loh [Sittaung] River and then killed them. After that, they kicked their bodies into the river.”*<sup>57</sup>

Women in the Tatmadaw’s custody, notably victims of forced portering, were at a particularly high risk of subjection to sexual violence, as this survivor of conflict-related sexual violence from Thaton District described to KHRG in a 1992 interview: *“All night long the soldiers would come and drag women away to be raped. They took turns and women were often raped by several soldiers in one night. I was raped frequently like the others. While I was being raped or trying to sleep I could hear the screams of other women all around. This went on all night, and then in the morning they’d make us carry our loads over mountains again. I felt especially sorry for Naw Ae---, who was being raped very badly every night and was much too small to carry her load.”*<sup>58</sup>

### Forced labour

Several respondents reported that forced labour was a widespread human rights issue during the pre-ceasefire period. The Tatmadaw consistently used civilians as an unpaid labour force to carry out a wide range of tasks, as a male respondent from Mone Township, Nyaunglebin District confirmed: *“The villagers had to do everything for them. We had to cut bamboo for them and help them fence the army camp. At night time, we had to be guards and perform sentry duty.”*<sup>59</sup> He further explained that civilians were too afraid to challenge the Tatmadaw, and would rather comply with their demands than risk retaliation. In some cases, civilians who refused to comply were forced to provide money or food to the soldiers instead.<sup>60</sup>

<sup>54</sup> KHRG, “Suffering in silence? Sexual violence against women in Southeast Myanmar”, December 2018; and KHRG, “Dignity in the Shadow of Oppression: The abuse and agency of Karen women under militarisation”, November 2006.

<sup>55</sup> See Source #14.

<sup>56</sup> See Source #24.

<sup>57</sup> See Source #8.

<sup>58</sup> KHRG, “TESTIMONY OF PORTERS ESCAPED FROM SLORC FORCES”, January 1992.

<sup>59</sup> See Source #13.

<sup>60</sup> KHRG, “Military movements, forced labour and extortion in Nyaunglebin District”, May 2009.

Several interviewees stressed that victims of forced labour were subjected to threats, extortion and physical violence. For example, a female respondent from Bilin Township, Thaton District explained that the Tatmadaw beat civilians who did not comply with their orders: *“They forced us to work for them without pay, and if we could not meet their demands, they would beat us, punch us, kick us or kill us.”*<sup>61</sup> Soldiers also punished people who they thought did not perform well enough, including by seizing some of their farm animals, as a male interviewee from Mone Township, Nyaunglebin District reported: *“They came to check whether we were [working] properly or not. When they caught us sleeping, they demanded we give them chickens, and they gave us many different punishments.”*<sup>62</sup>

The Tatmadaw made extensive use of civilian forced labour to build and/or carry out repairs in their camps, as attested to by a male respondent from Kyainseikgyi Township, Dooplaya District who was forced to do that kind of work in the late 1990s: *“We had to fence their [army camp]. I did not know how to set up a fence, but I had to follow other people’s lead.”*<sup>63</sup> He also explained that the Tatmadaw forced civilians to travel to towns to sell farm animals for them. A male interviewee from Bu Tho Township, Hpapun District also reported that in 2000 the Tatmadaw confiscated local people’s lands and forced them to build their army camp on those same lands without compensation: *“We [our village] had to give the Tatmadaw farm land, cut bamboo and wood for their buildings, and make [covers] for their roofs. We did not get [paid] and we even had to take our own food with us.”*<sup>64</sup>

A male respondent from Thandaunggyi Township, Toungoo District explained that the Tatmadaw ordered local civilians to work on the construction of a pagoda and to assist in the relocation of their camp: *“The villagers had to cut bamboo for the military camp until 2010. [...] When the Sa Ka Ka [Military Operations Command - MOC] #5 built a pagoda, the villagers were forced to carry sand and stones. Later, when its headquarters moved from Baw Ga Leak to Mine Na Sel, we were forced to cut bamboo for them. We also had to clean up the area for the building.”*<sup>65</sup> Some soldiers would force civilians to carry out time- and energy-consuming chores for their personal comfort on a daily basis, as a male interviewee from Kyonedoe Township, Dooplaya District reported: *“Every day, they would order three or four villagers to carry water for them to take a bath. I also used to carry water for the soldiers. None of them would take a bath outside in the river, only in their camp.”*<sup>66</sup>

## **Forced portering**

Forced portering was by far the most common form of coerced labour during the pre-ceasefire period. Several respondents reported that the Tatmadaw consistently forced civilians to carry rations, ammunition and a wide range of materials for them. Civilians who were unable to serve as forced porters usually had to offer money or find a replacement by themselves. A female respondent from Win Yay Township, Dooplaya District who served as forced porter for the military in 1999 and 2000, told KHRG that it was the most traumatising experience of her life: *“When [the Tatmadaw] came into the village, they forced the population to serve as porters. Those who could not or were too afraid to go, they had to give [the Tatmadaw] money. Being forced to serve as a porter was the worst thing I’ve ever experienced.”*<sup>67</sup> Some of the porters

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<sup>61</sup> See Source #18.

<sup>62</sup> See Source #13.

<sup>63</sup> See Source #25.

<sup>64</sup> See Source #26.

<sup>65</sup> See Source #27.

<sup>66</sup> See Source #28.

<sup>67</sup> See Source #29.

had to serve for up to several weeks at the time, as a man from Bu Tho Township, Hpapun District relayed: *“We could only stay home for five or ten days a month. The rest of the time, we had to carry things [for the Tatmadaw].”*<sup>68</sup>

Forced porters would usually experience a wide range of other human rights abuses at the hands of the Tatmadaw, including physical violence. A male respondent from Kyainseikgyi Township, Dooplaya District who served as a forced porter in 2015, explained that the Tatmadaw would hit the porters whenever they felt weak or refused to follow orders.<sup>69</sup> This was corroborated by a female interviewee from Kawkareik Township, Dooplaya District: *“They tortured villagers who were weak and old [...]. Some of them could not move anymore.”*<sup>70</sup> A woman from Bilin Township, Thaton District added that those who could not carry out their tasks due to exhaustion faced the risk of being left behind: *“Sometimes, they would just leave the villagers who could not work anymore on the mountain.”*<sup>71</sup>

A male respondent from Win Yay Township, Dooplaya District informed KHRG that more than twenty people from his village died while serving as porters from the Tatmadaw.<sup>72</sup> A female respondent from Paingkyon Township, Hpa-an District explained that exhaustion from lack of food and water, and landmines were the main causes of death among porters: *“They did not give us enough food to eat, and they would only let us drink dirty water. Some villagers got sick and died because of that. Others died by stepping on landmines. It was in 1984 and it continued until the beginning of the 1990s.”*<sup>73</sup> They also had to carry explosive military materials, which resulted in accidents that killed several porters between 1986 and 2006, according to a male respondent from Thandaunggyi Township, Toungoo District.<sup>74</sup>

As a general rule, no medical assistance was provided to sick or injured porters, as one male respondent from Bu Tho Township, Hpapun District reported: *“If you were sick when you came back, you had to go to the clinic or the hospital by yourself. If you were lucky, you would get one extra leg if you had lost your leg. Prosthetic legs were given by civil society organisations in Taung Ka Lay.”*<sup>75</sup> He even explained to KHRG that he had seen Tatmadaw soldiers give lethal injections to injured or sick porters, while pretending that the shots would make them feel better: *“If you were ill or had stepped on sharp objects, then you would be left behind. They would give you an injection [...] or find a way for you to die easily. [...] 30 minutes after the injection, you would rest in peace forever. I saw it with my own eyes. Light Infantry Battalions #10 and #35, and Infantry Battalion #60 gave such injections.”*<sup>76</sup>

Although the Tatmadaw initially favoured men to serve as porters, they also forced women to do so where men had already fled from their villages. This was relayed by a female respondent from Kyonedoe Township, Dooplaya District: *“[In 1995] there were no men left, as they had run away, so they [the Tatmadaw] arrested women and forced them to be porters. Many women had to carry loads and go to porter.”*<sup>77</sup> Another female respondent from Kyainseikgyi Township, Dooplaya District shared in detail her experience as a forced porter for the Tatmadaw in 1997:

<sup>68</sup> See Source #30.

<sup>69</sup> See Source #31.

<sup>70</sup> See Source #32.

<sup>71</sup> See Source #18.

<sup>72</sup> See Source #33.

<sup>73</sup> See Source #34.

<sup>74</sup> See Source #35.

<sup>75</sup> See Source #30.

<sup>76</sup> See Source #30.

<sup>77</sup> See Source #21.

*“We were called to be forced porters so we had to go. It took hours and we had to sleep one night there. We could not carry [the loads] by ourselves, so we had to help each other to put them on our backs. There were only women. They [the Tatmadaw soldiers] could not find any men in the village. They [the Tatmadaw soldiers] did not help us, we just had to help each other. They did not give us anything [as payment]. They threatened us many times and they said they would kill us.”<sup>78</sup>*

A female respondent from Bilin Township, Thaton District reported to KHRG that some women were forced to leave their children behind and serve as porters for months for the Tatmadaw, risking their lives on the battlefield on a daily basis: *“I don’t remember the date, but it was during the battle of Twee Pa Win Kyo [1991].<sup>79</sup> Women also had to serve as porters for months, until their clothes were torn apart. They had to carry all types of ammunition to the front lines. [...] Being porters for the Tatmadaw was too much work for women to handle. Some women had newborn babies they needed to feed, so these babies were crying, calling for their mothers. Some of them starved while their mothers were away as porters for the Tatmadaw.”<sup>80</sup>* According to a female respondent from Kawkareik Township, Doolaya District on some occasions, children accompanied their mothers to the front lines, which put them at risk of being caught in the crossfire: *“Once, they took porters with children with them to the battlefield for around one week. When mortars exploded around [the children], they started crying but they could not do anything. Fortunately, they were able to come back home.”<sup>81</sup>*

### **Use of civilians for military purposes**

The Tatmadaw also used civilians as human shields on the battlefield to deter KNLA soldiers from opening fire and force them to retreat.<sup>82</sup> A female respondent from Kawkareik Township, Doolaya District reported that soldiers from Infantry Battalion #44 forced people from her village to go ahead of them to the front lines in the late 1990s, resulting in several deaths: *“They killed the villagers who refused to go. [...] At first, they arrested all the single and married men to use them as human shields on the battlefield. Around five villagers died, so they arrested women and children to use them as human shields. [We could hear] the children crying and sobbing.”<sup>83</sup>*

Civilians were also forced by the Tatmadaw to carry out demining activities, as one man from Kyaukkyi Township, Nyaunglebin District confirmed: *“We were forced by the Tatmadaw to look for, step on, and clear landmines that had been planted by the KNLA. It was compulsory so we had to go. We told them that [...] we were afraid to die, but they wouldn’t accept it. They responded: ‘You should clean all the landmines that were planted by your own people.’”<sup>84</sup>* A female interviewee from Dwe Lo Township, Hpapun District explained that Light Infantry Division #55 forced women to travel on carts ahead of their convoys to trigger landmines along the way: *“If they did not see men, they would arrest women to clear the road of landmines for them. Whenever their truck would come, we had to go ahead of them on cow carts to the Khaw Kay Kaw area. The carts were full of women and we knew that if the landmines exploded, we would all die. We were so afraid that landmines would explode sooner or later.”<sup>85</sup>*

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<sup>78</sup> See Source #36.

<sup>79</sup> KHRG, “THE NEW SLORC CAR ROAD TO TWEE PA WIH KYO”, September 1992.

<sup>80</sup> See Source #18.

<sup>81</sup> See Source #37.

<sup>82</sup> KHRG, “FIELD REPORTS Taungoo and Other Districts”, February 1996.

<sup>83</sup> See Source #38.

<sup>84</sup> See Source #39.

<sup>85</sup> See Source #40.

## Land confiscation

An analysis of interviews conducted by KHRG demonstrates the pervasive nature of land confiscations by the Tatmadaw and the Myanmar government prior to the 2015 NCA.<sup>86</sup> In many instances, land confiscations were accompanied by widespread human rights violations and abuses.<sup>87</sup> A female respondent from Thandaunggyi Township, Toungoo District recounted her experience of forced labour in preparation for a development project by the Ministry of Agriculture, Livestock and Irrigation: *“We had to get off of our lands. Also, five villagers were called for forced labour per day. Forced labour means we were called to destroy our own plantations. [...] My mother passed away because of the trauma of this land confiscation.”*<sup>88</sup>

Villagers were compensated inadequately, if at all, for the land confiscated from them. A male respondent from Thandaunggyi Township, Toungoo District confirmed: *“The compensation amount was completely different from [lower than] the economic value [...]. They accepted it because they had no option. They chose to accept the compensation instead of losing their lands with no benefit.”*<sup>89</sup> A female interviewee from the same township also experienced harassment in court during the process: *“Because of land issues, I was called to go to court. There are many cases about land issues in the court. [...] We thought we could work on our lands according to customary land practice but we were sued.”*<sup>90</sup>

Powerful actors confiscated civilians’ land for various purposes. Confiscations by the Tatmadaw served the purpose of conducting military training, as described by a male interviewee from Thandaunggyi Township, Toungoo District: *“The former head of the Ba Yint Naung [a military training school] came and told the village tract administrators that they will take land and form a military training camp.”*<sup>91</sup> The Tatmadaw confiscated vast swaths of land for this purpose, as illustrated by another man from the same township whose community lost lands to the military starting in the early 2000s: *“I believe that the Ba Yint Naung camp confiscated more than 5,000 acres, Battalion #124 confiscated more than 200 acres, Battalion #603 confiscated more than 300 acres and Military Training Unit #7 in Thandaunggyi Township also confiscated more than 3,000 acres of local people’s lands.”*<sup>92</sup>

Land confiscation and reallocation by Myanmar government agencies also occurred repeatedly and continuously. A female respondent from Thandaunggyi Township, Toungoo District reported, for example: *“When the Ministry of [Agriculture, Livestock and] Irrigation entered our village, after 1993, they started to confiscate our lands. They confiscated our lands year after year.”*<sup>93</sup> Confiscations were conducted for various purposes. One male interviewee from the same township attributed confiscation to a development project: *“It happened because of a dam construction project implemented by the Myanmar government.”*<sup>94</sup> Another male interviewee from the same township spoke of the 3,450 acres in Si Pin Gyi village tract designated as reserved forest in 1999 without consulting local inhabitants, legally preventing them from using these lands for agriculture: *“The reserved forest areas have been plantation areas for 200 years. The*

<sup>86</sup> KHRG, “Foundation of Fear: 25 years of villagers’ voices from southeast Myanmar”, October 2017.

<sup>87</sup> KHRG, “‘Development without us’: Village Agency and Land Confiscations in Southeast Myanmar”, August 2018.

<sup>88</sup> See Source #41.

<sup>89</sup> See Source #42.

<sup>90</sup> See Source #43.

<sup>91</sup> See Source #44.

<sup>92</sup> See Source #42.

<sup>93</sup> See Source #43.

<sup>94</sup> See Source #44.



*local people were not aware that the plantation areas were included in the reserved forest.”<sup>95</sup> One male respondent from Thandaunggyi Township, Toungoo District also explained that the government sold confiscated land to private businesses, such as the Zay Ka Bar company: “Cronies who have money came and bought the lands. [...] They built a resort and a hotel there. [...] Those lands were once the local people’s land.”<sup>96</sup>*

## Property damage

Several respondents reported that the Tatmadaw often destroyed or confiscated local people’s property during the pre-ceasefire period. A male interviewee from Mone Township, Nyaunglebin District explained that they destroyed his village entirely: *“They burned our houses so nothing was left in the village. They even burned the school and the church.”<sup>97</sup> A male respondent from Thandaunggyi Township, Toungoo District described the systematic nature of these attacks: *“When the Tatmadaw soldiers came into villages, they burned the villages and stole villagers’ livestock.”<sup>98</sup>**

One of the main objectives of the “four cuts” strategy was to force local civilian populations to relocate to areas under Tatmadaw surveillance and control. Destroying or taking away people’s homes, plantations and livestock deprived them of the possibility to secure their livelihoods and ensured that they would permanently leave their area of origin. A male interviewee from Shwegyin Township, Nyaunglebin District explained how, in the 1990s, Tatmadaw Division #77 burnt down his village, its plantations and its food stocks to deter civilians from returning: *“When I was a child, [...] we had to flee to the forest as there were skirmishes happening near our villages. [...] In the meantime, the Tatmadaw burnt down our rice barn and our house. [...] [They] burnt down our paddies when they entered the village.”<sup>99</sup> Another male respondent from Htantabin Township, Toungoo District who was also forcibly displaced in the early 1990s, reported that the Tatmadaw threatened to burn down the villages of civilians who refused to relocate: *“They said that if we didn’t move before the deadline they gave us, they would burn our houses, our belongings and everything [else].”<sup>100</sup>**

The Myanmar government and military also destroyed local people’s plantations to clear the land for other purposes. A woman from Thandaunggyi Township, Toungoo District whose lands were confiscated by the Myanmar government in 1993 explained to KHRG how her plantations were destroyed to make room for cash crops: *“In 1997, they destroyed our dog fruit, betel nut, durian, banana and bamboo plantations. They used machines to destroy our plantations and then they turned them into rubber plantations.”<sup>101</sup> Similarly, a male villager from Kyonedoe Township, Dooplaya District reported that the Tatmadaw destroyed local people’s crops in his area to establish its military camp: *“When the Tatmadaw was based in G--- village, they cut down villagers’ coconut and jackfruit trees to build their shelters.”<sup>102</sup>**

## Looting and extortion

An analysis of KHRG’s documentation shows the pervasiveness of looting and extortion of food, livestock, alcohol and money by the Tatmadaw during the pre-ceasefire period. A male interviewee from Kyainsiekgyi Township, Dooplaya District described how the Tatmadaw used to loot the

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<sup>95</sup> See Source #45.

<sup>96</sup> See Source #46.

<sup>97</sup> See Source #47.

<sup>98</sup> See Source #48.

<sup>99</sup> See Source #49.

<sup>100</sup> See Source #11.

<sup>101</sup> See Source #41.

<sup>102</sup> See Source #28.

livestock of his community: *“Whenever they entered the village, they entered with brutal behaviour, looting villagers’ chickens and other animals that they could kill for meat. They did these things without permission from the owners, but we did not dare to stop them.”*<sup>103</sup> Tatmadaw soldiers also looted jewelry, as a female respondent from the same township testified: *“I remember one time when I was in Maw Htaw Poo Kyoh; the soldier took my gold earrings and my sister’s wedding ring.”*<sup>104</sup>

Prior to the ceasefire, Tatmadaw soldiers frequently extorted food and crops from civilians. Although resources were scarce during that period, interviewees felt obliged to obey orders to prevent retaliation and ensure their community’s safety, as a female interviewee from Bilin Township, Thaton District said: *“We just had to fulfill their demands; if they ordered a chicken, we had to provide a chicken. Even when we did not have food, we had to combine the food that we had and take it to the Tatmadaw when they ordered.”*<sup>105</sup> Extortion by the Tatmadaw placed a significant burden on civilians’ ability to survive, as a male interviewee from Mone Township, Nyaunglebin District illustrates: *“They [Tatmadaw] did not understand our problems. They asked us to pay a cart of paddy for each acre of farmland. Some people did not have even one acre but still had to pay a cart of paddy. If we could not pay them, they used armed force and threatened us.”*<sup>106</sup>

Occasionally, civilians were subjected to human rights violations even when they met the Tatmadaw’s demands. A male interviewee from Kyainsiegyi Township, Dooplaya District described his arbitrary arrest in 2008: *“Battalion #284 ordered me to go to them, so I went. They asked me to buy alcohol so I bought it and I drank with them. However, when I was about to come back in the evening, they arrested me even though I had done nothing wrong.”*<sup>107</sup> Another female respondent from Bilin Township, Thaton District reported how the Tatmadaw continued to detain her mother, a village head, even after its extortion demands were complied with: *“When villagers brought a goat and duck to them they released my mother, but they did not allow her to return home yet at that time.”*<sup>108</sup>

In several instances, interviewees reported that Tatmadaw soldiers ordered civilians to purchase guns for them to facilitate their promotion within their hierarchy, as they would claim that they had taken these weapons from the KNLA. Respondents reported they had neither the knowledge nor the resources to obtain such equipment. Failure to comply with the Tatmadaw’s orders and demands often resulted in mistreatment and abuse, as a male interviewee from Ler Muh Lah Township, Mergui-Tavoy District explained: *“[Between 1996 and 2002], Tatmadaw soldiers asked for M16s and AKs from the villagers so they could be promoted in rank. However, the villagers didn’t have any of the guns they wanted, so they were beaten, punched, and tortured [...]. Tatmadaw soldiers forced villagers to find these guns. That was difficult for the villagers. In that critical time, villagers had to sell their lands and livestock and find the types of guns the Tatmadaw soldiers asked for.”*<sup>109</sup> Similarly, a male respondent from Thandaunggyi Township, Toungoo District mentioned that he was forced to buy military supplies for the Tatmadaw: *“I also had to buy a military cell phone for [...] the Tatmadaw Battalion #124 deputy commander, though I forgot his name.”*<sup>110</sup>

<sup>103</sup> See Source #50.

<sup>104</sup> See Source #36.

<sup>105</sup> See Source #51.

<sup>106</sup> See Source #52.

<sup>107</sup> See Source #2.

<sup>108</sup> See Source #18.

<sup>109</sup> See Source #53.

<sup>110</sup> See Source #54.

## B) Displacement

The majority of those interviewed by KHRG indicated that they faced displacement during the pre-ceasefire period. Conflict-related displacement took multiple forms, and was often triggered by armed fighting, human rights abuses or fear. For many, it meant fleeing and returning to their villages depending on the presence of armed actors in the area, while others were forced to relocate more permanently or had no choice but to flee to IDP or refugee camps. Displaced populations faced a wide range of challenges, including livelihood difficulties and food shortages. They were also affected by numerous health issues, mostly because of poor living conditions and lack of access to healthcare services.

### Circumstances of displacement

Several respondents explained that skirmishes between armed actors were a main factor contributing to displacement, such as this man from Bu Tho Township, Hpapun District: *“During the ‘four cuts’ period, the situation was really difficult. We lived in fear because of the tension and fighting between the Tatmadaw and the [KNLA] [in our area]. We could not even stay in our village. Villagers frequently had to flee into the forest.”*<sup>111</sup> He further reported that two of his sisters were shot and killed during a skirmish between the KNLA and the Tatmadaw 38 years ago. Armed actors routinely operated in civilian areas, putting civilians at risk of being caught in crossfire. This situation often resulted in temporary or permanent displacement.

Interviewees also explained that armed actors directly attacked villages, prompting the local population to flee. A male respondent from Kyaukkyi Township, Nyaunglebin District reported witnessing the Tatmadaw burn down a neighbouring village in the mid-1990s: *“In 1995 the Tatmadaw attacked a nearby village and burnt down houses. All the villagers fled from the village. They sought shelter [...] in the forest.”*<sup>112</sup> Such attacks were an integral part of the “four cuts” strategy, aimed at driving out civilians from so-called black areas not under Tatmadaw control. A male respondent from Kyainseikgyi Township, Doolaya District explained to KHRG how his village was targeted by the Myanmar military, causing his family and other community members to flee to another village: *“Once, the Tatmadaw indiscriminately fired mortar shells at our village. My wife and children could not stay at home anymore so they just packed some things and ran away. They had to flee to the river source. The mortar shells fell on the roof, in the house and around the house. We could not stay there any longer. We had to flee.”*<sup>113</sup>

On some occasions, the Tatmadaw forced civilian populations to relocate with threats. A male respondent from Kyainseikgyi Township, Doolaya District shared his experience with KHRG: *“A Tatmadaw general sent us a letter ordering all the villagers to move to other villages within ten days. After this ten-day period, they would shoot on sight anyone they saw in the village without questions.”*<sup>114</sup> Affected civilians were often forced to relocate on short notice and faced intimidation and loss of private property. A male respondent from Mone Township, Nyaunglebin District explained how Tatmadaw Light Infantry Battalion (LIB) #85, under the authority of Lieutenant Aye Ko and Column Commander Bo Min Thay, forced his whole community to relocate: *“In 1974, I experienced conflict and displacement. [...] The Tatmadaw forced all the villagers to leave within one day. All our belongings were left behind [...]”*<sup>115</sup> He added that he

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<sup>111</sup> See Source #7.

<sup>112</sup> See Source #4.

<sup>113</sup> See Source #2.

<sup>114</sup> See Source #50.

<sup>115</sup> See Source #3.

had faced this situation several times: *“We relocated to H--- village for a year, and then the Tatmadaw forced us to move to I--- village.”*<sup>116</sup>

Several respondents said they fled their village because had been, or were afraid of being subjected to human rights abuses by armed actors, notably Tatmadaw soldiers. For example, a male respondent from Bu Tho Township, Hpapun District fled his village after the Tatmadaw committed a wide range of abuses against the local population: *“In 2000 or 2001, [all the men] in Hpapun had to flee when Khin Kyu was the Operations Commander. [...] They forced men to serve as porters, and they arrested and killed local people. Some decided to become monks, and some fled to other places. I could not flee because I was concerned about my family’s livelihood. I went to live in the mountain area and worked there.”*<sup>117</sup> A former male village head from Win Yay Township, Dooplaya District faced a similar experience as his community fled to escape the Tatmadaw’s oppression: *“In 1999 and 2000, our community suffered a lot when Tatmadaw Light Infantry Battalion #88 entered our village. [...] Their actions traumatised innocent civilians living in the village. In 1999, 2000 and 2001, the population dispersed to other areas. We could not control the situation.”*<sup>118</sup>

Relatives of KNLA soldiers were particularly vulnerable to displacement during the pre-ceasefire period, as the Tatmadaw would routinely target them. A male respondent from Mone Township, Nyaunglebin District whose grandfather was a KNLA soldier explained how he and his family had to flee continuously from the Myanmar military: *“The Tatmadaw always came [to my village] and asked for me, so I could not stay at my house. [...] I had to go and stay at my cousin’s garden in a hut, but it was not safe for me. My wife and children moved to Thabyay Kone. [...] I joined them later.”*<sup>119</sup> He ultimately had to relocate again after the Tatmadaw tortured two of his friends to discover his location.<sup>120</sup> People who were accused of communicating with the KNU, notably local authority figures, were also at risk of being subjected to human rights violations by the Tatmadaw, and therefore had to flee with their relatives. This happened to the family of a female interviewee from Mone Township, Nyaunglebin District: *“Back in 1969, my father was a village head. We had to flee from the village to the mountain area at that time. The Tatmadaw was planning to arrest him because he had contacted the KNU. We left our home and village because we could not stay there anymore.”*<sup>121</sup>

Land confiscation was also a key driver of displacement during the pre-ceasefire period. As most of the civilians living in rural areas of Southeast Myanmar relied on land to secure their livelihoods, victims of land confiscation often had no choice but to leave their village. A female respondent from Thandaunggyi Township, Toungoo District explained that her community had to relocate after the Myanmar government confiscated their lands in 1993, before destroying their farmlands in 1997: *“We lost our plantations and we did not have lands left to stay on. [...] The whole village had to relocate. Our old village was located on the eastern side of the Loikaw road but we could not stay there anymore because our lands were confiscated by the Ministry of Agriculture and Irrigation. [...] The Myanmar government did not provide us with new lands but three villagers [from the western side of Loikaw road] had mercy on us and gave us lands to stay on.”*<sup>122</sup>

<sup>116</sup> See Source #3.

<sup>117</sup> See Source #26.

<sup>118</sup> See Source #56.

<sup>119</sup> See Source #15.

<sup>120</sup> See Source #15.

<sup>121</sup> See Source #17.

<sup>122</sup> See Source #41.

The Myanmar government carried out infrastructure projects with little regard for the consequences on local communities, which also resulted in displacement. This is illustrated by a male interviewee from Thandaunggyi Township, Toungoo District who had to leave his village because it was flooded by a dam reservoir: *“The village was flooded, so villagers had to relocate to other places. [...] They started to build this dam in 1993. When they finished the construction, many houses and plantations in the old village were flooded.”*<sup>123</sup>

## Conditions and challenges

Several respondents who were displaced during the pre-ceasefire period reported that they lived in constant fear of being caught by Tatmadaw patrols. Others struggled to reach safe places or refugee/IDP camps quickly, which put them at higher risk of being intercepted by the Tatmadaw. A female respondent from Htantabin Township, Toungoo District who fled her village as a child in 2007 explained that her group, which was composed of pregnant women, children and babies, could not travel fast enough and had to sleep in the forest along on the way.<sup>124</sup> A female villager from Kyaukkyi Township, Nyaunglebin District faced a similar situation, traveling to an IDP camp on foot with young children and elders: *“We did not have enough money to cover the transportation costs. [...] My youngest child was only five years old so we were afraid to go through the mountains [where Tatmadaw soldiers were operating]. My younger sibling met us and we went to Hpapun [District]. We left very early, at 4am, because we were worried that people would notice. We went by foot from Hpapun to Ei Tu Hta camp. I had my old mother with us, and people had to carry her.”*<sup>125</sup>

Displaced people faced livelihood difficulties, mostly because they had to leave their plantations behind. Some of them had to work as intermittent day labourers or mahouts, and others engaged in small-scale farming or charcoal making in order to secure some income to buy food. A female respondent from Thandaunggyi Township, Toungoo District explained that her community faced hardship after their lands were confiscated in the 1990s: *“We faced a lot of difficulties when we were displaced. We lost our homes and the plantations we had relied upon for our livelihoods. We could not find other ways to get food. Some people relocated to Mon Lite and Dawei Town to work as tree cutters and mahouts for their livelihoods.”*<sup>126</sup> As a result, she is still struggling with economic difficulties that prevent her family from accessing healthcare and education: *“We do not have any savings in case one of our family members gets sick. We cannot send our children to school because of financial challenges.”*<sup>127</sup>

Because they could not access their plantations or carry enough food with them, displaced people often faced food shortages, as a male respondent from Win Yay Township, Dooplaya District captured: *“Sometimes we had nothing to eat in the jungle.”*<sup>128</sup> A male interviewee from Mone Township, Nyaunglebin District similarly explained how he ran out of food while fleeing to Thailand in the 2000s after the Tatmadaw attacked his area: *“We were terrified, so we ran into the jungle. The main challenges we faced during displacement were with food and healthcare. We ran out of food before reaching the border, [so] we had to hurry.”*<sup>129</sup> A male respondent from Shwegyin Township, Nyaunglebin District reported that the Tatmadaw prevented displaced civilians from returning to their villages to get food, further aggravating their humanitarian situation: *“When I was little, my family was displaced to the forest because of the fighting. The*

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<sup>123</sup> See Source #44.

<sup>124</sup> See Source #57.

<sup>125</sup> See Source #8.

<sup>126</sup> See Source #41.

<sup>127</sup> See Source #41.

<sup>128</sup> See Source #33.

<sup>129</sup> See Source #47.

*Tatmadaw burnt down our rice barn and houses. We could not take all of our belongings and food with us. We had to stay in the forest for a week. Due to the lack of food, we had to eat porridge and bamboo shoots [...]. While we were hiding in the forest, my father went back to the village to get us rice. The Tatmadaw shot him on his way there. He had to flee from the Tatmadaw again. We could not contact him during that time. It was a difficult time, waiting for our father to bring us food because our food had almost run out. We tried to find vegetables in the forest for our daily food.”*<sup>130</sup>

Displaced people in IDP camps also faced food shortages, mostly because of insufficient food distribution and the inability to find or buy more food outside the camp. A male respondent from Htantabin Township, Toungoo District who stayed in Ei Tuh Hta IDP camp from 2007 to 2011 after the Tatmadaw attacked his village during the 2006 harvest, shared his experience with KHRG: *“In the camp, we got one basket of rice per person. We had to find more food by ourselves because it was not enough.”*<sup>131</sup> A female respondent from Kyaukkyi Township, Nyaunglebin District who fled to Ei Tuh Hta in 2010 faced a similar situation: *“The rations of my children who were away were cut. They would only give rations to those who showed up. [...] My daughter went to attend school in Mae Ra Moe [refugee] camp and her ration was cut.”*<sup>132</sup>

Displaced people were affected by a wide range of health issues, mostly because of poor living conditions, lack of mosquito nets, adverse weather and the inability to access healthcare services and medicine. A female respondent from Kyaukkyi Township, Nyaunglebin District who was forcibly displaced by the Tatmadaw in 1999, explained that many people in her community died of mosquito-borne diseases in the jungle: *“When I was 12 or 13 years old, when we heard something would happen, we had to pack and hide in a safe place [outside the village]. [...] Some people passed away there because of malaria. [...] Mosquitoes bit us like bees because we lived in the forest.”*<sup>133</sup> The lack of healthcare services put the most vulnerable community members, such as children and elders, in a situation of particular vulnerability, as she confirmed: *“As the years went by, I married and had 10 children, but two of them passed away because they got sick while we were displaced.”*<sup>134</sup> A female interviewee from Kyainseikgyi Township, Doolaya District explained that her sick father died after facing starvation and poor living conditions in the jungle: *“My father was sick and when he heard that the fighting would break out or that the Tatmadaw would come, he took his milk cans and went to the valley. [...] Later, he went back to the village and died there.”*<sup>135</sup>

Displaced pregnant women had to give birth in the jungle without access to antenatal, perinatal and postpartum care, which increased the likelihood of health complications for both the mother and the new-born. A male interviewee from Kyaukkyi Township, Nyaunglebin District noted that three of his children were born in the jungle during the rainy season: *“My children were all born in the jungle when it was raining heavily. [...] I had six children while we were displaced.”*<sup>136</sup> He explained that his wife is now facing permanent health complications because she had to flee, presumably under highly stressful conditions, just two days after giving birth: *“Only one [of our children] was born in a house. Two days after he was born, we had to flee to the jungle again. Sometimes, I feel very sorry for my wife because she is now facing health problems, as she had to run in the rain [right after giving birth].”*<sup>137</sup>

<sup>130</sup> See Source #49.

<sup>131</sup> See Source #59.

<sup>132</sup> See Source #8.

<sup>133</sup> See Source #58.

<sup>134</sup> See Source #58.

<sup>135</sup> See Source #36.

<sup>136</sup> See Source #6.

<sup>137</sup> See Source #6.

## C) Impacts of human rights violations

Human rights abuses had dire and sometimes long-lasting livelihood consequences for the communities affected. The loss or temporary absence of the main breadwinner, coupled with heavy travel restrictions, threatened the economic survival of many, and families still struggle to make ends meet or support the education of their children after losing their lands, belongings or main breadwinner during the pre-ceasefire period. Some victims of human rights abuses still struggle with long-term physical health issues, including post-traumatic stress disorders. Fighting, attacks against villages, livelihood difficulties and displacement also affected access to education for Karen youth, leading many children to drop out of school.<sup>138</sup>

### Impacts on livelihoods

During the pre-ceasefire period, human rights violations and fighting between armed groups negatively impacted the livelihoods of civilians in rural areas of Southeast Myanmar. The majority of these communities relied on subsistence farming or day wage labour, and the inability to work prevented them from being able to adequately provide for their families. A male respondent from Kyaukkyi Township, Nyaunglebin District said: *“You know the situation in Myanmar: One cannot get food to eat if he or she cannot work for one day. For a breadwinner like me, spending eight years in prison [...] how could I have supported my family?”*<sup>139</sup>

#### *Loss or absence of the main breadwinner*

Many families struggled to make ends meet after the death, arrest, imprisonment or even temporary absence (for example for forced labour) of their main breadwinner. Some even had no other choice but to sell their lands and go into debt to meet their immediate needs, putting them in a dire situation in the long run. A male respondent from Kyaukkyi Township, Nyaunglebin District explained how his family suffered while he was detained from 2005 to 2012 for allegedly having a connection with the KNLA: *“We lost our lands. We had debts. My children were treated badly by other people. We faced many problems.”*<sup>140</sup> A female interviewee from Thandaunggyi Township, Toungoo District also shared with KHRG how she was forced to sell her belongings when her husband was imprisoned from 2011 to 2013: *“I had to give my belongings to pawnbrokers because I needed money. Then, I struggled with my life and I tried to save money to pay the pawnbrokers back and recover my belongings. No one knew my feelings except me. No one solved my problems. I had to solve my own problems.”*<sup>141</sup>

A male respondent from Kyonedoe Township, Dooplaya District confirmed that even a temporary absence could have devastating livelihood consequences: *“Most local people secured their livelihoods through agriculture and plantations. Sometimes, the Tatmadaw would arrest villagers [during the early stages of the rice growing cycle]. The whole plantation process could be delayed and damaged when we were arrested for a long time. This caused food shortages and damaged our lands. During the harvest period, the Tatmadaw would come frequently and arrest villagers. Many villagers lost their paddies because they could not harvest them.”*<sup>142</sup>

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<sup>138</sup> KHRG, “Foundation of Fear: 25 years of villagers’ voices from southeast Myanmar”, October 2017.

<sup>139</sup> See Source #19.

<sup>140</sup> See Source #19.

<sup>141</sup> See Source #62.

<sup>142</sup> See Source #28.

### *Loss of lands and livestock*

Loss of lands, notably through land confiscation, resulted in irremediable loss of livelihoods. It threatened the economic survival of victims who mostly rely on cash and food crops for survival. A male victim of land confiscation from Thandaunggyi Township, Toungoo District reported that his village faced economic difficulties after the Tatmadaw confiscated agricultural lands in the early 2000s: *“Our community members secured their livelihoods through agriculture and their plantations. Therefore, the land confiscation by the Ba Yint Naung training unit and other Tatmadaw units had [a negative impact on] local agriculture, such as tea leaf, cardamom and coffee plantations.”*<sup>143</sup>

The deliberate destruction of plantations and/or the confiscation/killing of livestock similarly deprived affected populations of income, posing considerable livelihood challenges. A man from Kyaukkyi Township, Nyaunglebin District shared with KHRG the distress he felt after the Tatmadaw destroyed his village’s plantations in 1997: *“We cultivated our lands and planted them with hopes of long-term benefits. Unexpectedly, the Tatmadaw attacked and burnt everything. All our efforts had been in vain.”*<sup>144</sup> KHRG has documented the Tatmadaw carrying out such attacks during the harvest period, resulting in major losses.<sup>145</sup> A female respondent from Kyainseikgyi Township, Dooplaya District also explained that she faced economic difficulties after the Tatmadaw eliminated her food and farm animals: *“It affected our livelihood. They destroyed all the belongings that we kept in the hut such as rice, fruits, pigs and chickens.”*<sup>146</sup>

### *Restrictions on freedom of movement*

During the pre-ceasefire period, civilians in Southeast Myanmar were subjected to a wide range of travel restrictions. Respondents indicated that they were only able to travel during the day, and they had to request authorisation from the Tatmadaw before doing so. A male interviewee from Bilin Township, Thaton District confirmed: *“We had to get travel letters to get out of the village, and only between 8 am and 5 pm. We had to return the letters after we worked on our farm. This was one of the worst experiences I have faced.”*<sup>147</sup> This prevented him from carrying out his agricultural tasks in a timely fashion, resulting in livelihood difficulties: *“We did not have freedom of movement [...] so we could not complete our daily work. We had to spend three days on one task instead of one. Due to [these restrictions], there was no improvement in our life and we faced livelihood problems.”*<sup>148</sup>

It is common for farmers in Southeast Myanmar to stay on their plantations for several days in a row to complete their agricultural work in time, because farms are sometimes located away from villages. A male respondent from Mone Township, Nyaunglebin District reported that the Tatmadaw did not let civilians stay at their farms overnight: *“They did not let us sleep on our farm or build a hut when we went to the farms. During the rainy season, we needed to stay in the hut but they did not let us stay there, so we had to come back to our house in the village.”*<sup>149</sup> Civilians affected by these restrictions were usually unable to exploit their lands to their full potential, and thus faced livelihood difficulties. Another man from Mone Township, Nyaunglebin

<sup>143</sup> See Source #42.

<sup>144</sup> See Source #4.

<sup>145</sup> KHRG, “Tatmadaw soldiers shell village, attack church and civilian property in Toungoo District”, November 2011.

<sup>146</sup> See Source #60.

<sup>147</sup> See Source #18.

<sup>148</sup> See Source #18.

<sup>149</sup> See Source #52.



District explained that authorisations to carry out agricultural work could be very difficult to obtain: *“They forbid us to farm our own fields. We had to wait for their permission to start farming. They did not grant permission easily. We were not allowed to build shelters near our farms, or to keep our domestic animals in our house and use them for field work.”*<sup>150</sup>

Landless civilians who were engaged in informal work faced similar difficulties, as they were prevented from travelling freely to find work opportunities in their area. A male respondent from Mone Township, Nyaunglebin District explained the challenges he faced: *“[Securing our] livelihood was very challenging during the period around 1988 because we did not have our own plantation. We were only day labourers. [...] Our lives and movement were very restricted. We always had to inform the Tatmadaw about where and why we would go somewhere, and get permission from them. We had to travel every day because we were day labourers. [...] We used to travel in fear because of the Tatmadaw’s pressure.”*<sup>151</sup> He continued about the consequences of the policy: *“We could not travel freely to sell things and foods. [...] There was no chance to run a small business for securing our livelihoods. [...] It really affected every community member. In 2006, our area became a battlefield. How could we have secured our livelihoods properly?”*<sup>152</sup>

### Impacts on health

Several interviewees reported that the heavy travel restrictions implemented by the Tatmadaw during the pre-ceasefire period prevented civilian populations in rural areas from accessing healthcare services and facilities. A female respondent from Bilin Township, Thaton District explained to KHRG that, because of these travel restrictions, she was not able to access life-saving medicine for her two-year-old son, who ultimately died. When she tried to ask the Tatmadaw for help, they answered that they only had medicines for adults.<sup>153</sup>

Several victims of human rights violations before 2012 still struggle with long-term physical health issues, preventing them from working for their livelihoods. A female respondent from Mone Township, Nyaunglebin District whose husband was arrested and severely beaten by the Tatmadaw in December 1993, shared her experience: *“The problem now is that he cannot work in the cold weather because he has untreated internal injuries. He was beaten with guns and sticks, got punched, and even lost consciousness. So he cannot work hard like us [anymore] and he got very skinny.”*<sup>154</sup> Another female interviewee from Thandaunggyi Township, Toungoo District explained that her husband, a village head who was subjected to torture in prison by the Tatmadaw, cannot work anymore: *“After he was released from jail, he got weaker and weaker. Now, he can’t work anymore [...]. I scold him every day [for having accepted that position]. He really wants to work, but he cannot so he feels sorry about it. He just stays at home. He suffers because he was tortured. His back often hurts because he said he was beaten with a big bamboo stick. I had to give him lots of medicine after he was released. [...] I had to feed him, to look after him like a baby. I was so angry.”*<sup>155</sup> Despite her willingness to help him, her husband could not benefit from healthcare services due to their prohibitive cost: *“I want to send him to the hospital to get medical treatment but I worry that it will cost a lot of money. So I just keep him at home.”*<sup>156</sup>

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<sup>150</sup> See Source #3.

<sup>151</sup> See Source #61.

<sup>152</sup> See Source #61.

<sup>153</sup> See Source #51.

<sup>154</sup> See Source #17.

<sup>155</sup> See Source #62.

<sup>156</sup> See Source #62.

A male respondent from Kyaukkyi Township, Nyaunglebin District who spent over seven years in jail from 2005 to 2012, described how the injuries he suffered while he was tortured in custody still affect his daily life: *“My teeth are not very strong anymore. They were broken one by one. I cannot chew or grind food anymore, that’s why my stomach ache is getting worse. [...] They beat and hit me. I feel a lot of pain, especially during the cold season. [...] Because of this, I always have to take medicine.”*<sup>157</sup>

Many victims of human rights violations by the Tatmadaw have suffered from a wide range of mental health issues that continue to affect their daily lives. A male respondent from Kyainseikgyi Township, Doolaya District who was forcibly displaced and forced to work as a porter for the Tatmadaw ten years ago, explained how he suffered from anxiety and panic attacks that prevented him from working for his livelihood: *“I was in fear and I could not control my emotions at the mention of the Tatmadaw. When I was in fear, I did not feel safe to work for my livelihood, so my family faced food shortages [...].”*<sup>158</sup> Given the high number of civilians who witnessed or were victims of human rights violations, post-traumatic stress disorders are likely to affect a high number of people in Southeast Myanmar. A female respondent from Mone Township, Nyaunglebin District whose husband died in prison, described how some of his fellow inmates experienced serious mental health issues after being mistreated: *“A week after he died, his friends were released from prison. I saw them going insane [...]. They talked about their experiences from when they were in prison. They said people subjected them to electric shocks while interrogating them. Even if you talked to them, they would only respond after staring at you for a long time. They are not normal like before. They cannot work anymore now.”*<sup>159</sup>

## Impacts on education

### *Inability to attend school, destruction of education facilities and disruption of classes*

During the pre-ceasefire period, violent conflict, human rights abuses and travel restrictions severely hindered the ability of children to access quality education in Southeast Myanmar. Several respondents reported that the Tatmadaw destroyed educational facilities as part of its systematic attacks on the civilian population. A male interviewee from Mone Township, Nyaunglebin District explained that his entire village, including the school, was destroyed by the Myanmar military: *“[The Tatmadaw] burned our houses so there was nothing left in the village. They even burned the school and the church.”*<sup>160</sup> He further deplored that, because of the conflict, his children were not able to access education: *“It affected the education of our children. Teachers could not teach and children could not go to school anymore, so they did not learn anything and ended up illiterate.”*<sup>161</sup>

Another man from Mone Township, Nyaunglebin District explained that many Karen children had to drop out of school and engage in subsistence farming to help their families.<sup>162</sup> In addition, human rights violations such as forced labour also prevented Karen youth from accessing education. When asked if she had experienced human rights violations, a female respondent from Bilin Township, Thaton District regretted that she had to quit school after being forced to serve as a porter for the Tatmadaw: *“During the ‘four cuts’ period, we could not go to school. [The Tatmadaw] arrested the students and teachers to serve as forced porters. We had to carry*

<sup>157</sup> See Source #19.

<sup>158</sup> See Source #50.

<sup>159</sup> See Source #20.

<sup>160</sup> See Source #47.

<sup>161</sup> See Source #47.

<sup>162</sup> See Source #23.

*supplies [ammunition and military material] for them. Therefore, we could not access higher education. It should have been my right.”*<sup>163</sup>

A female teacher from Bilin Township, Thaton District also explained that skirmishes between armed actors regularly disturbed classes, and that her students were caught in the crossfire several times: *“We could not teach well because of the security risks. [...] I had to dig a hole so the students could hide. Whenever we heard the sound of guns, we would all get in the hole. If we had run around during the fighting, we could have been hit by bullets.”*<sup>164</sup> Surviving or witnessing violent conflict and human rights abuses can have a tremendous negative impact on children, who are particularly sensitive to the negative effects of stress. Post-traumatic stress disorders and other foreseeable mental health consequences of these experiences, such as anxiety or depression, can continue to manifest themselves into adulthood. They can leave a significant mark on the development of children, affecting their cognition, as well as their ability to focus and to retain information.<sup>165</sup>

### *Conflict-related displacement*

Several respondents indicated that conflict-related displacement had deeply negative consequences on the ability of Karen children to access quality education. A male respondent from Mone Township, Nyaunglebin District said: *“Armed conflict and displacement prevented our children from going to school. [...] We tried to save young children from being left behind in their education by organising outdoor study sessions. We taught them basic literature and education in the shade of the trees while displaced in the forest.”*<sup>166</sup> Some civilians were forced to relocate to Burmese-populated areas, and although children were able to access government schools there, they often did not have the necessary Burmese language skills to keep up. A male respondent from Ler Muh Lah Township, Mergui-Tavoy District explained: *“When we moved to the town, my children had to live among the Burmese. For my children, studying [at a Myanmar government school] was difficult.”*<sup>167</sup> Like many displaced persons, he had to face a lack of basic services, including education, when he finally came back to his area of origin. This situation led his children to drop out of school: *“After that, we came back to the hill areas. There, my children [...] had to stop studying. We had to start our life from the beginning.”*<sup>168</sup>

The inability to access education, coupled with the wide range of human rights abuses perpetrated by the Tatmadaw, left many displaced children at risk of being forcibly recruited by armed groups. A female respondent from Kyainseikgyi Township, Dooطلا District who ended up being enlisted by the KNLA at 13, shared her experience with KHRG: *“I have had to flee so much that I could not go to school anymore. From Standard 1 to Standard 3, we used to study in fear because whenever fighting broke out, we had to rush under the school [...]. When I was in Standard 4, I could not go to school anymore [fighting intensified that year so the respondent was displaced]. This violated my right to access education.”*<sup>169</sup>

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<sup>163</sup> See Source #18.

<sup>164</sup> See Source #51.

<sup>165</sup> Robert T Muller, “The Invisible Trauma of War-Affected Children”, Psychology Today [blog], 27 April 2013.

<sup>166</sup> See Source #23.

<sup>167</sup> See Source #5.

<sup>168</sup> See Source #5.

<sup>169</sup> See Source #63.

*Inability to afford education as a consequence of human rights abuses*

During the pre-ceasefire period, many families struggled to support their children's education following the loss of their main breadwinner. This was mainly because they could not afford to pay tuition fees or buy textbooks or school supplies anymore, as a former political prisoner from Kyaukkyi Township, Nyaunglebin District explained: *"My wife had to sell our lands because she needed to support our children to go to school."*<sup>170</sup> He further regretted that, because of his absence, his children were not able to access education: *"My children wanted to study but they could not. That is why other people looked down on them."*<sup>171</sup>

Some families whose main breadwinner died during the pre-ceasefire period are still struggling with the economic and educational consequences of their death. A female respondent from Mone Township, Nyaunglebin District whose husband died in prison explained how this continues to impact the education of her children: *"Since we are not a complete family, we sometimes face hardship and poverty. I cannot send my children to school either. I have to ask their aunts and uncles for help because I cannot afford it alone. My oldest son did not finish Standard 10. He quit school because [...] we could not afford to send him there."*<sup>172</sup> She reported that six of her female friends experienced a similar situation because their husbands had also been imprisoned.<sup>173</sup>

Land confiscation also ultimately resulted in loss of income, undermining the ability of families to pay for the tuition fees of their children. This was illustrated by a female respondent from Thandaunggyi Township, Toungoo District whose lands were confiscated by the Ministry of Agriculture, Livestock and Irrigation and the Ba Yint Naung military camp in 1993: *"They confiscated our lands, gardens and hill plantations. We don't have the right to work on our lands. Our children cannot go to school anymore."*<sup>174</sup> A male Bamar respondent from Tanintharyi Township, Mergui-Tavoy who was displaced after he lost his lands to a private company in 2003, faced the same problem: *"We faced livelihood problems after our lands were confiscated. We couldn't farm them anymore, which left us in a critical situation. It affected our [...] children's education."*<sup>175</sup>

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<sup>170</sup> See Source #19.

<sup>171</sup> See Source #19.

<sup>172</sup> See Source #20.

<sup>173</sup> See Source #20.

<sup>174</sup> See Source #43.

<sup>175</sup> See Source #64.

## Photos: Human rights abuses during the pre-ceasefire period: an enduring legacy



This picture was taken on April 16<sup>th</sup> 2007 in Thandaunggyi Township, Toungoo District. These people fled when four Tatmadaw columns from the Military Operations Command #5 entered their village. They killed two civilians, destroyed the villagers' properties and stole their most precious belongings. *[Photo: KHRG]*



This picture was taken on October 21<sup>st</sup> 2006 in Toungoo District. It shows people from three villages in Htantabin Township who were forcibly relocated by the Tatmadaw. They faced food shortages, lack of shelters and of work opportunities in the relocation areas. They are now trying to find a new place to settle. *[Photo: KHRG]*



This picture was taken on October 13<sup>th</sup> 2006 in Thandaunggyi Township, Toungoo District. These displaced villagers are travelling along a river after the Military Operations Command #16 forced them to relocate to another village. *[Photo: KHRG]*



This picture was taken on December 13<sup>th</sup> 2006 in Lu Thaw Township, Hpapun District. It shows displaced villagers who temporarily settled near a stream. They do not know where they will be able to build a more permanent settlement or grow food. *[Photo: KHRG]*



This picture was taken on February 8<sup>th</sup> 2007 in Shwegyin Township, Nyaunglebin District. This displaced mother has no medicine to treat her 9-month-old baby. She tried to use herbal remedies, without much success. [Photo: KHRG]



This picture was taken on November 30<sup>th</sup> 2006 in Lu Thaw Township, Hpapun District. This 2-year-old baby girl first got sick in May 2006 while her family was displaced. She could not access proper medical care, and ultimately died on November 29<sup>th</sup> 2006. [Photo: KHRG]



This picture was taken on August 4<sup>th</sup> 2006 in Lu Thaw Township, Hpapun District. This woman delivered her child while being displaced in the forest. She is receiving care from a field medic. [Photo: KHRG]



This picture was taken on August 3<sup>rd</sup> 2006 in Lu Thaw Township, Hpapun District. It shows displaced school children attending class in a shelter for buffaloes. [Photo: KHRG]



This photo, taken in March 2007 in Hpapun District, shows villagers who were shot on sight by the Tatmadaw LIB #501 in the Plah Day Th'Dah area on March 21<sup>st</sup> 2007 at around 3:30 pm. The villagers were travelling to find food as they faced food shortages after the Tatmadaw burnt down their houses and farms. [Photo: KHRG]



This photo, taken in 2007 in Htantabin Township, Toungoo District shows SPDC travel letters which permitted villagers to travel outside of the restricted areas for one week. The SPDC arrested or killed villagers who travelled without such a letter. [Photo: KHRG]



This photo was taken in November 2002 in Kawkareik Township, Dooplaya District. It shows a 35-year-old villager who was arrested, detained and forced to serve as a porter by LIB #416, Column #2, led by acting column commander Yeh Naing, on November 14<sup>th</sup> 2002. He was accused of being a KNLA soldier and tortured numerous times. Each night, he was tied to a tree and kicked, beaten with a rifle butt and a piece of bamboo, stabbed with knives and burned. Tatmadaw soldiers cut off pieces of his earlobes and sliced his throat with a knife. He was only released after his village head paid the soldiers a 'fine' of 20,000 kyats, along with numerous chickens, snacks, and cheroots. [Photo: KHRG]



This photo was taken on November 6<sup>th</sup> 2006 in Hpapun District. It shows a pile of civilians' harvested rice that was set on fire by the Tatmadaw's IB #35, Columns #1 and #2. They also shot dead the owner of the rice field. [Photo: KHRG]



This photo was taken on November 28<sup>th</sup> 2005 in Toungoo District. It shows Hee Daw Khaw village being burned down by the Tatmadaw's IB #75. The villagers had to flee for their lives and watch the fire ravaging their homes. [Photo: KHRG]



This photo was taken in May 2004 in Hpa-an Township, Thaton District. The SPDC forced villagers to work on road construction activities on the Kyaik Khaw-Lay Kay road. Many of those subjected to forced labour were teenage girls and children. [Photo: KHRG]



This photo was taken in Thaton District in 2007. It shows a woman preparing alcohol for the Tatmadaw's LIB #102 under the authority of General Mon Zaw Oo. She was also ordered to deliver 300 pieces of thatches to the LIB #102. [Photo: KHRG]



These photos were taken in January and February 2011 in Hpapun District. The BGF, the Tatmadaw's Light Infantry Division #11, and LIB #213's Column Commander forced villagers to carry over 600 sacks of rice to their army camps. Villagers whose names were on the list shown in the first photo were forced to be porters for a year. [Photos: KHRG]



## Chapter 2: The situation in Southeast Myanmar since the signing of the Nationwide Ceasefire Agreement

### Key findings

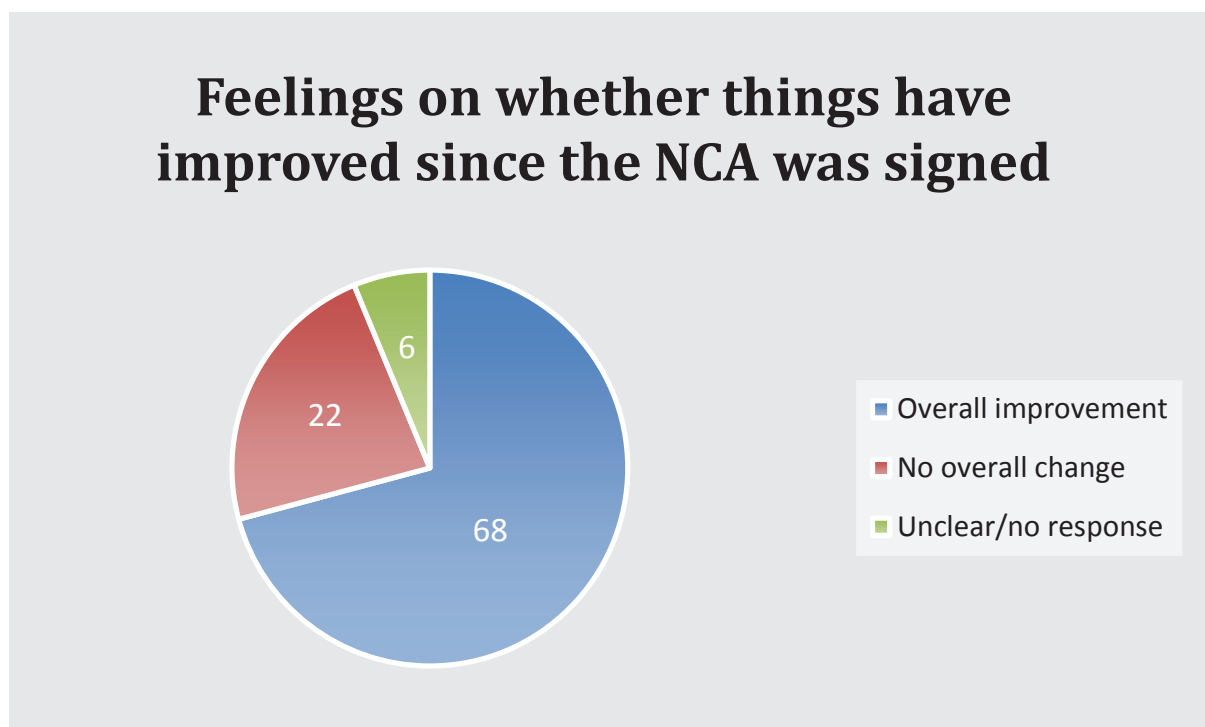
1. The situation in Southeast Myanmar has improved since the signing of the Preliminary Ceasefire Agreement and over the course of the peace process. Freedom of movement has increased, resulting in livelihood improvements, but some communities still face hardship due to displacement or lack of lands or job opportunities.
2. Some interviewees reported that they now feel safer than before the ceasefire, even though skirmishes between armed actors, notably the Tatmadaw/BGF, the KNLA and the DKBA splinter group, still occur periodically in a context of increasing militarisation, sometimes resulting in the displacement of civilian populations.
3. Traditional forms of human rights violations are still persistent in Southeast Myanmar, such as killings, sexual and gender-based violence, child rights violations, physical abuse, religious discrimination, forced labour and extortion. Emerging trends of abuse include an increase in land confiscation and a complete disregard for the rights of rural Karen populations over natural resources.
4. A significant number of interviewees lack basic knowledge about the NCA and the peace process, but many expressed their desire to learn more about it and to participate by raising their suggestions in order to help achieve sustainable peace.
5. Repeated ceasefire violations, on-going militarisation, sporadic clashes between the KNLA and the Tatmadaw, as well as the confiscation and use of customary lands by the Tatmadaw have contributed to a lack of trust in the peace process among villagers. Several interviewees voiced that sustainable peace is undermined by the slow pace of political reforms to create a democratic, federal governance structure.

In at least some areas of Southeast Myanmar, the signing of the Preliminary Ceasefire Agreement has resulted in an improvement in the human rights and economic situation, which has continued through the signing of the NCA. These beneficial consequences include freedom of movement, increased livelihood opportunities, a heightened sense of security and safety, access to education, freedom of expression, and opportunities, albeit still limited, to engage with the KNU and Myanmar government authorities. Some respondents reported that life has gotten better even though they do not understand the peace process. For example, a male interviewee from Kyainseikgyi Township, Dooplaya District said: *“I do not understand the root cause of it [the peace process] and I have not even learned about it so I do not understand the process and the objective of it. [...] It is relevant to me because there is no fighting and I do not have to be a porter.”*<sup>176</sup>

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<sup>176</sup> See Source #50.

The following pie chart demonstrates this overwhelming proportion:



However, the majority of respondents told KHRG they do not feel that the current situation is sustainable. Unfortunately, many respondents who are aware of the on-going peace process feel that it is not progressing quickly enough, if at all. A male respondent from Thandaunggyi Township, Toungoo District said: *“We tried to read the NCA code of conduct as we want to know about it. But sometimes when they [The Tatmadaw] are in the field, out of three times, they just follow the NCA code of conduct one time and do not follow the NCA two times. We can only build trust if we abide by the NCA code of conduct.”*<sup>177</sup> Many expressed concerns about skirmishes in Southeast Myanmar, an increasing military presence in and around civilian areas, on-going human rights abuses and difficulties accessing basic social services.

<sup>177</sup> See Source #35.

## A) Life after the Nationwide Ceasefire Agreement

### i. Situation on the ground

#### Freedom of movement

Since the Preliminary Ceasefire Agreement, a reduction in violent conflict between armed groups in many areas of Southeast Myanmar, as well as the lifting of military travel restrictions have resulted in increased freedom of movement for civilians. A female interviewee from Kawkareik Township, Dooplaya District reported: *“The situation has improved compared to the past because we do not have to be afraid [of Tatmadaw military attacks] and we can travel freely.”*<sup>178</sup> Several interviewees feel that they can now travel freely without the fear of being subjected to intimidation or human rights abuses, as a male respondent from Mone Township, Nyaunglebin District shared with KHRG: *“In the past, we could not go to town whenever we wanted but now we can go anytime [...]. We are not intimidated at checkpoints by soldiers. We can also go into the forest freely.”*<sup>179</sup>

This is a major development because it enabled some civilians to resume their land cultivation activities without interference or to travel to seek job opportunities, which are crucial for their economic survival. It also allows them to travel to sell their harvest, as a male interviewee from Thandaunggyi Township, Toungoo District explained: *“As I mentioned before, we saw dramatic changes in our community [after the NCA], such as the ability to travel and transport cash crops or materials freely.”*<sup>180</sup> This feeling was shared by a female interviewee from Bilin Township, Thaton District: *“The civilians have full benefits from the peace process because they can enjoy freedom of movement for their work and business, [which they need] for their family income.”*<sup>181</sup>

Despite these improvements, KHRG’s documentation reveals that armed actors continue to implement travel restrictions in some areas of Southeast Myanmar. In November 2018, a village head from Bu Tho Township, Hpapun District sustained heavy injuries after being beaten by BGF soldiers for failing to comply with their checkpoint’s working hours.<sup>182</sup> Another KHRG report from November 2018 shows that civilians are sometimes too afraid to travel because Tatmadaw soldiers are operating in their area, which prevents them from going to their farms.<sup>183</sup> Landmine and UXO contamination also remains a serious issue all across the region, further undermining civilians’ ability to travel freely.<sup>184</sup>

#### Livelihood improvements

During the pre-ceasefire period, the Tatmadaw tried to limit and control the food production in Southeast Myanmar in an attempt to cut off food supplies to the KNLA. This usually meant destruction of plantations, restrictions on access to farm lands, and attacks on farmers. Several respondents said that they have been able to resume their agricultural activities during the

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<sup>178</sup> See Source #37.

<sup>179</sup> See Source #61.

<sup>180</sup> See Source #42.

<sup>181</sup> See Source #16.

<sup>182</sup> KHRG, “Hpapun Incident Report: A village head sustained serious injuries after being tortured by BGF #1014 in Bu Tho Township, November 2018”, December 2018.

<sup>183</sup> KHRG, “Toungoo Situation Update: Htantabin and Thandaunggyi townships, Early 2016 to February 2018”, November 2018.

<sup>184</sup> KHRG, “Dreaming of Home, Hoping for Peace: Protracted Displacement in Southeast Myanmar”, May 2019, p. 32-35.

ceasefire period. They expressed the sentiment that it has become easier to secure their livelihoods, as a female interviewee from Kyonedoe Township, Dooplaya District recounted: *“Our community’s livelihood situation is getting better for many, whether rich or poor, land owners or landless, or casual workers. We do not have to be afraid when working on the land, we do not have to worry about being jobless, about lending and borrowing people’s foods and money because we can work on everything by ourselves.”*<sup>185</sup> Consequently, the economic situation of many civilians improved, as the same interviewee explained: *“This has reduced a certain amount of poverty in our community.”*<sup>186</sup>

A reduction in conflict-related displacement also allowed some local communities to work on their plantations full-time without disruption, enabling them to exploit their lands to their full potential, as a female interviewee from Bu Tho Township, Hpapun District reported: *“Before, we had to struggle to work for our daily livelihoods, we had to flee sometimes [...]. It had impacts on our economic and family situation. [...] But the situation now is getting a lot better.”*<sup>187</sup> In the same vein, a male respondent from Mone Township, Nyaunglebin District stated that the improved security situation had enabled civilians to diversify their agricultural activities and not focus solely on subsistence crops: *“Our livelihoods situation also improved because we can work on other agriculture plantations and seasonal crops. In the past, we could only cultivate paddy fields. It is a positive change.”*<sup>188</sup>

Despite these positive developments, many civilians in Southeast Myanmar still experience hardship. In May 2019, a report by KHRG revealed that over 5,600 IDPs in the Myaing Gyi Ngu area in Hlaingbwe Township, Hpa-an District, struggled to make ends meet, as they did not have opportunities to work to support themselves or their families in the camp.<sup>189</sup> Many more could be facing the same problem, since at least 162,000 people are estimated to remain internally displaced across Southeast Myanmar.<sup>190</sup> Additionally, people who do not own land almost exclusively depend on intermittent and informal jobs, which can result in livelihood difficulties if their wages are not paid in full or if they are unable to find work for long periods of time.<sup>191</sup> In some areas, the lack of work opportunities for landless people even forced some of them to migrate abroad.<sup>192</sup>

## Safety and security

Despite sporadic skirmishes between armed actors across Southeast Myanmar, a majority of interviewees conveyed that they feel greater safety and security during the ceasefire period. For example, a male respondent from Kyainseikgyi Township, Dooplaya District said: *“The people in my village can live happily and work peacefully now. In the past, we could not sleep when dogs barked. We were afraid when we saw the colour green [military uniforms]. We had to be afraid of both sides. [...] When we see soldiers now, we treat them like friends. Nothing happens.”*<sup>193</sup> The fear of human rights abuses by armed actors, and particularly forced labour,

<sup>185</sup> See Source #28.

<sup>186</sup> See Source #28.

<sup>187</sup> See Source #66.

<sup>188</sup> See Source #67.

<sup>189</sup> KHRG, “Dreaming of Home, Hoping for Peace: Protracted Displacement in Southeast Myanmar”, May 2019.

<sup>190</sup> The Border Consortium: *Human Security in South Eastern Myanmar*, November 2018. This figure provided by The Border Consortium includes Southern Shan and Kayah State, which are not part of KHRG research area.

<sup>191</sup> KHRG, “Hpapun District: Unpaid wages by the Min Began Company in Bu Tho Township, March 2018”, June 2019.

<sup>192</sup> KHRG, “Nyaunglebin Situation Update: IDPs face difficulties returning to their villages of origin”, January 2019.

<sup>193</sup> See Source #54.

seems to have significantly decreased, as a male interviewee from Htantabin Township, Toungoo District told KHRG: *“In the past, we had to live in fear. If the fighting happened, we had to be afraid that we would be arrested to go for forced portering. We have been able to sleep peacefully after 2012.”*<sup>194</sup>

This sense of security and safety is felt by many as a welcome relief, as a male respondent from Mone Township, Nyaunglebin District described: *“We do not hear the sound of weapons anymore. So, we are less afraid than we used to. It is a positive change for us.”*<sup>195</sup> A female interviewee from Kyainseikgyi Township, Dooplaya District shared this feeling: *“I am not afraid to sleep alone at night now. I was afraid of sleeping alone at night before.”*<sup>196</sup> Another woman from Thandaunggyi Township, Toungoo District explained that she is now less afraid to travel around, alluding to the added dimension of gender-based violence: *“In the past, whenever we went outside, we would always be given trouble by the Tatmadaw. As women, we were afraid of going outside during that time. I feel like the current situation is better.”*<sup>197</sup>

However, some respondents living in areas where the Tatmadaw is based or operates expressed concerns, mainly due to its past history of committing human rights violations and abuses.<sup>198</sup> A female interviewee from Thaton Township, Thaton District stated: *“There is less security because soldiers can travel freely and sometimes they enter the villages wearing civilian clothes to gather intelligence for military purposes. [...] It is not safe for us.”*<sup>199</sup> The improvement in the human rights situation has also made it easier and safer for Tatmadaw soldiers to engage in extortion and land confiscation in government or mixed-control areas with impunity.

Similarly, a male respondent from Kyaukkyi Township, Nyaunglebin District living next to a Tatmadaw military camp reported that he did not feel safer, and pointed out that women in his community were still afraid of Tatmadaw soldiers: *“They cannot go outside alone. If they want to go outside, they should go as a group of at least four people because they have to cross the Tatmadaw army camp. They are afraid to go out alone at night, and if they cannot call their friends to go with them, they just don’t go. They still have concerns like that.”*<sup>200</sup> Another male interviewee from Kyainseikgyi Township, Dooplaya District stated that the feeling of insecurity stems from a lack of trust in the Tatmadaw and/or other armed actors: *“We do not trust our enemy [Tatmadaw] or the KNU.”*<sup>201</sup>

## Access to education

Greater public investment by the Myanmar government has improved access to education in some parts of Southeast Myanmar, as a male interviewee from Thandaunggyi Township, Toungoo District told KHRG: *“I think [the peace process] is really good [...]. More and more people can go to school. [...] In my family, we can work together and my children can go to school.”*<sup>202</sup>

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<sup>194</sup> See Source #11.

<sup>195</sup> See Source #3. It should be noted that fighting between the Tatmadaw and the KNLA broke out in Nyaunglebin District, albeit in a different Township, between February and early April 2019 over a contentious road construction project. For more information, see, KHRG, “Nyaunglebin District: Tatmadaw road construction activities lead to confrontations with the KNLA, displacement and property damage in Kyaukkyi Township”, April 2019.

<sup>196</sup> See Source #36.

<sup>197</sup> See Source #68.

<sup>198</sup> A more detailed analysis is provided in a section below entitled “Militarisation in Southeast Myanmar”.

<sup>199</sup> See Source #18.

<sup>200</sup> See Source #6.

<sup>201</sup> See Source #25.

<sup>202</sup> See Source #54.

Improved safety and security plays a significant role in this, as a female teacher from Thaton Township, Thaton District said: *“I can teach the students well and we do not have to be concerned about security like in the past. In the past, we had to teach in fear [of the Tatmadaw and being caught in fighting].”*<sup>203</sup>

Despite these improvements, KHRG’s documentation revealed that many children in Southeast Myanmar still lack comprehensive access to education, materials and schools within a safe distance of their community. Educational fees and hidden costs further undermine the right to education for families facing livelihood issues. Many children also remain displaced in IDP camps, which affects the quality of their education and ability to access it.<sup>204</sup> Sporadic clashes between armed actors sometimes force entire communities to temporarily leave their village, interrupting the activity of schools. In addition, the Myanmar government does not recognise the certificates issued by non-official education systems, which further contributes to the marginalisation of students from KECD schools or refugee camps.

In addition, Karen children attending Myanmar government schools often struggle to keep up with the curriculum because classes are taught in Burmese. This particular point was highlighted by a female respondent from Thaton Township, Thaton District: *“The local [Karen] teachers are almost gone and most teachers are government teachers. In addition, civilians do not understand Burmese so there is also a language barrier between students and teachers.”*<sup>205</sup> Even though Karen language and history have been allowed to be taught in government schools since 2014,<sup>206</sup> such classes usually take place outside of school hours and for a limited amount of time, as a female interviewee from Thandaunggyi Township, Toungoo District illustrated: *“We teach Karen language from 7 to 8 AM. We only have one hour to teach Karen, but not during school time.”*<sup>207</sup>

A female respondent from Bilin Township, Thaton District stated that this situation threatens the very survival of Karen identity in areas where education falls under the responsibility of the government: *“We have Karen history books but we cannot teach it. If we keep going like this, the next Karen generation will not know about their history. I want only one curriculum, the original [Karen Education and Culture Department] curriculum [...] I feel like [the government] has defeated us, because the Karen flag and history will disappear. Our children will only know about the Burmese history [...]”*<sup>208</sup> Although Karen children are able to attend classes in their native language and can be taught the KNU curriculum in KNU-controlled areas, the KNU education system lacks resources and is not recognised by the Myanmar government.

### **Freedom of expression and participation in local decision making processes**

Several respondents pointed out that the peace process has empowered some people to exercise their fundamental rights and freedoms without fear of reprisals. A male interviewee from Thandaunggyi Township, Toungoo District explained that the members of his community are now enjoying greater freedom of expression: *“We were afraid to talk about politics in the past. [...] Now we can speak about it freely. We are not afraid to talk about politics or economic*

<sup>203</sup> See Source #51.

<sup>204</sup> KHRG, “Dreaming of Home, Hoping for Peace: Protracted Displacement in Southeast Myanmar”, May 2019.

<sup>205</sup> See Source #18.

<sup>206</sup> KHRG, “Foundation of Fear: 25 years of villagers’ voices from southeast Myanmar”, October 2017, p. 9.

<sup>207</sup> See Source #41.

<sup>208</sup> See Source #16.

*and social issues.*"<sup>209</sup> The same feeling was shared by a woman from Tanintharyi Township, Mergui-Tavoy District: *"We [now] have the freedom to state our opinion."*<sup>210</sup>

Despite these improvements, human rights defenders in Southeast Myanmar are still at risk of being arrested and charged under the country's restrictive legal framework on freedom of expression and assembly. In April 2019, Karen land rights activist Naw Ohn Hla was arrested in Myawaddy along with four colleagues for taking part in a protest over a controversial housing project in Kawkareik Township, Dooplaya District.<sup>211</sup> In the same vein, a member of the KWO explained that local civil society still faces pressure and security threats: *"Organisations that work on human rights, women's rights and peace such as KWO are usually questioned [by the authorities]. Security for civilians has improved, but there are still risks for people who work for organisations dealing with human rights and political issues."*<sup>212</sup>

Some interviewees also reported that they now have more opportunities to raise some of their grievances with the Tatmadaw and local Myanmar government officials. For example, a female respondent from Kyainseikgyi Township, Dooplaya District stated: *"In the past, as we are Karen people, we always had to do whatever [the Myanmar government and the Tatmadaw] ordered [regardless of their rank]. [Even if we complied], they would still hit our heads. The benefit [of the peace process] is that we can now meet and speak with them."*<sup>213</sup> Even though this new trend can be seen as a positive step forward, KHRG research shows that some armed actors such as the BGF and the Tatmadaw used these meetings to try to impose their will upon civilians.<sup>214</sup>

In the same vein, another woman from Thandaunggyi Township, Toungoo District told KHRG that the KNU started inviting civilians to some of their meetings after the signing of the NCA: *"After the NCA, villagers gained the opportunity to meet with local KNU authorities and their leaders. We had the chance to attend a meeting [on land issues]."*<sup>215</sup> However, villagers or local representatives who attend KNU meetings seem to have very little possibility to influence their outcome, as explained by a senior member of the Committee for Internally Displaced Karen People: *"In order to represent the local people, the KNU usually organises ethnic forums, in which local representatives and community organisations can give their perspectives. For instance, they [KNU] organise consultation meetings in which they invite local representatives. However, there is weak communication and no direct involvement between local people."*<sup>216</sup>

## **Access to healthcare**

KHRG interviews show that access to healthcare services remains challenging in the rural areas of Southeast Myanmar, mainly due to a lack of adequate roads and functioning healthcare facilities. When healthcare facilities are available and accessible, they are frequently understaffed, lack essential medical supplies, have unreliable opening hours and usually offer low standards of service.<sup>217</sup> Although the Myanmar government started building more healthcare facilities after

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<sup>209</sup> See Source #19.

<sup>210</sup> See Source #14.

<sup>211</sup> "Land Right Activist Naw Ohn Hla Arrested over Housing Protest in Myawaddy", Karen News, 25 April 2019.

<sup>212</sup> See Source #10.

<sup>213</sup> See Source #63.

<sup>214</sup> KHRG, "Do Not Trespass" Land Confiscation by Armed Actors in Southeast Myanmar", May 2019.

<sup>215</sup> See Source #41.

<sup>216</sup> See Source #55.

<sup>217</sup> KHRG, "Foundation of Fear: 25 years of villagers' voices from southeast Myanmar", October 2017, p. 120.

the NCA, the lack of qualified staff and medicines remains a significant problem.<sup>218</sup> The KNU also supports local clinics, but a lack of medicine and resources also limits the work of its healthcare providers.<sup>219</sup>

A female respondent from Bilin Township, Thaton District explained that while healthcare infrastructure had improved in some areas, civilians' access to healthcare services remains sub-par: *"The [Myanmar government] clinic in Htee Hpa Doh Hta does not even open once per month. [...] The government sent health workers, but there is not enough medicine. When patients went to the clinic, health workers were absent and the clinic was always closed. They are only there to administer vaccines to the villagers."*<sup>220</sup>

For other communities, healthcare infrastructure does not exist at all, as one male interviewee from Thandaunggyi Township, Toungoo District explained: *"No, there is no hospital. No clinic either."*<sup>221</sup> In areas which are not served by permanent healthcare staff, civilians who cannot afford to travel or pay hospital fees usually rely on traditional medicines. Since they need more time to recover from sickness, it can create livelihood difficulties for their families.<sup>222</sup> KHRG's documentation also reveals that pregnant women in remote areas can only benefit from the services of local midwives with no formal medical training, increasing the risk of postpartum complications.<sup>223</sup>

## Militarisation in Southeast Myanmar

### *Construction of military bases, roads and troop reinforcements*

Several interviewees reported a growing Tatmadaw presence and greater military activity in some areas of Southeast Myanmar. A male respondent from Htantabin Township, Toungoo District stated that the number of Tatmadaw military bases in and around his village had increased compared to the pre-ceasefire period: *"There were less military camps before the ceasefire was signed. [...] Before, [Tatmadaw soldiers] were only in Thandaunggyi, but now there is one group in Thandaunggyi and Ta Wah Law Hkee, one group in Koe Weh and one group in Koe Doh Kla."*<sup>224</sup>

It appears that these activities are particularly prevalent in Hpapun District, as a male respondent from Mone Township, Nyaunglebin District described: *"The Tatmadaw is increasing its forces, especially in [Hpapun District]. We have fewer soldiers in our area compared to [Hpapun District] [...]. Before the ceasefire, I remember that there were over 30 army camps but after the ceasefire they built 25 more."*<sup>225</sup> He further explained he was worried about tensions flaring because the KNU had not consented to their establishment: *"[The Tatmadaw] let the KNU know that they would build army camps there but the KNU has not given them permission yet. If they build army camps without permission from the KNU, fighting might break out between them."*<sup>226</sup>

<sup>218</sup> KHRG, "Toungoo Situation Update: Thandaunggyi Township, August to November 2017", May 2018.

<sup>219</sup> KHRG, "Dooplaya Situation Update: Kyainseikgyi Township, March to June 2018", December 2018; KHRG, "Toungoo Situation Update: Thandaunggyi Township, March to May 2017", December 2017.

<sup>220</sup> See Source #16.

<sup>221</sup> See Source #69.

<sup>222</sup> KHRG, "Toungoo Situation Update: Thandaunggyi Township, March to May 2017", December 2017.

<sup>223</sup> KHRG, "Toungoo Situation Update: Thandaunggyi Township, March to May 2017", December 2017.

<sup>224</sup> See Source #11.

<sup>225</sup> See Source #47.

<sup>226</sup> See Source #47.



KHRG's documentation shows that Hpapun District remains a heavily militarised region in which the Tatmadaw keeps deploying troops and carrying out road work.<sup>227</sup> A male respondent from Thandaunggyi Township, Toungoo District explained that these road construction activities were for military purposes: *"After the NCA, [...] [the Tatmadaw] built more army camps and renovated old ones. They also transported more rations to their army camps so they tried to build better roads."*<sup>228</sup> This has led to an increase in tensions between the Tatmadaw and the KNLA and sporadic armed clashes.<sup>229</sup>

According to a male interviewee from Kyonedoe Township, Dooplaya District, the new Tatmadaw camps seem to be ideally placed for military purposes: *"These constructions look strong and big. [...] I see that they try to build their camps in the best spots [for the military to monitor the situation] near Karen villages. They set their camps on the hill. They did not halt their military activities at all."*<sup>230</sup> A male respondent from Kyaukkyi Township, Nyaunglebin District also reported witnessing the transport of rations and weaponry to these camps, which raises concerns among his community: *"We can still see that the number of Tatmadaw soldiers and weapons are increasing. They send more troops to their camps. The way they travel concerns us a lot. They also transport their rations and materials, such as bullets. They are sending better weapons this time."*<sup>231</sup>

These activities appear to violate Section 5(c) of the NCA, which states that the Tatmadaw and the EAOs must "avoid troop reinforcements in the ceasefire areas other than the provision of administrative support," and "avoid building new military bases and supplying ammunition and weaponry, except those already agreed by both parties."<sup>232</sup>

#### *Live fire exercise by the Tatmadaw*

Many interviewees reported that the Tatmadaw has been conducting military training and target practice in or near civilian areas after the signing of the NCA. Stray artillery and shrapnel have endangered civilian lives and livelihoods and caused destruction of property. A female respondent from Thandaunggyi Township, Toungoo District reported on the negative impact of the training activities conducted by the Ba Yint Naung military camp: *"Our rubber plantations were destroyed because they fired mortars and small guns for training purposes. They hit our rubber plantation. Some hit our house's roof. It is not appropriate to conduct military firing practice in the village. They should do it [...] far from the village. [...] They use heavy weapons, small weapons, tanks and so on."*<sup>233</sup>

In addition to the loss of income resulting from the destruction of plantations, some civilians were also prevented from cultivating their lands because of target practice activities, as the same interviewee elaborated: *"We face a lot of difficulties and livelihood challenges because they conduct their military activities near the village. For example, I have to go to my rubber*

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<sup>227</sup> KHRG, "Hpapun Situation Update: Tatmadaw road construction activities results in skirmishes with the KNLA and displacement in Lu Thaw Township", January 2019.

<sup>228</sup> See Source #35.

<sup>229</sup> KHRG, "Hpapun Short Update: Skirmishes between the KNLA and Tatmadaw and indiscriminate shelling in Lu Thaw Township", February 2019; KHRG, "Hpapun Incident Report: Tatmadaw road construction results in the indiscriminate firing of mortars and displacement in Lu Thaw Township, March 2018", June 2018.

<sup>230</sup> See Source #28.

<sup>231</sup> See Source #6.

<sup>232</sup> Section 5(c), The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, October 2015.

<sup>233</sup> See Source #43.

plantation in order to tap rubber trees but I can't do it today because they came to practice shooting.”<sup>234</sup> Another male respondent from Thandaunggyi Township, Toungoo District noted that the sound of artillery being fired terrorised the community: *“The villagers were in fear. We kept hearing the sound of shooting from helicopters once every three or four days in the Moe Kone Sat Pyit Kwine [military target practice area].”*<sup>235</sup>

Military training activities resulting in the damage of farmland are a direct violation of section 5(a) of the NCA, which states that the Tatmadaw (and other armed groups) must not engage in destruction of property in ceasefire areas.<sup>236</sup> Live fire exercise can also lead to UXO contamination in the affected areas, resulting in severe threats to local civilians and their farm animals, and further preventing farmers from accessing their plantations.

### *Clashes between the KNLA and the Tatmadaw*

Several respondents reported that armed clashes between the KNLA and Tatmadaw took place since the signing of the NCA. One female interviewee from Bilin Township, Thaton District said: *“Last summer [2018], the fighting broke out in the Wah Tho Hkoh area, so my son could not visit me anymore. The Tatmadaw attacked the Karen [KNLA] and burnt down the [KNLA] gates. A lot of Tatmadaw soldiers planted landmines. Because of that, my son could not come back to the village.”*<sup>237</sup>

KHRG has documented several skirmishes between the KNLA and the Tatmadaw since October 2015, mainly after government soldiers trespassed into KNU-controlled territory. In January 2019, several clashes broke out in Lu Thaw Township, Hpapun District after the Myanmar military entered a KNU area to carry out road construction activities, resulting in the death of at least one Tatmadaw soldier.<sup>238</sup> Sporadic fighting continued until February 2019, when KNLA soldiers ambushed two Tatmadaw trucks transporting rations through their territory on February 4th.<sup>239</sup> A previous set of skirmishes in the same area had already resulted in the displacement of nearly 2,300 civilians in March 2018.<sup>240</sup> From February to April 2019, more clashes between the KNLA and the Tatmadaw took place in Kyaukkyi Township, Nyaunglebin District over another contentious road construction project, resulting in the displacement of at least 108 civilians.<sup>241</sup>

Laying of mines and carrying out armed attacks in ceasefire areas are prohibited under section 5(a) of the NCA. The Tatmadaw and the KNLA must also obtain prior authorisation before operating in the other's territory,<sup>242</sup> and “[a]void confrontations in areas where there is direct contact between the troops, by acting immediately using radio, ground or other methods

<sup>234</sup> See Source #43.

<sup>235</sup> See Source #48.

<sup>236</sup> Section 5(a), The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, October 2015.

<sup>237</sup> See Source #16.

<sup>238</sup> KHRG, “Hpapun Short Update: Fighting breaks out between the Tatmadaw and the KNLA in Lu Thaw Township”, January 2019.

<sup>239</sup> KHRG, “Hpapun Short Update: Skirmishes between the KNLA and Tatmadaw and indiscriminate shelling in Lu Thaw Township”, February 2019.

<sup>240</sup> KHRG, “Attacks on villagers, ongoing fighting and displacement in Hpapun and Toungoo districts from January to April 2018”, May 2018.

<sup>241</sup> KHRG, “Nyaunglebin District: Tatmadaw road construction activities lead to confrontations with the KNLA, displacement and property damage in Kyaukkyi Township”, April 2019.

<sup>242</sup> Section 8(b), The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, October 2015.

of communication.”<sup>243</sup> Instead of responding with violence to violations of the NCA, both parties should take, in coordination with each other, appropriate measures to prevent armed clashes from happening.

A male interviewee from Bu Tho Township, Hpapun District expressed concerns that these confrontations might result in new conflicts and cause hardship for the local communities: *“I am afraid that things will turn out badly because Tatmadaw soldiers came to a KNU-controlled area. If it happens again, the village will suffer a lot.”*<sup>244</sup> He further added that the current fragile state of peace appears to be at further risk of disruption: *“The Tatmadaw soldiers trespassed into a KNU-controlled area [...]. The KNLA front line soldiers said that they cannot tolerate it anymore and want to shoot them, but their commander didn’t order them to do so yet. When we met with them, we told them not to do that. [...] As villagers, we want peace.”*<sup>245</sup>

## ii. The human rights situation after the NCA

Although the peace process brought about relative stability in parts of Southeast Myanmar, many local community members live in fear of conflict and on-going human rights violations. In the words of a male respondent from Mone Township, Nyaunglebin District: *“They said we can go back because they signed the NCA. I do not go back to my village now because I do not trust the situation and the Tatmadaw yet.”*<sup>246</sup> According to a male villager from Htantabin Township, Toungoo District: *“Only a few people came back to our village, [but they live in] fear. They think that the political situation is not stable yet.”*<sup>247</sup> Despite an improvement of the human rights situation since the Preliminary Ceasefire Agreement, which has continued through the signing of the NCA, KHRG has documented the persistence of traditional forms of human rights abuses, such as killings, sexual and gender-based violence, child rights violations, physical abuse, religious discrimination, forced labour and extortion. It also documented emerging trends of abuse, such as an increase in land confiscation, raising the issue of natural resource governance.

A female interviewee from Bilin Township, Thaton District also captured a sentiment echoed throughout many interviews KHRG conducted: that conflict continues to be a catalyst for widespread human rights violations. *“I want to say something on behalf of all the ethnic groups: heavy fighting happened in Kachin [State] and also in [Hpapun District]. This happened after the NCA. There are a lot of challenges for the ethnic groups in Burma. [The consequences of these attacks are] displacement, food shortage, starvation and healthcare problems because of the inability to access clean drinking water. These are not consequences of natural disasters, these are the consequences of the Tatmadaw committing human rights violations against ethnic communities.”*<sup>248</sup>

### Extrajudicial killings

Between October 2015 and April 2019, KHRG documented 7 cases of extrajudicial executions committed by armed actors against civilians in Nyaunglebin, Hpapun, Dooplaya and Hpa-an

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<sup>243</sup> Section 7(a), The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, October 2015.

<sup>244</sup> See Source #7.

<sup>245</sup> See Source #7.

<sup>246</sup> See Source #47.

<sup>247</sup> See Source #11.

<sup>248</sup> See Source #18.

districts. These involved personnel from most of the armed actors active in Southeast Myanmar, namely the Tatmadaw (4),<sup>249</sup> KNLA (1),<sup>250</sup> BGF (1)<sup>251</sup> and KNU-KNLA-PC (1).<sup>252</sup>

Several respondents highlighted that the Tatmadaw continued to kill innocent civilians after the signing of the NCA, which constitutes a clear violation of its Section 9(b). A male respondent from Lu Thaw Township, Hpapun District reported that Tatmadaw soldiers shot dead a local community leader in April 2018: “[*The Tatmadaw*] just shot Saw Oh Moo in [April] 2018. That is not right, he was just an indigenous person [civilian]. He got shot by the Tatmadaw while he was travelling. He just worked for the local people and the community. He did not work for [the KNLA]. They did not think twice before shooting him.”<sup>253</sup> This particular case was reported by both national and international media, and KHRG’s documentation reveals that Saw Oh Moo was ambushed because he was riding on a motorbike with a KNDO officer.<sup>254</sup> At the time, the Tatmadaw claimed that both men were plain-clothes rebels “suspected of sabotage”.<sup>255</sup> Even if it had been the case, attacking them would still have violated section 5(a) of the NCA, which states that the Tatmadaw and the EAOs shall cease armed attacks in ceasefire areas.

### Torture and violent abuse

Section 9(b) of the NCA prohibits subjecting civilians to violence, torture, or inhuman treatment. However, from October 2015 to April 2019, KHRG received information on 12 incidents of torture and violent abuse that took place in Thaton, Nyaunglebin, Mergui-Tavoy, Hpapun, Dooplaya and Hpa-an districts. These involved elements from several armed actors active in Southeast Myanmar, most of which have signed the NCA, as follows: Tatmadaw (2), the KNU/KNLA (5), the BGF (2), the DKBA splinter group (1, non-signatory) and the KNU/KNLA-PC (2).

On December 26<sup>th</sup> 2015, a Sergeant and a Corporal from KNLA Battalion #8 arbitrarily arrested two civilians in Mone Township, Nyaunglebin District over a land dispute. The officers tied them with ropes, and forced them to sign a land document. One of the civilians was beaten while he was under the officers’ custody.<sup>256</sup>

On April 6<sup>th</sup> 2018, Tatmadaw LIB #203 soldiers under the command of Light Infantry Division #22 were ambushed by the KNLA in Dwe Lo Township, Hpapun District after trespassing into KNU territory. Afterwards, they entered a nearby village and subjected the village head to physical abuse. The Tatmadaw soldiers also threatened to kill the village head and burn down the whole village if the KNLA attacked them again.<sup>257</sup>

On April 29<sup>th</sup> 2019, a Major and other soldiers from the KNU/KNLA-PC beat a civilian with a bamboo stick in Paingkyon Township, Hpa-an District without articulating a particular reason

<sup>249</sup> KHRG, “Dooplaya Incident Report: Two Tatmadaw deserters killed seven civilians in Win Yay Township, April 2019”, June 2019; KHRG, “Two separate killing incidents committed by Tatmadaw soldiers in Shwegyin Township, Nyaunglebin District (March and May 2017)”, September 2017; and KHRG, “A Karen Community Leader, Saw O Moo, Was Murdered by Tatmadaw forces in Hpapun District, April 2018”, June 2018.

<sup>250</sup> KHRG, “Hpapun Situation Update: Bu Tho Township, September to November 2016”, June 2017.

<sup>251</sup> KHRG, “Three separate killing incidents based on witchcraft suspicion in Hpa-an District”, July 2017.

<sup>252</sup> This information was taken from an unpublished report from Paingkyone Township, Hpa-an District received in April 2019.

<sup>253</sup> See Source #73.

<sup>254</sup> KHRG, “A Karen Community Leader, Saw O Moo, Was Murdered by Tatmadaw forces in Hpapun District, April 2018”, June 2018.

<sup>255</sup> “Indigenous Environmental Campaigner Killed by Myanmar Government”, The Guardian, 13 April 2018.

<sup>256</sup> KHRG, “Nyaunglebin Interview: Saw P---, December 2015”, December 2016.

<sup>257</sup> KHRG, “Hpapun Incident Report: Explicit Threats in Dwe Lo Township, April 2018”, September 2018.

for doing so. The victim was left unconscious for more than an hour and screamed in pain for the whole night. He was later admitted to a nearby hospital.<sup>258</sup>

## Sexual and gender-based violence against women

Sexual and gender-based violence (SGBV) against women remains a widespread problem in Southeast Myanmar. Between January 2012 and November 2018, KHRG received 52 reports covering 27 cases of sexual violence against women by a wide range of actors. However, SGBV cases remain underreported due to stigmatisation, a culture of victim-blaming, threats from perpetrators and a lack of information on reporting mechanisms in the communities. Furthermore, perpetrators of SGBV are unlikely to be held accountable given their position of authority, a culture of impunity, and reliance on informal, male-led justice mechanisms.<sup>259</sup>

KHRG's documentation shows that most incidents of sexual violence by armed actors are now perpetrated by lone individuals. Despite their much lower incidence when compared to the pre-ceasefire period, these abuses continue and are often met with impunity, as corroborated by a female respondent from Tanintharyi Township, Mergui-Tavoy District: *"In 2014, two years after the Preliminary Ceasefire Agreement was signed, a former Tatmadaw soldier raped two little girls who had been left alone. One girl was eight years old and the other girl was 12 years old. Their mother left them in the shelter [while she was at work]. These two girls were not given any compensation or counseling."*<sup>260</sup> She further added that the victims felt shame because their neighbours started gossiping about their situation, and stressed the need to better protect survivors of sexual violence: *"These victims should be protected even when material compensation is not available. There should also be the laws to protect these kinds of victims."*<sup>261</sup>

SGBV against women is also perpetrated by other actors such as government officials and people in a position of power.<sup>262</sup> A male interviewee from Shwegyin Township, Nyaunglebin District recalls that, after the signing of the NCA, a Karen woman was raped in Plaw Wa by a Burmese village head appointed by the Tatmadaw. Due to the perpetrator's position of authority, he was not held accountable for the crime committed: *"He raped a Karen teacher but no one dared to blame him. He would kill anyone who blames him. The victim was secretly sent to the KNU District office [for protection]. Authorities [KNU] could not investigate the case because the perpetrator was also a local Myanmar government official. [...] The village head abused his power because the Tatmadaw stood behind him. He killed a Karen man with a knife and raped a Karen woman."*<sup>263</sup>

A female interviewee from Bilin Township, Thaton District also highlighted the issue of domestic violence within her community: *"There is domestic violence happening against women and children when men return home drunk."*<sup>264</sup> Domestic violence against women remains a pervasive problem all across Myanmar,<sup>265</sup> and KHRG has documented several cases since the signing of the NCA. In July 2017, a woman from Dwe Lo Township, Hpapun District was beaten unconscious

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<sup>258</sup> This information was taken from an unpublished report from Paingkyone Township, Hpa-an District received in April 2019.

<sup>259</sup> KHRG, "Suffering in silence? Sexual violence against women in Southeast Myanmar", December 2018.

<sup>260</sup> See Source #14.

<sup>261</sup> See Source #14.

<sup>262</sup> KHRG, "Suffering in silence? Sexual violence against women in Southeast Myanmar", December 2018.

<sup>263</sup> See Source #49.

<sup>264</sup> See Source #51.

<sup>265</sup> "Myanmar Debates Women's Rights Amid Evidence of Pervasive Sexual and Domestic Violence", *The Conversation*, 10 December 2019.

with a bamboo stick by her husband who suspected that she was having an affair. Although she sought divorce after the incident, the local village tract leader put the case on hold for three months to try and make her change her mind.<sup>266</sup> Alcoholism and drug addiction seem to contribute to domestic violence. In January 2019, a man from Win Yay Township, Dooplaya District also beat his wife and burnt down his house under the influence of drugs.<sup>267</sup> The actual scope of domestic violence against women in the region is difficult to assess due to underreporting, as it is usually considered a private matter in Karen communities.

### Child rights violations

An analysis of interviews conducted by KHRG shows instances of child rights violations. A male respondent from Win Yay Township, Dooplaya District reported that some children in his community do not attend school because they perform domestic labour at home: *“Parents thought that while three of them work [...], their standard-five daughter can stay behind to cook. For those children, their rights are being violated by their own parents.”*<sup>268</sup> In a May 2019 report, KHRG documented that some displaced children in Myaing Gyi Ngu also had to stop attending school to contribute to domestic chores, or because their family relied on their work to supplement their income.<sup>269</sup> This affects their right to access education, and further contributes to the marginalisation of children from poor economic backgrounds.

The same interviewee also described that a teacher from Win Yay Township, Dooplaya District inflicted violence on school children: *“She beat the students’ heads every day. [...] She even asked the students to beat their friends’ heads for her.”*<sup>270</sup> According to KHRG’s documentation, school corporal punishment is common across Southeast Myanmar, in both the KNU and Myanmar government education systems. In K’Ser Doh Township, Mergui-Tavoy District, a local child attending a Myanmar government school reported that his classmates were subjected to harsh physical abuse by one of their Burmese teachers during the 2017/2018 academic year: *“This teacher beats and slaps students when they cannot focus properly. One day, when some male students could not follow a lesson, the teacher asked them to lie down. He then stepped on them. The students cried out loud because they could not tolerate the pain.”*<sup>271</sup>

Inflicting corporal punishment on children is a direct violation of their most basic rights. In its General Comment No. 8 (2006), the United Nations Committee on the Rights of the Child stated that such practices conflict with the child’s human dignity and right to physical integrity.<sup>272</sup>

<sup>266</sup> KHRG, “Hpapun Situation Update: Bu Tho Township and Dwe Lo Township, July to September 2017”, March 2018.

<sup>267</sup> KHRG, “Dooplaya Situation Update: Theft of civilian property by Tatmadaw soldiers, land confiscation and drug-related human rights abuses in Win Yay, Kawkareik and Kyainseikgyi townships between December 2018 and February 2019”, August 2019.

<sup>268</sup> See Source #33.

<sup>269</sup> KHRG, “Dreaming of Home, Hoping for Peace: Protracted Displacement in Southeast Myanmar”, May 2019.

<sup>270</sup> See Source #16.

<sup>271</sup> KHRG, “Mergui-Tavoy Situation Update: K’Ser Doh and Ler Muh Lah townships, December 2017 to February 2018”, July 2018.

<sup>272</sup> UN Committee on the Rights of the Child, GENERAL COMMENT No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (2006), articles 19, 28, and 37, inter alia.

## **Discrimination: restrictions on religious worship**

Historically, religious minorities such as Christians and Muslims<sup>273</sup> in Southeast Myanmar have been marginalised through the destruction of their religious buildings and holy books, forced displacement and relocation to Buddhist areas, and restrictions on worship.<sup>274</sup> Although reports of discrimination against the minority Christian Karen community have decreased, it has not ceased. An analysis of documentation by KHRG demonstrates that religious and ethnic minorities in Southeast Myanmar are still prevented from fully exercising their right to freedom of religion.

Many interviewees described challenges in obtaining authorisation from the Myanmar government to construct churches and mosques. No such restriction applies to the construction of Buddhist religious buildings. A male interviewee from Kyauk T'Ga Township, Nyaunglebin District illustrated this problem: *"There is freedom of religion according to human rights laws but it was not applied fairly in our community. We were not allowed to build churches in the new communities where we converted some believers to Christians. Although authorities claimed that they will not allow Buddhist temples to be built, in reality, they have allowed many Buddhist temples and monk schools to be built. They are obviously prohibiting the potential construction of Christian churches and Muslim mosques."*<sup>275</sup>

A male Muslim civilian from Mone Township, Nyaunglebin District expressed his dismay at these restrictions: *"There is clearly discrimination against our religion, Islam. We know that we are just a minority. We don't have the right to build [mosques], worship our God and we cannot gather together in our [mosque]. We cannot do it freely yet."*<sup>276</sup> His grievances were shared by another respondent from Bu Tho Township, Hpapun District who advocated for equal treatment amongst religious minorities: *"I believe that if they [local village administrators] allowed Seventh Day Adventists to build a church, they should also give equal rights to the Muslim community. I want to know why the Muslim community was not allowed to build a mosque but the Christian community could build a church."*<sup>277</sup>

Discrimination on the basis of religion by the Myanmar government violates articles 347 and 348 of Myanmar's 2008 Constitution, which respectively guarantee the right to equality and non-discrimination for its citizens.

## **Forced labour**

Armed actors in Southeast Myanmar continue to subject civilians to forced labour, although this phenomenon decreased after continuous pressure from the International Labour Organization and the signing of the Preliminary Ceasefire Agreement. This was corroborated by a man from Kyonedoe Township, Dooplaya District: *"[The Tatmadaw] stopped civilians who were traveling [for their livelihoods] and forced the villagers to work for them."*<sup>278</sup> Similarly, a female respondent from Kawkareik Township, Dooplaya District explained that several armed actors had forced people in her community to be porters: *"There's still forced portering in our area. Civilians were*

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<sup>273</sup> The classification 'Muslim' in Southeast Myanmar is referred to and often self-identified as both a religion and an ethnicity. Throughout this chapter KHRG uses the term 'Muslim' to encompass both religion and ethnicity

<sup>274</sup> KHRG, "Foundation of Fear: 25 years of villagers' voices from southeast Myanmar", October 2017.

<sup>275</sup> See Source #22.

<sup>276</sup> See Source #30.

<sup>277</sup> See Source #72.

<sup>278</sup> See Source #71.

*forced to be porters by all the different armed groups. I would like this to stop so villagers can work independently in their villages.”*<sup>279</sup>

Section 9(d) of the NCA prohibits the Tatmadaw and the EAOs to subject civilians to forced labour. KHRG’s documentation highlighted that the Myanmar military violated this provision on several occasions. In October 2017, one village head and his wife were subjected to forced labour by a Tatmadaw Major in Win Yay Township, Dooplaya District.<sup>280</sup> The same month, both the Tatmadaw and the BGF forced civilians to serve as navigators and porters in Hlaingbwe Township, Hpa-an District, which exposed them to landmines and attacks by the DKBA splinter group.<sup>281</sup>

### **Extortion and arbitrary taxation**

Some respondents reported that civilians continue to face extortion by powerful actors. A Muslim man from Bu Tho Township, Hpapun District explained to KHRG how members of the Myanmar Police Force and the BGF would specifically target Muslim civilians at checkpoints to extract money from them: *“[Muslim] taxi drivers, they are checked more often than other drivers. [...] If they bring one or two goats, they will be asked to pay money. [...] For example, if one goat is 2,000 kyats, they will have to pay the same amount.”*<sup>282</sup>

The Tatmadaw and the EAOs are prohibited from forcibly taking money, property and food from civilians under Section 9(d) of the NCA. However, KHRG’s documentation shows that extortion by parties to the NCA remains a significant problem across Southeast Myanmar. In October 2017, several villages in Bu Tho and Dwe Lo townships, Hpapun District were forced to pay 180,000 kyats (USD 118 as of 17/07/2019) to BGF Battalion #1014 after refusing to provide porters for them.<sup>283</sup> From November 2017 to January 2018, Tatmadaw Battalion #53 also confiscated wood and collected illegal taxes in Tanintharyi Township, Mergui-Tavoy District.<sup>284</sup> Similarly, Tatmadaw LIB #210 collected illegal taxes in Bilin Township, Thaton District in March 2018.<sup>285</sup>

Reports from the field have also confirmed that the KNU was collecting taxes from the population in the areas under their control, but several civilians voiced concerns about the lack of transparency of the KNU tax system. Although they do not seem to question its legitimacy, many feel that the financial burden of taxation should be reduced, as taxes can make up a considerable portion of the daily income they earn to support their family.<sup>286</sup> In addition to financial taxes, the KNU also asks for rice and money to buy food for the KNLA soldiers.<sup>287</sup>

<sup>279</sup> See Source #70.

<sup>280</sup> KHRG, “Dooplaya Incident Report: Forced labour ordered by Tatmadaw officer in Win Yay Township, October 2017”, April 2018.

<sup>281</sup> KHRG, “Ongoing fighting, displacement, landmines, porter demands, and child recruitment in Hlaingbwe Township, Hpa-an District, October and November 2017”, December 2017.

<sup>282</sup> See Source #30.

<sup>283</sup> KHRG, “Hpapun Incident Report: Forced portering and extortion in Bu Tho and Dwe Lo townships, October 2017”, September 2018.

<sup>284</sup> KHRG, “Mergui-Tavoy Situation Update: Extortion and Land Confiscations in Tanintharyi Township, November 2017 to January 2018”, December 2018.

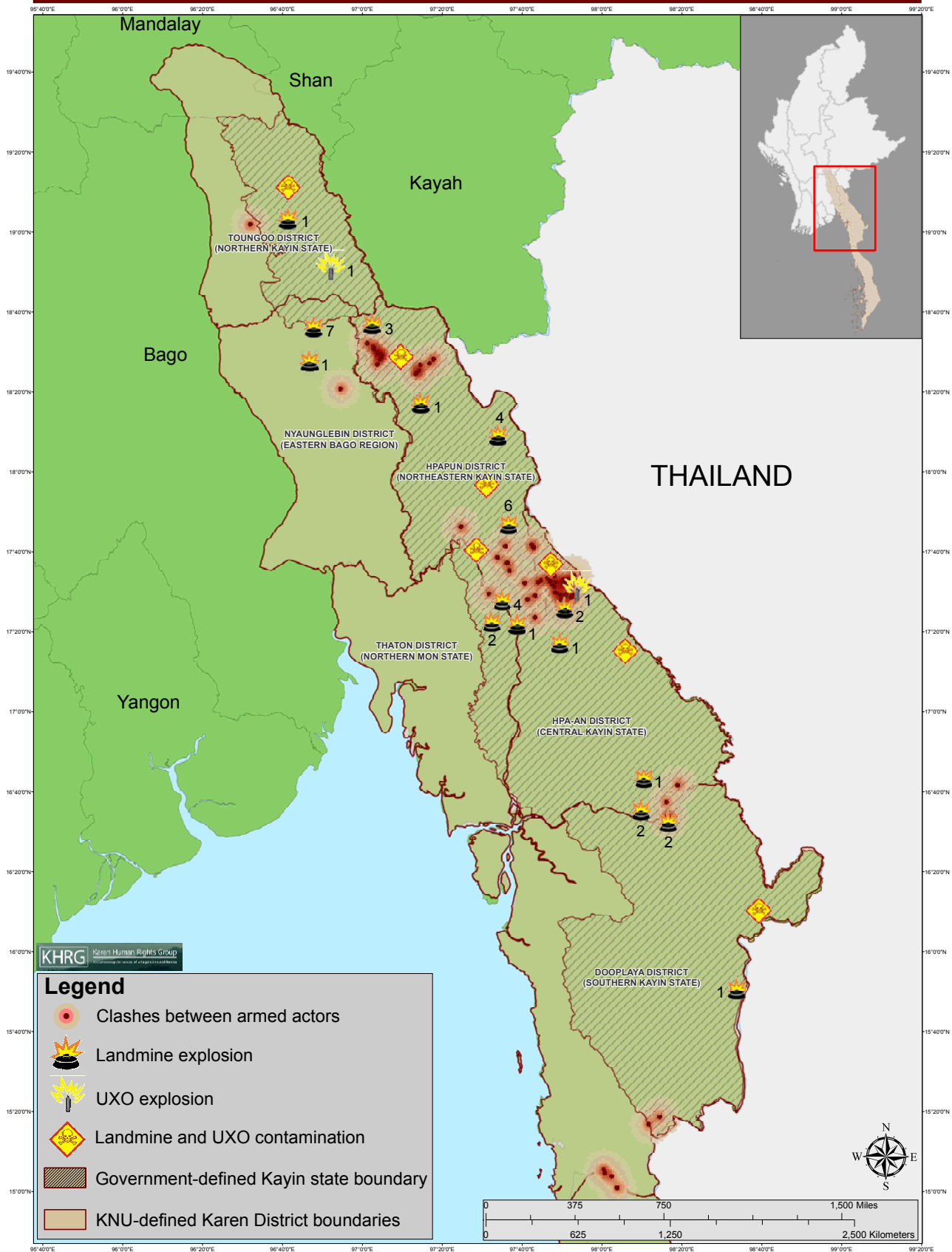
<sup>285</sup> KHRG, “Thaton Situation Update: Bilin Township, January to March 2018”, September 2018.

<sup>286</sup> KHRG, “Toungoo Field Report: Fighting grounds: land disputes, militarisation and development challenges in a time of ‘peace’, December 2015 to December 2016”, April 2018.

<sup>287</sup> KHRG, “Hpa-an Field Report: Explicit killing, fighting leading to massive displacement, arbitrary taxation and the improvement of healthcare and education, January to December 2016”, January 2018.



## Security incidents in Southeast Myanmar from (October 2015 to April 2019)



### iii. Land confiscations and natural resources governance

The 2012 Preliminary Ceasefire Agreement and the NCA have ushered in a period of intensifying investment. Infrastructure development and natural resource extraction are on the rise in Southeast Myanmar, which has led to an increase in land disputes. KHRG's research shows that land confiscations are on the upswing throughout Southeast Myanmar,<sup>288</sup> as a female respondent from Thandaunggyi Township, Toungoo District explained: *"After 2015, the confiscation of lands in our village has increased."*<sup>289</sup> This was also corroborated by a member of the KWO: *"Some local communities, especially those who live in communities where development projects are happening, face even worse human rights violations in comparison to the past. For example, the land confiscation issues are not decreasing, but they are increasing."*<sup>290</sup> Land confiscation remains perpetrated by a wide range of actors, including private companies, individual businessmen, armed groups, government agencies and Myanmar security forces.

Because of the predominance of customary land tenure and the prevalence of weak and overlapping land governance systems, rural populations in ethnic border areas are particularly vulnerable to land confiscations. Both the KNU and the Myanmar government have their own land registration system, and have been proactive in issuing land titles since 2012. However, land titles are not traditionally used by rural populations in Southeast Myanmar, and they do not offer an absolute protection against land confiscation. KNU land titles are not recognised by the Myanmar government, and KHRG has documented instances of land confiscation affecting holders of Myanmar government land titles.<sup>291</sup>

A female respondent from Thandaunggyi Township, Toungoo District pointed out that some civilians lacked knowledge about the different land registration systems, and that better informed people used it against them to take over their lands: *"Even though the situation is getting better in terms of transparency, local farmers lack knowledge [about land rights]. Educated people know about land laws, so they know how to deal with land-related issues. Therefore, our lands became their lands."*<sup>292</sup> In January 2019, KHRG documented that lands belonging to returnees were usurped by wealthy people in Mone Township, Nyaunglebin District. These people took advantage of the fact that the customary owners did not have official land titles, and went to the Myanmar Land Administration Department to register the lands in their names.<sup>293</sup>

Land governance in Myanmar is regulated by a complex framework of over 70 laws, but none of these provide a way to register or protect customary land tenure and some effectively make it illegal. For decades, this has enabled the government, the military and private or armed actors to engage in the confiscation of customary lands with impunity. Since 11 March 2019, people using land that has been classified as vacant, fallow or virgin without a permit can be charged with trespassing and face up to two years in prison under a September 2018 amendment to the VFF Law. Many people are unaware of the provisions of this law, few are aware of the amendment and almost no one is aware that it now contains an exemption for customary tenure

<sup>288</sup> KHRG, "Development without us: Village Agency and Land Confiscation in Southeast Myanmar", August 2018.

<sup>289</sup> See Source #41.

<sup>290</sup> See Source #10.

<sup>291</sup> KHRG, "Thaton District: Land Confiscation by the Super One Company in Kyaikto Township, October 2018", May 2019.

<sup>292</sup> See Source #41.

<sup>293</sup> KHRG, "Nyaunglebin Situation Update: IDPs face difficulties returning to their villages of origin", January 2019.

(which still cannot be registered).<sup>294</sup> As 82% of the 50 million acres of land that were originally classified as vacant, fallow or virgin by the government are located in ethnic areas where customary land tenure remains important, this amendment has paved the way for both large-scale land grabs and the continued seizure of land by local elites with better access to information. It also threatens the livelihoods of millions of subsistence farmers across the country and increases the vulnerability of IDPs/refugees. The Myanmar government has committed to implementing the 2016 National Land Use Policy which includes protections for customary tenure, but the VFV law and its 2019 amendment are a regressive step in clear conflict with this policy.

#### *Land confiscation by armed actors after the NCA*

Section 9 of the NCA states that the Tatmadaw and the EAOs shall avoid forcible confiscation and transfer of land from local populations. They must also avoid forcibly taking property, labour or services from civilians. However, KHRG documented three land confiscation cases perpetrated by the Tatmadaw or its affiliated BGF after the signing of the NCA, highlighting that it remains an on-going problem.<sup>295</sup>

On August 10th 2016, the Tatmadaw Ba Yint Naung Military training school arbitrarily confiscated 1,851 acres of local people's plantation land in Htantabin Township, Toungoo District.<sup>296</sup> Similarly, on October 5th 2017, BGF #1015 led by Commander Dee Ter Ler confiscated the lands of 11 civilians in Paingkyon Township, Hpa-an District. They ultimately sold the land to people from other villages and used parts of it to build a pagoda.<sup>297</sup> According to information received by KHRG in June 2017, a woman from Pinyinana Township, Toungoo District was evicted from her lands in 2017, after the Tatmadaw alleged that they had been confiscated in 2010: *"On March 17th 2017, Tatmadaw soldiers came to stick posters on our house that said that we are intruders. On March 19th 2017, the Battalion Commander held a meeting with us. We were informed that the land that we live on had in fact been confiscated by the Tatmadaw in 2010. Then, they fenced our land and forced us to leave. We were asked to vacate our land by the end of April 30th 2017."*<sup>298</sup>

A female interviewee from Lu Thaw Township, Hpapun District explained that land confiscations by the Tatmadaw were often accompanied by threats of violence, notably in the context of road construction activities: *"When [the Tatmadaw] came to construct this road in Ler Muh Plaw, they just entered and constructed the road on the local people's lands and farms. It became very problematic for them [the local people]. The local people from Ler Muh Plaw, Saw Muh Plaw and Hay Ghaw Lu Der didn't give permission and don't want the road construction. However, we didn't dare to stop [the Tatmadaw soldiers] because they would point their guns at you. We have to be afraid of them."*<sup>299</sup>

In rare cases where members of the Myanmar security forces have had consultation meetings on land use issues with local communities, these meetings were coercive by nature. In 2017, BGF soldiers forced local people from Shwe Ko Ko to sell their lands below market price, in

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<sup>294</sup> "Most Farmers Do Not Know about the Vacant, Fallow and Virgin Land Management Law as the Grace Period to Register Closes", NAMATI, 31 March 2019.

<sup>295</sup> KHRG, "Do Not Trespass: Land Confiscations by Armed Actors in Southeast Myanmar", March 2019.

<sup>296</sup> KHRG, "Toungoo Situation Update: Thandaunggyi Township, August to November 2017", May 2018.

<sup>297</sup> KHRG, "Hpa-an Situation Update: Paingkyon Township, Hlaingbwe Township and Nabu Township, November 2016 to October 2017", March 2018.

<sup>298</sup> KHRG, "Do Not Trespass: Land Confiscations by Armed Actors in Southeast Myanmar", March 2019.

<sup>299</sup> See Source #73.

clear violation of section 9 of the NCA. This is connected to the Chinatown project, a resort area being developed next to the Moei River which separates Myanmar from Thailand. The main investor, the Chinese state-owned company Jilin Yatai Group, has signed an agreement with BGF officials to build luxury housing, hotels, shopping centres and several casinos.<sup>300</sup>

With the signing of the 2015 NCA and the relative stabilisation of several conflict zones, rural communities assumed that land previously confiscated by armed actors would be returned to them. This expectation has not been met, resulting in livelihood difficulties for the local villagers affected. When the National League for Democracy took office in March 2016, it created the 'Central Reinvestigation Committee for Confiscated Farmlands and Other Lands', and declared that it would solve all land confiscation cases within six months. Although the body claims to have settled thousands of claims, thousands more remain unresolved.<sup>301</sup>

### *Confiscation by private companies and the issue of resource governance*

The stabilisation of the security situation in Southeast Myanmar has created new business opportunities. KHRG has received five reports on land confiscation by private companies in Southeast Myanmar since the signing of the NCA in October 2015. The increasing exploitation of the region's lands and natural resources, as well as the implementation of infrastructure projects also raise the issue of resource governance. Indeed, these activities do not generally benefit the local population, as corroborated by a male respondent from Kyauk T'Ga Township, Nyaunglebin District: *"In Karen State, natural resources like gold are extracted by companies and the Myanmar government without benefiting the host community. Only a small amount of benefit reaches associated KNU leaders, but none at all for community members."*<sup>302</sup>

Private companies seem to conduct their activities with little regard for their environmental impact, often damaging or confiscating lands that local people rely on for their livelihoods. A male interviewee from Kyauk T'Ga Township, Nyaunglebin District explained to KHRG how economic actors heavily damaged arable lands in his village: *"Our lands with good soil became rocky and unfertile after the company implemented its project. We lost lands around our village because the company confiscated them for the dam construction. The fertile lands that we used to grow rice were ruined by gold mining activities."*<sup>303</sup> Another male interviewee from Tanintharyi Township, Mergui-Tavoy District elaborated on the impact of mining activities on the local irrigation system: *"Some groups were mining lead next to the local villages' betel nut plantations and it caused damage. In addition, lead mining activities polluted the water. Not only was that harmful for the aquatic animals, it also caused difficulties for the villagers."*<sup>304</sup>

A male interviewee from Kyaukkyi Township, Nyaunglebin District also said that infrastructure projects and overexploitation of natural resources have had serious livelihoods impacts: *"The main causes of human rights abuses are dam construction projects, gold mining and deforestation. Logging activities by individual businessmen resulted in the loss of a lot of trees. Our farmlands were flooded because of deforestation, which impacted our livelihoods."*<sup>305</sup> Another male respondent from Kyaukkyi Township, Nyaunglebin District told KHRG that local communities

<sup>300</sup> KHRG, "Hpa-an Interview: Mann F---, March 2018", May 2018; KHRG, "'Do Not Trespass' Land Confiscation by Armed Actors in Southeast Myanmar", May 2019.

<sup>301</sup> "Nothing for Our Land" – Impact of Land Confiscation on Farmers in Myanmar", Human Rights Watch, 17 July 2018.

<sup>302</sup> See Source #22.

<sup>303</sup> See Source #49.

<sup>304</sup> See Source #24.

<sup>305</sup> See Source #4.

should be informed about the impacts of economic activities or infrastructure projects before their implementation: *“For instance, when a company carries out development projects in our area, we should be informed about the benefits and disadvantages of the project in advance.”*<sup>306</sup>

Article 32 of the of the United Nations Declaration on the Rights of Indigenous Peoples states that indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. It further adds that States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources.

KHRG’s documentation demonstrates that the Myanmar government consistently failed to take these steps, thus denying Karen communities their rights over land and resources. More importantly, it also failed to uphold the provisions on the protection of the rights of indigenous people and ethnic groups contained in the country’s legal framework. Indeed, Article 5 of the 2015 Protection of the Rights of National Races Law states that indigenous peoples should receive complete and precise information about business activities in their territories before their implementation. Similarly, Section 65 of the 2016 Myanmar Investment Law requires respect for the rights and customs of ethnic groups.

#### *Land issues: a danger for the peace process*

Land confiscations could potentially stoke existing inter-ethnic tensions between the Bamar and ethnic communities. As a male respondent from Mone Township, Nyaunglebin District reported: *“We try our best to live in harmony with other ethnic groups here. We just face a little difficulty: when we were away from our home because of the fighting, [Burmese] people came and occupied our lands. We do not know how we could get our lands back. [...] If we tell them directly, they will think that we are discriminating against them. We fear that it will cause conflict between us, so we do not tell them.”*<sup>307</sup> Similar situations could further compromise the already delicate inter-ethnic relationships in Southeast Myanmar.

The VFV law and its amendment are also factors that have contributed to growing tensions between the KNU and the Myanmar government. On December 15<sup>th</sup>, 2018, the KNU released a statement calling for the abrogation of the VFV. On this occasion, a member of the KNU’s Central Land Committee pointed out that the law will harm trust between both sides if it is not repealed. He further added that it will also undermine the current peace process.<sup>308</sup>

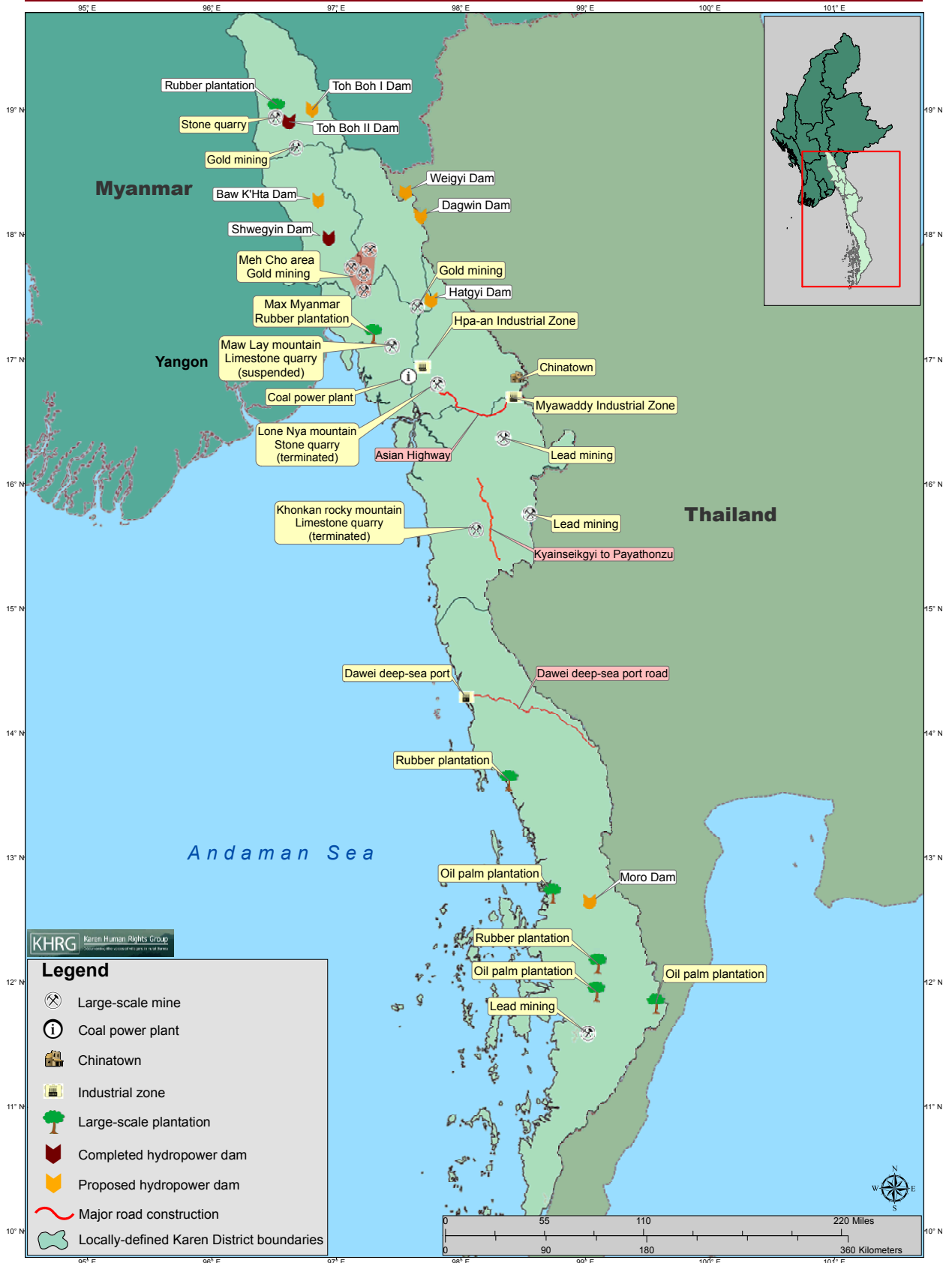
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<sup>306</sup> See Source #74.

<sup>307</sup> See Source #13.

<sup>308</sup> “KNU Calls for Govt’s to Tear-up it’s Vacant, Fallow and Virgin Land Management Law”, *Karen News*, 21 December 2018.

## Large-scale corporate development projects in Southeast Myanmar



## **B) Local perspectives on the peace process**

### **i. Lack of involvement of local communities**

#### **Lack of knowledge of the peace process**

One third of all respondents told KHRG that they lacked basic knowledge about the NCA. For example, a woman from Win Yay Township, Dooplaya District said: *“I have no idea about the ceasefire. Everything about the ceasefire was arranged by the authorities. I haven’t heard about it because we were not involved in the consultations for the ceasefire.”*<sup>309</sup> One reason is that little has been done by the Myanmar government to raise awareness about the NCA in many areas of Southeast Myanmar. A male respondent from Thandaunggyi Township, Toungoo District said: *“We just learned about the NCA when CSOs and the KNU gave us awareness about it, only after it was signed, but the Myanmar government did not give the local community awareness about the NCA at the local level.”*<sup>310</sup> Another is that respondents who used radio as a primary source of information about the peace process struggled to understand the information because it was provided in Burmese. A male interviewee from Bu Tho Township, Hpapun District said: *“The peace process is getting nowhere. I listened to the BBC and the VOA to get more information. I don’t understand Burmese very much. If I didn’t understand some words, I went to ask people to explain it to me.”*<sup>311</sup>

Many interviewees expressed their desire to learn more about the NCA. For example, this male respondent from Kyaukkyi Township, Nyaunglebin District felt compelled to learn about it: *“Our leaders signed the ceasefire and we are their children so it relevant to us. The local people like us need genuine peace. We do not want the fighting to happen again. If our leaders do their best and follow the NCA code of conduct, it will make the villagers happy. We really hope that the fighting will not happen again. [...] We received a letter from our leaders about the NCA. They organised a meeting and distributed the letters. It was in Burmese language at first, but then they gave us Karen language [materials] later. The villagers have read about it as well. Even though each house does not have one copy, we got three or four books for each village. Some organisations raised awareness about it too.”*<sup>312</sup>

#### **Insufficient engagement with the peace process**

Those who do not know about or how to engage with the peace process want to do so. For example, a female villager from Bu Tho Township, Hpapun District said: *“I want to participate [in the peace process]. If there are some people who are leading the peace process, I will be a follower who will support them and work with them. I don’t understand the process well enough to do it by myself.”*<sup>313</sup> For some, this desire is not merely for responsible civic engagement, but also to support a democratic process. For example, a female interviewee from Tanintharyi Township, Mergui-Tavoy District said: *“We were pleased when our leaders [KNU] decided to negotiate in the peace process. However, I would like to suggest to our leaders to create their political dialogue from bottom up, which means considering [the perspectives of] local people.”*<sup>314</sup>

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<sup>309</sup> See Source #75.

<sup>310</sup> See Source #35.

<sup>311</sup> See Source #7.

<sup>312</sup> See Source #6.

<sup>313</sup> See Source #66.

<sup>314</sup> See Source #14.

Several interviewees think that more civilian representatives should participate in decision-making meetings related to the peace process. In the words of a male respondent from Htantabin Township, Toungoo District: *“The civilians and local people’s desires should be included. They should participate in the meeting with the KNU, government and Tatmadaw. [...] If there are more civilians, there should be more civilian representatives. Now it is like ten people from the government, ten from EAOs and six civilians. [...] The civilians don’t understand this peace process because they have less participation.”*<sup>315</sup>

A male respondent from Thandaunggyi Township, Toungoo District added that everybody should be involved in the peace process: *“Even poor people should be involved in the peace process, and be able to raise their ideas and suggestions. If everyone gets involved in the peace process, I think that will give us a sustainable peace. We should not only involve educated people in the peace process. If people like trishaw drivers in the streets, farmers and plantation workers do not have the right to get involved in the peace process, we will never be able to achieve sustainable peace. Soldiers, captains, presidents, ethnic leaders, doctors or nurses should all be involved in the peace process. If everyone, regardless of their position, can get involved in the peace process, we can achieve sustainable peace.”*<sup>316</sup>

## ii. Lack of trust in the peace process

A number of factors contribute to a lack of trust in the peace process, and to the widespread feeling that it will not bring about sustainable peace in Southeast Myanmar.

### On-going militarisation and clashes between the KNLA and the Tatmadaw

Respondents cited on-going fighting in Southeast Myanmar as a reason that makes them doubt whether sustainable peace is achievable. A female respondent from Kyaukkyi Township, Nyaunglebin District said: *“We heard that fighting happens often in Brigade 5, so we are worried because we also live in an area that is controlled by the KNU.”*<sup>317</sup> A woman from Kawkareik Township, Dooplaya District also said: *“We heard that fighting is on-going in District #5 [Hpapun District] [despite] the NCA. Why do they do that? They stop fighting here [Dooplaya District], they should also stop the fighting there [Hpapun District]. If they keep going like this, I do not believe that it is peace.”*<sup>318</sup>

Fear remains prevalent in Southeast Myanmar because of past human rights abuses perpetrated by armed actors, and especially the Tatmadaw. Because of this, respondents do not feel secure when army camps are based near their communities. A male interviewee from Kyaukkyi Township, Nyaunglebin District said: *“I have read about the NCA code of conduct. I do not understand all of it but so far I read about it, and it makes me satisfied. The travelling is getting easier but there are still Tatmadaw army camps along the way, in Ee Tha Plaw village and Kler So village in Kheh Der village tract. That makes us feel unsafe sometimes when we pass them. We still do not dare to sleep at our farm hut alone or with just two people. We still have fear remaining from the past. We also worry that they will take our property, like paddy or animals, so some people do not even do farming anymore. If they remove their camps from our place, it will make us feel better. The NCA code of conduct is very good and if it is applied, I think it will be beneficial for us.”*<sup>319</sup>

<sup>315</sup> See Source #11.

<sup>316</sup> See Source #19.

<sup>317</sup> See Source #8.

<sup>318</sup> See Source #38.

<sup>319</sup> See Source #6.



A perceived weakness of the NCA is that it does not clearly demarcate territory between the Tatmadaw and different EAOs. One man from Thandaunggyi Township, Toungoo District said: *“We have many expectations from the current peace process. The administration systems overlap in mixed-control areas. I think it is better to have a clear boundary between the armed groups and the Myanmar military because currently different armed actors do not have clear areas of control.”*<sup>320</sup> He gave his recommendation: *“If the Tatmadaw and ethnic armed actors really want peace, they should set up clear boundaries in order to build trust. If they can divide administrative areas clearly, the peace process could move forward smoothly.”*<sup>321</sup>

Respondents are worried by the continued presence of Tatmadaw military camps near villages. A male respondent from Kyauk T’Ga Township, Nyaunglebin District said: *“The Tatmadaw is the biggest barrier to building sustainable peace because they never withdrew their camps from local villages. This is a big threat for local people who live near the army camps. As a pastor, I am scared to travel for worship purposes. How can the NCA be enforced if the Tatmadaw does not withdraw their military camps from local villages?”*<sup>322</sup>

Similarly, respondents feel unsafe when they witness Tatmadaw soldiers transporting rations or reinforcements close to their villages. Even when this is allowed by the NCA, it breeds mistrust and insecurity in the local community. A male respondent from Thandaunggyi Township, Toungoo District said: *“I know about the ceasefire from watching the news. I saw that our leaders were negotiating an agreement between them. I think they only want to show off to foreign countries that they are taking steps to bring about peace. In reality, the Tatmadaw travels to Karen State with so many military trucks full of soldiers and weapons. They are also doing large-scale business projects in the region. We also heard about fighting. So, I think this ceasefire agreement is only temporary and fake.”*<sup>323</sup>

As noted above in section 2(a)(iii) of this report, customary land is still being used for Tatmadaw army camps and Tatmadaw military practice. This has been documented extensively by KHRG in the past, affecting people in, among others, the following townships: Htantabin, Thandaunggyi, Pyimana (Toungoo District); Kyaukkyi (Nyaunglebin District); Ler Mu Lah, Tanintharyi, K’Ser Doh (Mergui-Tavoy District); Kyainseiky, Kawkareik (Dooطلا District); Dwe Lo, Bu Tho (Hpapun District); Nabu and Paingkyon (Hpa-an District).<sup>324</sup> A female interviewee from Thandaunggyi Township, Toungoo District told KHRG: *“I think that if the Tatmadaw keeps holding target practice on our lands the peace process will break down. The land should be for local villagers. I do not want the Tatmadaw to use our lands for military purposes. I do not want our land to be used for target practice. We face a lot of difficulties and livelihood challenges because of military activities near our village.”*<sup>325</sup> She further explained that a core component of the peace process is the feeling of being able to live in safety in her village. *“If we had sustainable peace, I would be able to live without any concerns for my security in my village.”*<sup>326</sup>

Some respondents expressed concern that the Tatmadaw is using the peace process to consolidate its power in Southeast Myanmar. A male interviewee from Thandaunggyi Township, Toungoo District said: *“The peace process described by our leaders is not what we are experiencing on the ground. When the Tatmadaw enters into KNU-controlled areas to build a*

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<sup>320</sup> See Source #35.

<sup>321</sup> See Source #35.

<sup>322</sup> See Source #22.

<sup>323</sup> See Source #44.

<sup>324</sup> KHRG, “Do Not Trespass: Land Confiscations by Armed Actors in Southeast Myanmar”, March 2019, p. 22-23.

<sup>325</sup> See Source #43.

<sup>326</sup> See Source #43.

road, and they use peace as an excuse to do what they want, I do not think that we have genuine peace. I am worried that they will trick us again one day.”<sup>327</sup> As noted in this quote as well, local communities suspect that activities such as road construction and renovation are aimed at reinforcing the Myanmar military’s control of the region rather than mere infrastructure development. A male respondent from Thandaunggyi Township, Toungoo District told KHRG he feared that it could lead to renewed skirmishes with the KNLA: *“The local populations are so worried about these kinds of military activities because there are no clear boundaries between areas [controlled by the KNLA or the Tatmadaw]. Fighting can happen at any time if they misunderstand each other.”*<sup>328</sup>

Nevertheless, others worry that peace is not sustainable in Southeast Myanmar because of the conflict they see happening in other ethnic regions. One man from Thandaunggyi Township, Toungoo District said: *“I would like to say that if they are going to organise a ceasefire, they should do it with the whole country. However, they will fight in Rakhine until they [ethnic groups] surrender. [...] The Tatmadaw military is also transporting more rations and ammunition, recruiting and sending more soldiers in Kayah State. We also see them transporting rations with horses in Thandaung [town]. This is kind of like an invasion of these areas. They are going to come back here in these areas after they fight in Rakhine.”*<sup>329</sup>

### **Elusive political reform in Myanmar**

Interviewees also voiced that sustainable peace is undermined by the slow pace of political reform in Myanmar to create a democratic, federal governance structure. For example, one woman from Kyonedoe Township, Dooplaya District said: *“What we want is Federalism in which we have self-determination and freedom of expression. It is not happening like this [federalism] now; we do not have freedom of expression and self-determination at all. The Myanmar government wants to implement Burmanisation. I think this political situation will take a long time to build sustainable peace in the country.”*<sup>330</sup>

Distrust in the sustainability of the peace process has led many respondents to feel unsafe with the Tatmadaw’s proposal to move towards the ‘one country, one army’ model. A female interviewee from Bilin Township, Thaton District said: *“The Tatmadaw said, there must be only one military and no other armed groups should be allowed [in the country]. When there is only one military, there will be only the Tatmadaw military, and no other ethnic army like Kachin, Kayin, Kayah. Ethnic armed groups will not be allowed [to hold arms] and we will have to live under their [Tatmadaw] control. Therefore, we cannot not agree with it because we feel uneasy, distrustful, dissatisfied and unhappy with our future.”*<sup>331</sup>

The aforementioned concerns about weaknesses in the peace process and threats to its progress are all impediments to transitional justice in Myanmar, because they hinder alleviation of ongoing problems. The next chapter shifts from the strictly political to another potential means of achieving transitional justice i.e. the judiciary, and examines the ways in which this avenue is and is not positioned to resolve existing grievances in Southeast Myanmar.

<sup>327</sup> See Source #44.

<sup>328</sup> See Source #35.

<sup>329</sup> See Source #77.

<sup>330</sup> See Source #76.

<sup>331</sup> See Source #16.

## Photos: The situation in Southeast Myanmar since the signing of the Nationwide Ceasefire Agreement



This photo was taken on March 15<sup>th</sup> 2018 in Lu Thaw Township, Hpapun District. It shows villagers who fled from skirmishes between the Tatmadaw and the KNLA. The fighting broke out after the Tatmadaw trespassed into KNU-controlled territory to build a road. These villagers set up a temporary displacement site in the jungle. *[Photo: KHRG]*



This photo was taken in April 2019 in Kyaukkyi Township, Nyaunglebin District. It shows villagers displaced in the forest because of skirmishes between the Tatmadaw and the KNLA. The fighting broke out after the Tatmadaw trespassed into KNU-controlled territory to build a road. *[Photo: Villager/KHRG]*



This photo was taken on May 18<sup>th</sup> 2017, in Shwegyin Township, Nyaunglebin District. It shows the body of an eight-year-old girl who was murdered by a Tatmadaw soldier from LIB #598 on May 14<sup>th</sup> 2017. The soldier [Myint Win] was reported dead shortly after. *[Photo: Villager]*



This photo was taken on May 25<sup>th</sup> 2016 in Dwe Lo Township, Hpapun District. It shows a villager who stepped on a landmine receiving treatment from a trained medic in his village. *[Photo: KHRG]*



This photo was taken on May 15<sup>th</sup> 2017, in Pla Hkoh village tract, Lu Thaw Township, Hpapun District. It shows IDPs protesting to urge the Tatmadaw to withdraw their army camps in order to allow for their return to their villages of origin. [Photo: KHRG]



This photo was taken in Kheh Der village tract, Kyaukkyi Township, Nyaunglebin District on March 21<sup>st</sup> 2019. It shows villagers from Kheh Der village tract demonstrating against a Tatmadaw road construction project. [Photo: KHRG]



This photo was taken in December 2017 in Htantabin Township, Toungoo District. It shows Tatmadaw trucks sending more food and more soldiers to Hkler La and Kaw Thay Der army camps. [Photo: KHRG]



This photo was taken in January 2019 in Ler Mu Lah Township, Mergui-Tavoy District. It shows unexploded hand grenades left by the Tatmadaw on local villagers' lands. [Photo: KHRG]



This photo was taken on January 3<sup>rd</sup> 2018 in Win Yay Township, Dooplaya District. It shows a community meeting held in a local monastery to form a committee to stop the production of cement on the Khokhan Mountain. There were 54 attendees, including village heads, village tract leaders and four senior monks. [Photo: KHRG]



This photo was taken on December 12<sup>th</sup> 2016 in Htantabin Township, Toungoo District. It shows villagers from three villages demonstrating against the Asia World and the Kaung Myanmar Aung companies. The companies confiscated some of their lands to carry out their activities, resulting in livelihood difficulties for the local population. [Photo: KHRG]



This photo was taken in April 2018 in Shwegyin Township, Nyaunglebin District. It shows a stakeholders' consultation meeting organised by the Committee of Internally Displaced Karen People (CIDKP). Around 300 participants attended the meeting, including Government authorities, KNU authorities, NGOs and civilians. They discussed and shared their perspectives and concerns about the current peace process. [Photo: KHRG]



This photo was taken in January 2018 in Bu Tho Township, Hpapun District. It shows villagers attending a meeting on the peace process held by the local KNU/KNLA authorities. [Photo: KHRG]



This photo was taken on October 14<sup>th</sup> 2015 in Ler Doh Town, Kyaukkyi Township, Nyaunglebin District. It shows more than 4,000 villagers from Mone, Kyaukkyi and Shwegyin townships gathering together to celebrate the upcoming signing of the Nationwide Ceasefire Agreement. [Photo: Villager]



This photo was taken on August 15<sup>th</sup> 2016 in Thandaunggyi Township, Toungoo District. It shows a signpost that was planted on local villagers' land by the Tatmadaw's military school commander from Ba Yint Naung army camp, Major Kyaw Kyaw Lwin, on August 10<sup>th</sup> 2016. The signpost says that this land is now a military target practice area and forbids the local population from entering it. [Photo: KHRG]

## Chapter 3: The issue of justice in Southeast Myanmar

### Key findings

1. An overwhelming majority of interviewees felt that there has been no justice for past human rights violations. Barriers to accessing justice included the fear of armed actors, which prevented victims from reporting incidents, and the Tatmadaw's strong influence on the judiciary. The absence of a functioning justice system and the lack of jurisdiction of civilian courts over military personnel paved the way for impunity, as military courts were unlikely to punish soldiers for human rights abuses committed as part of a policy sanctioned by the Tatmadaw's highest echelons.
2. Although some interviewees remain pessimistic about their ability to access justice, most suggested ways forward to settle past human rights abuses. Some favoured punitive measures, such as prosecution under formal criminal justice mechanisms or the removal of perpetrators from their positions of power. Others called for acknowledgement or apologies, and for guarantees of non-repetition. Victims also advocated for adequate compensation, the return of their confiscated land and financial or material support programmes, including psychosocial support, to restore their lives.
3. According to KHRG's research, none of the three parallel justice systems in Southeast Myanmar are equipped to deal with post-ceasefire human rights violations. The customary justice system is inconsistent and cannot deal with serious cases. The Myanmar government justice system is seen as biased against ethnic minorities, lacks transparency, is inefficient and incurs high costs for participants in court proceedings. Although the Karen community has a strong preference for the KNU justice system, it is perceived as too lenient. It also often fails to take action on complaints and lacks both resources and qualified staff. All three systems are plagued by corruption and bribery.

In Myanmar, a major obstacle to justice in the past has been the inability of courts to deliver remedies to victims of human rights abuses that took place before the ceasefire period. As many of them still struggle with the long-term consequences of these abuses, it is paramount to ensure that they can access justice and appropriate compensation. One possible means of justice moving forward is the ability to use legal remedies as an avenue to recourse. To that end, this chapter examines past barriers to justice, how communities in Southeast Myanmar define justice, and how they interact with the multiple, overlapping justice systems in the region. It is crucial to root discussions in a nuanced understanding of local perceptions of justice.

## A) Lack of accountability for pre-ceasefire human rights abuses

Interviewees overwhelmingly felt that there has been no justice for past human rights violations and abuses. According to a respondent from Mone Township, Nyaunglebin District, who was forcibly displaced when his village was attacked by the Tatmadaw: *“There has never been justice for survivors of human rights violations.”*<sup>332</sup> This sentiment of hopelessness about the ability to access justice is common among civilians in Southeast Myanmar, who feel that their voices have been ignored. A male interviewee from Mone Township, who escaped an assassination attempt by the Tatmadaw, shared his feelings about justice with KHRG: *“No, there was no justice. No one even listens to us when we are talking about past human rights abuses. Is that our fortune? We don’t even know how to talk about it. So I just want to ask myself: ‘Why was I born with this difficulty and misfortune?’”*<sup>333</sup>

This subsection focuses on identifying problems and proposing solutions. More specifically, it explores civilians’ thoughts and perspectives on barriers to justice for past violations and abuses. In order to inform discussions about possible avenues of justice, this section also explores what justice means to local communities.

### i. Barriers to justice

Those interviewed by KHRG identified several barriers to justice. These included: the fear of armed actors, a lack of judicial independence and due process, lack of investigative capacity within the local justice system, lack of rule of law, impunity within the military justice system, and absence of civilian court jurisdiction over armed actors.

#### Fear of armed actors

Many local civilians did not report the human rights violations they suffered because they feared military actors. A respondent from Mone Township, Nyaunglebin District who experienced human rights violations during the pre-ceasefire period, including forced portering and physical abuse by the Tatmadaw, shared his perspectives about the local people’s safety concerns: *“The Tatmadaw had a group called Pyauk Kya Group [Tatmadaw guerrilla forces] that killed a lot of people. Local people were afraid of them because they were very violent. We had to bow down when we went in front of them and dared not look at their faces. People had to run to them immediately when they waved someone over. If they disliked someone who was walking in front of them, they would do bad things to them such as punching or hitting them. When someone argued or responded to them, they punched him and accused him of being a spy. We were supposed to be silent and obey all of their orders.”*<sup>334</sup>

Most significantly, civilians were paralysed by a fear of reprisals by the Tatmadaw and other armed actors for reporting incidents. One female civilian reported: *“I have not seen anything resolved. We were afraid of both the KNU and the Tatmadaw at that time so we just listened and did what they said.”*<sup>335</sup> A woman from Kyaukkyi Township, Nyaunglebin District who was forced to porter by the Tatmadaw during the conflict, shared her feelings: *“As we are civilians and people from a rural area, we cannot send them to court. We just understand them like that.*

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<sup>332</sup> See Source #23.

<sup>333</sup> See Source #15.

<sup>334</sup> See Source #3.

<sup>335</sup> See Source #58.

*They can do whatever they want because they have power. We have nothing to protect ourselves from them so we just let them do what they are doing.*<sup>336</sup>

KHRG's reporting shows that such fears are legitimate. For example, a man from Bu Tho Township, Hpapun District reported to KHRG in 2015 that BGF soldiers questioned and threatened villagers when they tried to report abuses to the Tatmadaw.<sup>337</sup> All through the 1990s, civilians also reported being targeted by death squads who suspected them of aiding the KNLA.<sup>338</sup> This fear also created a chilling effect for village heads, which prevented them from executing their responsibilities as justice administrators. When asked whether the village head conducted investigations into a murder of a civilian by the Tatmadaw, a female interviewee from Kyainseikgyi Township, Dooplaya District responded: *"No, they did not dare conduct investigation."*<sup>339</sup>

One consequence of this fear among civilians was a generalised sense of helplessness. A male interviewee from Kyainseikgyi Township, Dooplaya District expressed this sentiment to KHRG: *"We wait for our leaders [the authorities] to do something for us. We are civilians so we do not have the authority to give punishment [to the perpetrators]."*<sup>340</sup> Another respondent from Thandaunggyi Township, Toungoo District captured a similar feeling: *"I could not complain about what they did because the military government ruled the country at that time. Villagers were like water in their hands [at their mercy]."*<sup>341</sup>

A male village head from Thandaunggyi Township, Toungoo District who was tortured by the Tatmadaw with electric shocks shared a similar view on the lack of justice: *"They [who have power] just ruled the country as they liked. They did not actually comply with the law. During the era of the military government, we only feared the gun. At that time, no one dared to keep their chin up because the military simply followed orders. Therefore, nobody raised their voice about justice. Instead, it was better for us to stay silent. I have never felt or touched justice."*<sup>342</sup> Fear was closely connected to the lack of rule of law; the fear of powerful actors and the belief that they would not be held accountable were mutually reinforcing.

### **Lack of investigative capacity within the local justice system**

One impediment to justice was that local justice administrators did not have the resources or capability to carry out their duties.

Interviewees reported that village leaders did not conduct adequate investigations of crimes in order to keep the villages safe. One woman from Kyonedoe Township, Dooplaya District told KHRG about the situation in her village: *"Our village head was Bamar. Our village was really big so the village head also could not easily monitor every case that happened in the village. Some villagers kept silent because they were afraid to report the case."*<sup>343</sup> A man from Bu Tho Township, Hpapun District expressed his desire for more satisfactory investigations when authorities are aware of on-going problems: *"The government and authorities cannot just listen to the local people's problems, difficulties and suffering. They should go on the ground and*

<sup>336</sup> See Source #58.

<sup>337</sup> KHRG, "Hpapun Situation Update: Bu Tho Township, June to October 2015", September 2016.

<sup>338</sup> KHRG, "DEATH SQUADS AND DISPLACEMENT", May 1999.

<sup>339</sup> See Source #1.

<sup>340</sup> See Source #25.

<sup>341</sup> See Source #19.

<sup>342</sup> See Source #19.

<sup>343</sup> See Source #76.



*investigate the problems and difficulties just like the American government does. They will only know and be able to solve the problems and difficulties of local people if they do that.*"<sup>344</sup>

### **Impunity within the military justice system**

Interviewees consistently identified impunity as an issue for armed actors – primarily Tatmadaw soldiers – due to a lack of jurisdiction over Tatmadaw personnel by the Myanmar civilian justice system. Impunity reigns as a result, as one female interviewee from Tanintharyi Township, Mergui-Tavoy District said: *"There was no one to penalise the Tatmadaw [soldiers] who violated human rights."*<sup>345</sup> Pursuant to Article 20(b) of Myanmar's 2008 Constitution, "the Defense Services has the right to independently administer and adjudicate all affairs of the armed forces."<sup>346</sup> This, in combination with Articles 293 (b) and 319 of the Constitution, gives the Tatmadaw justice system exclusive jurisdiction over military personnel.<sup>347</sup> In short, the Tatmadaw is only accountable to itself.

This is highly problematic because this justice system is embedded in the very structure responsible for the deliberate, widespread and systematic human rights violations and crimes committed against civilians. These violations and crimes were part of an overt military policy and strategy sanctioned by the highest echelons in the Tatmadaw. Consequently, it was, and continues to be, highly improbable that the Tatmadaw would punish its ranks for executing its own policies.

In fact, article 445 the Constitution even codifies impunity for Tatmadaw personnel within the Myanmar government structure: *"No proceeding shall be instituted against the said Councils [the State Law Order and Restoration Council and the State Peace and Development Council] or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties."*<sup>348</sup> This provision effectively enables members of the Tatmadaw potentially responsible for (gross) human rights violations to evade prosecution and accountability.

Impunity rings true for soldiers executing their superiors' orders. A woman from Bu Tho Township, Hpapun District said: *"No, they did not get any punishment. The smart follower will fill the Commander's stomach. [It means that the follower will try to please the Commander even if he is not given a specific order.]"*<sup>349</sup> A man from Dwe Lo Township, Hpapun District asked: *"How can we punish them? They [Tatmadaw] committed the human rights violations on the orders of their leaders [upper commanders]."*<sup>350</sup> One female interviewee from Kyaukkyi Township, Nyaunglebin District speculated that soldiers were even promoted for following potentially unethical or illegal orders: *"Who was there to punish them [Tatmadaw]? They were promoted to higher positions instead because they followed the order of their leaders."*<sup>351</sup>

This culture of impunity cultivated an environment where Tatmadaw soldiers felt uninhibited to commit human rights violations. One male interviewee from Kyainseikgyi Township, Dooplaya District summarised the problem: *"Even when the KNU and the Myanmar government order*

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<sup>344</sup> See Source #26.

<sup>345</sup> See Source #14.

<sup>346</sup> Article 20(b), 2008 Constitution of the Republic of the Union of Myanmar.

<sup>347</sup> Article 293(b) and 319, 2008 Constitution of the Republic of the Union of Myanmar.

<sup>348</sup> Article 445, 2008 Constitution of the Republic of the Union of Myanmar.

<sup>349</sup> See Source #66.

<sup>350</sup> See Source #78.

<sup>351</sup> See Source #8.

*their soldiers and followers, they [the soldiers and followers] can just do whatever they want on the ground or in the front line areas.*<sup>352</sup> Although some violations and crimes were not committed as part of the Tatmadaw's military strategy, the military justice system was still not enforced and any punishments were executed informally. A woman from Kyainseikgyi Township, Dooplaya District said: *"He did nothing to that soldier [as punishment]. But another Tatmadaw soldier who attempted to rape Naw H--- at night time was punished by beating."*<sup>353</sup>

### **Lack of judicial independence**

The Tatmadaw's strong influence on the Myanmar government justice system undermines the independence of the judiciary and constituted a barrier to justice in Southeast Myanmar. Judges often make decisions based on orders from government or military officials, and even more so before the ceasefire.<sup>354</sup> The same village head from Thandaunggyi Township, Toungoo District who was accused by the Tatmadaw of being connected to the KNLA shared his experience with KHRG: *"They [Tatmadaw] put me in jail as they wanted. They just made a decision in the court as they wanted. They just gave an order as they wanted. They just arrested people as they wanted. They just gave food as they wanted. They just asked people to do as they wanted. They just did whatever they liked to do because they had the power. So I have never seen them being fair. They were the main perpetrators violating the law."*<sup>355</sup> He also shared his perspectives on why he cannot complain about biased judgments from the court: *"They could do anything they wanted to me because I was like water in their hands [at their mercy]. Finally, they sent me to court to pretend like they did the process according to the law. Then, they released an order and put me into jail."*<sup>356</sup>

### **Lack of rule of law**

Several interviewees reported that the lack of rule of law was the main barrier to achieving justice for past human rights violations and abuses. One man from Bu Tho Township, Hapun District captured many of the relevant issues: *"It was an abuse of power. There was no rule of law and there was no knowledge of human rights among civilians. So they just followed and did everything they were asked to do. However, even if you knew your rights in that time, you were not able to go against them. No one had the courage to oppose them."*<sup>357</sup>

A woman from Thandaunggyi Township, Toungoo District explained how the police were more likely to protect the interests of powerful actors than to help civilians: *"When the police handled this issue, we faced difficulties because they came to threaten us in many different ways. That's why we got in trouble. In fact, the land problem has nothing to do with police. The role of the police is to protect the people. They have to catch bad people such as thieves and robbers. We are good people."*<sup>358</sup>

In the absence of a functioning legal system to handle cases, bribery and corruption were commonly used to solve problems. One male respondent from Mone Township, Nyaunglebin District said: *"In the past, they only used bribery to solve the problems. We have never been to*

<sup>352</sup> See Source #2.

<sup>353</sup> See Source #65.

<sup>354</sup> ICJ, "Achieving Justice for Gross Human Rights Violations in Myanmar Baseline Study, January 2018", January 2018.

<sup>355</sup> See Source #19.

<sup>356</sup> See Source #19.

<sup>357</sup> See Source #30.

<sup>358</sup> See Source #43.

court.”<sup>359</sup> Another explained how this system intersected with extortion by armed actors: *“The Tatmadaw did not resolve anything but the villagers had to solve the problems with money in order to live our lives easier which means if we did not pay money to them, they would give us trouble.”*<sup>360</sup>

## ii. Local expectations of justice for past abuses

Given the existence of these barriers in the past, it is important to know how local communities in Southeast Myanmar conceive of justice for past abuses.

KHRG asked civilians throughout Southeast Myanmar about what they perceived to be appropriate recourse for past human rights violations and abuses. Some interviewees remained pessimistic about their ability to access justice. For example, one female interviewee from Kyaukkyi Township, Nyaunglebin District said: *“I think it is meaningless to talk about this because we cannot do anything.”*<sup>361</sup> However, most interviewees proposed remedies. In some cases, people suggested what they thought would be fair solutions; in others, they simply suggested what they thought were feasible steps to allow them to move forward with their lives. This section discusses the different expectations of justice put forward by local communities in Southeast Myanmar.

### Criminal justice

Several respondents reported that they want perpetrators of human rights violations and abuses to be punished under formal criminal justice mechanisms. A woman from Mone Township, Nyaunglebin District who experienced forced displacement, forced labour, and whose relatives were murdered by the Tatmadaw during the pre-ceasefire period, shared her perspectives with KHRG about justice for victims. She said: *“The best way is [for them] to go to court. If they break the law, they should be punished as the law requires. They don’t need to pay money for compensation. They just need to be punished.”*<sup>362</sup> A male respondent from Mone Township, Nyaunglebin District voiced a similar perspective: *“I think perpetrators of human rights abuses should be sent to court and the court will have to make a decision about justice. I just want that. We do not want any money to solve problems. We just want them [Tatmadaw] to be punished according to the law.”*<sup>363</sup>

Interviewees voiced different rationales for punishment. Some victims/survivors want perpetrators to be punished in order to reform them. One respondent from Bilin Township, Thaton District shared her perspective with KHRG: *“Personally, I want the perpetrators to be punished as severely as the victims suffered in order to learn from their mistakes and realise [the harm they’ve done] so that they will never repeat the abuse again. If they are punished, it should be with a prison sentence of many years.”*<sup>364</sup> Another respondent shared similar feelings: *“I want them to be given a punishment that will change their behaviour to prevent them from committing human rights violations against us ever again.”*<sup>365</sup> This sentiment was shared by another female interviewee: *“In my opinion, I do not want compensation and apology but I want change. I want*

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<sup>359</sup> See Source #13.

<sup>360</sup> See Source #52.

<sup>361</sup> See Source #8.

<sup>362</sup> See Source #17.

<sup>363</sup> See Source #13.

<sup>364</sup> See Source #16.

<sup>365</sup> See Source #51.

them [perpetrators] to transform to the good behaviour and bring justice. I want people [higher authority] to judge authorities [perpetrators] and so they change their behaviour.”<sup>366</sup>

Other civilians wanted perpetrators to be punished in order to deter others from committing human rights abuses in the future. For example, one female interviewee from Thandaunggyi Township, Toungoo District said: *“I also want to see effective action being taken for those people. If action is not taken, other people will abuse the authorities’ power. That’s why I demand that action be taken effectively for this case.”*<sup>367</sup> Another female interviewee from Bilin Township, Thaton District emphasised the deterrent effects of criminal justice: *“Human rights violations and abuses happened in large numbers in our community, so they should indict the perpetrators in court so that they learn from the punishment and never repeat the abuses [to reduce human rights violations in the future]. I want the perpetrators to regret what they have done to the victims and [as an example] for other people to not commit the same mistakes.”*<sup>368</sup> A male civilian from Win Yay Township, Dooplaya District said: *“If they are given the punishment that they deserve, there will be less violations in the community.”*<sup>369</sup>

Interviewees also raised several other rationales for punishment. A woman from Tanintharyi Township, Mergui-Tavoy District who wanted to make sure everything is done fairly, said: *“I do not think monetary compensation is the right remedy. It is important to punish the perpetrator according the laws. The judgment should not be associated with any forms of corruption.”*<sup>370</sup> A man from Win Yay Township, Dooplaya District who wanted a sustainable remedy voiced a second rationale: *“If possible, I would like to have justice. Reparations are just temporary. It will all be gone in a short time. But, having justice is beneficial for all and will last.”*<sup>371</sup> A third opinion was voiced by female interviewee from Bilin Township, Thaton District who wanted governments to be held accountable: *“I want the KNU and Myanmar government to meticulously indict their members or followers who violated human rights and who committed rape, torture [and other forms of human rights violations] against civilians. All the perpetrators should be proportionately prosecuted by law in front of the victims as reparation. If they do it this way, many people will see that their government is taking proper action against perpetrators who committed human rights violations such as rape and torture. Then, civilians will be satisfied. The victims themselves also will be satisfied when they see that the perpetrators were prosecuted in front of them.”*<sup>372</sup>

Interviewees also differed in their opinions as to the severity of punishments that should befall perpetrators. Many interviewees expressed a sentiment that the punishment should fit the crime, such as this man from Mone Township, Nyaunglebin District: *“Responsible authorities should punish perpetrators equivalent to the abuses they committed.”*<sup>373</sup> Others thought that punishment should reflect community preferences, such as this man from Kyainseikgyi Township, Dooplaya District: *“Authorities should take accountability in punishing the past human rights perpetrators according to the desire of victims and local peoples.”*<sup>374</sup>

A female interviewee from Win Yay Township, Dooplaya District voiced the need for progressively severe consequences for repeated offenses: *“In my opinion, there should be three steps. First,*

<sup>366</sup> See Source #50.

<sup>367</sup> See Source #41.

<sup>368</sup> See Source #16.

<sup>369</sup> See Source #79.

<sup>370</sup> See Source #14.

<sup>371</sup> See Source #56.

<sup>372</sup> See Source #18.

<sup>373</sup> See Source #67.

<sup>374</sup> See Source #31.

*they should be given human rights training and warning. Second, if a person continues to do it deliberately, the person should be given the punishment that he or she deserves. If the person finally violated human rights along with the training and warning, he/she cannot be changed.”*<sup>375</sup>

One respondent interviewee from Bilin Township, Thaton District simply wanted an investigation by the current government: *“I want those in charge to conduct a proper investigation on past human rights violations.”*<sup>376</sup>

Several interviewees showed their lack of faith in domestic institutions to serve justice, calling instead on international investigations or prosecutions. For example, one male interviewee from Kyainseikgyi Township, Dooplaya District said: *“If possible, I want those [human rights violation issues] to be taken to the United Nations [UN] justice court.”*<sup>377</sup>

### **Removal of authorities from their positions**

As an alternative to criminal punishment (or in addition to it), some respondents in Southeast Myanmar found that justice would be best served by removing perpetrators from their positions or ranks. According to a male interviewee from Kyauk T’Ga Township, Nyaunglebin District: *“As I am a religious worker, I do not think a life sentence is warranted because it does not align with human rights. The most appropriate penalty is the dismissal of perpetrators from politics and leadership.”*<sup>378</sup> Another female respondent from Bilin Township, Thaton District said: *“If they change [their behaviour] after receiving proportional punishments, they can still maintain their positions. However, if they do not change, the best solution is them losing their position of power.”*<sup>379</sup> A male interviewee from Dwe Lo Township, Hpapun District said: *“I think the best [punishment] is the removal of their power or from their positions immediately because otherwise they will be dissatisfied with us if we report them [for violations they have committed].”*<sup>380</sup>

### **Acknowledgement**

Some interviewees called for acknowledgement or apologies for past human rights violations and abuses. A male respondent from Bu Tho Township, Hpapun District who was forced to porter and had two brothers killed by the Tatmadaw, shared his feelings with KHRG: *“We want the former government and the present government to work together and apologise for what they have done to the people. This way, we will be able to forget our past.”*<sup>381</sup> Another male respondent from Shwegyin Township, Nyaunglebin District who experienced displacement stated a similar opinion: *“It is important for the perpetrators to admit the wrong deeds they have committed in the past and to never do it again.”*<sup>382</sup>

A female interviewee from Tanintharyi Township, Mergui-Tavoy District used a Karen idiom to explain why mere acknowledgement or apology would be insufficient for her: *“I would not trust the perpetrators even if they asked for forgiveness because I believe that the cows that jump over the fences would do it again later. So, punishment is the appropriate thing.”*<sup>383</sup> A male interviewee from Bilin Township, Thaton District who was forcibly displaced when his village

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<sup>375</sup> See Source #75.

<sup>376</sup> See Source #18.

<sup>377</sup> See Source #50.

<sup>378</sup> See Source #22.

<sup>379</sup> See Source #51.

<sup>380</sup> See Source #80.

<sup>381</sup> See Source #30.

<sup>382</sup> See Source #49.

<sup>383</sup> See Source #14.

was attacked by the Tatmadaw made clear that apologies alone were insufficient: *“It is good if they help them [survivors]. They should apologise but they still have to pay compensation because they committed murders against villagers.”*<sup>384</sup>

### Non-repetition and safeguarding human rights

Some respondents asked for no more than freedom from on-going human rights violations and abuses, fulfilment of their rights, and legal procedural safeguards when violations or abuses do occur. For one man from Mone Township, Nyaunglebin District this seemed like the most he could ask for: *“We don’t need to dream and talk about reparations. It is a long shot to get reparations. It is enough if they stop these kinds of human rights abuses from happening again.”*<sup>385</sup> Another female respondent from Kyainseikgyi Township, Dooplaya District said: *“I want human rights violations to stop. Then I want to have opportunities and our rights respected.”*<sup>386</sup>

In addition to wanting abuses such as forced portering to stop, civilians want freedom of movement, safety, health, and the ability to pursue their livelihoods. One male respondent from Mone Township, Nyaunglebin District said: *“What we want is peace rather than condemnation. Being able to work freely is more than enough for us.”*<sup>387</sup> Another said: *“We do not want punishment for them but we just want to live, work and travel in peace without their disturbance.”*<sup>388</sup> According to a female interviewee from Bu Tho Township, Hpapun District: *“We will be satisfied when we have peace and freedom to work for our livelihood and travel. It is enough if they don’t force us to transport the rations and porter.”*<sup>389</sup>

Besides wanting relief for themselves, local community members do not want future generations to suffer from human rights violations and abuses. One respondent said, *“We will try to forget everything because it is already in the past. However, it will be better if the future generations and children don’t have to suffer and face these kinds of problems.”*<sup>390</sup>

Some civilians thought that a necessary step forward is through educating perpetrators. As one female interviewee from Win Yay Township, Dooplaya District said: *“In my perspective, for the first step, trainings [educate] should be given to the perpetrators. In addition, they should be taught very well about the consequences of committing a crime.”*<sup>391</sup>

Other civilians explained they just want the baseline administration of justice to be raised. For example, one respondent said: *“In case we still face those violent acts and abuses, we would like to demand our government to give penalty on the perpetrators according to the law and be transparent in deciding the penalty.”*<sup>392</sup> Or, to put a finer point on this sentiment, a male interviewee from Win Yay Township, Dooplaya District said: *“The rules that they have written down are acceptable. In contrast to this, they have failed to follow the rules.”*<sup>393</sup>

<sup>384</sup> See Source #81.

<sup>385</sup> See Source #15.

<sup>386</sup> See Source #60.

<sup>387</sup> See Source #61.

<sup>388</sup> See Source #52.

<sup>389</sup> See Source #66.

<sup>390</sup> See Source #66.

<sup>391</sup> See Source #75.

<sup>392</sup> See Source #28.

<sup>393</sup> See Source #79.

## Return of lands

In a country where over 70% of the population depends on agriculture, land is a crucial source of income and sustenance for local communities. As discussed in Chapter 2 (a) (iii) of this report, land confiscations remain pervasive in Southeast Myanmar; in many cases, lands confiscated before the NCA have not been returned to local communities.<sup>394</sup> One female interviewee from Thandaunggyi Township, Toungoo District said: *“We only want our lands back because we do not have lands to stay on anymore. In my house, there are many people because my daughters got married and their family came to live in my house. We do not have more land to make a new house. If possible, I want the Tatmadaw to return our lands to us.”*<sup>395</sup> A female respondent from the same Township said: *“We are the owners of these lands as we have been working on the lands since our great grandparents. We only want our lands. We cannot do anything to support our livelihood so we just ask for our lands but we have to go to court for that. We just want our lands back. We do not need money. If we have land, we can work on it to support our livelihoods. [...] As P’doh*<sup>396</sup> *Eh Wah said: ‘you do not have a country if you do not have lands.’ Where are we going to live? We cannot live in water. We cannot live in the trees.”*<sup>397</sup>

## Compensation

Some interviewees in Southeast Myanmar felt that compensation is necessary for actions by armed actors that resulted in death, injury and loss of property. A male civilian from Htantabin Township, Toungoo District who experienced human rights violations including being tortured by the Tatmadaw and being forcibly displaced due to the fighting, shared his feelings about justice for victims of human rights abuses: *“We want the compensation for those who were killed during that time, for their families and parents that were left behind and for the village.”*<sup>398</sup>

As for those whose property was damaged during the conflict, compensation may be the most appropriate recourse, as one male interviewee from Mone Township, Nyaunglebin District stated: *“The government and authorities should arrange appropriate support or compensation for the loss of property and suffering of survivors.”*<sup>399</sup> A female respondent from Thandaunggyi Township, Toungoo District explained why compensation might be fairer than getting her land back: *“If they want to give us compensation, they should give fair and adequate compensation. There were many types of plantations in our lands but they destroyed them. When we planted plantations, it took a lot of time - around 10 or 20 years. That’s why they should give us fair compensation.”*<sup>400</sup>

A woman from Mone Township, Nyaunglebin District who faced serious livelihood difficulties after her husband was tortured to death in prison by the Tatmadaw explained why compensation is more important to her for justice than an apology. She said: *“I think they have to know what we lost. We lost a life and our animals. So, I think they should pay for compensation because*

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<sup>394</sup> For more information, refer to Chapter 2 (a) (iii) *Land confiscations and natural resources governance* of this report. See also KHRG, “Do Not Trespass: Land Confiscations by Armed Actors in Southeast Myanmar”, March 2019.

<sup>395</sup> See Source #43.

<sup>396</sup> P’Doh is a Karen term meaning ‘governor’ or ‘Minister’.

<sup>397</sup> See Source #41.

<sup>398</sup> See Source #11.

<sup>399</sup> See Source #23.

<sup>400</sup> See Source #43.

*they cannot beg the dead person's forgiveness. They should pay compensation to send the children of the person they tortured to death to school."*<sup>401</sup>

The fairness of compensation may be determined by how long the civilians have suffered from human rights violations. According to a male interviewee from Kyauk T'Ga Township, Nyaunglebin District: *"Survivors should be compensated fairly based on the length of time they suffered abuses and the loss of their property should be compensated fairly. Most importantly, previous governments that have committed human rights abuses should take accountability. Some survivors still struggle with lingering consequences. Especially, Saw K---, who was just released from prison, said he had to struggle so hard to restart his livelihood again after more than ten years in detention. The current ruling government should also take accountability for this."*<sup>402</sup>

### **Other forms of support**

Other interviewees saw financial or material support programmes to restore their lives as the best solutions. According to one male respondent from Kyaukkyi Township, Nyaunglebin District *"Victims of human rights abuses [who were displaced] should have been given humanitarian support such as clothes, food and encouragement."*<sup>403</sup> A male respondent from Mone Township, Nyaunglebin District said: *"The government and authorities should arrange appropriate support or compensation for the lost property and the suffering of human rights survivors. Authorities should also arrange for appropriate resources and support for survivors who were displaced and had to relocate. At least they should support survivors for six months to one year in order to settle their livelihoods well. They should also create appropriate economic opportunities for survivors."*<sup>404</sup>

One female respondent from Win Yay Township, Dooplaya District succinctly captured the rationale for such a policy: *"Actually, if a person was beaten until he or she couldn't do anything for his or her livelihood, the perpetrators should compensate for a victim's livelihood. For example, a person like my husband should be given compensation for his loss of livelihood after he lost one of his hands during the conflict."*<sup>405</sup>

### **Psychosocial support for survivors**

Human rights violations and abuses can have significant and long-term impacts on survivors' mental health. One female interviewee from Bilin Township, Thaton District felt that psychological counselling for those affected, in tandem with other forms of support, was necessary: *"The victims should receive encouragement and freedom and security to express their feelings."*<sup>406</sup> Another female interviewee from Tanintharyi Township, Mergui-Tavoy District suggested: *"First, they need encouragement and counselling. Second, they need other support such as financial, access to education and health, and social well-being."*<sup>407</sup>

<sup>401</sup> See Source #20.

<sup>402</sup> See Source #22.

<sup>403</sup> See Source #4.

<sup>404</sup> See Source #23.

<sup>405</sup> See Source #75.

<sup>406</sup> See Source #18.

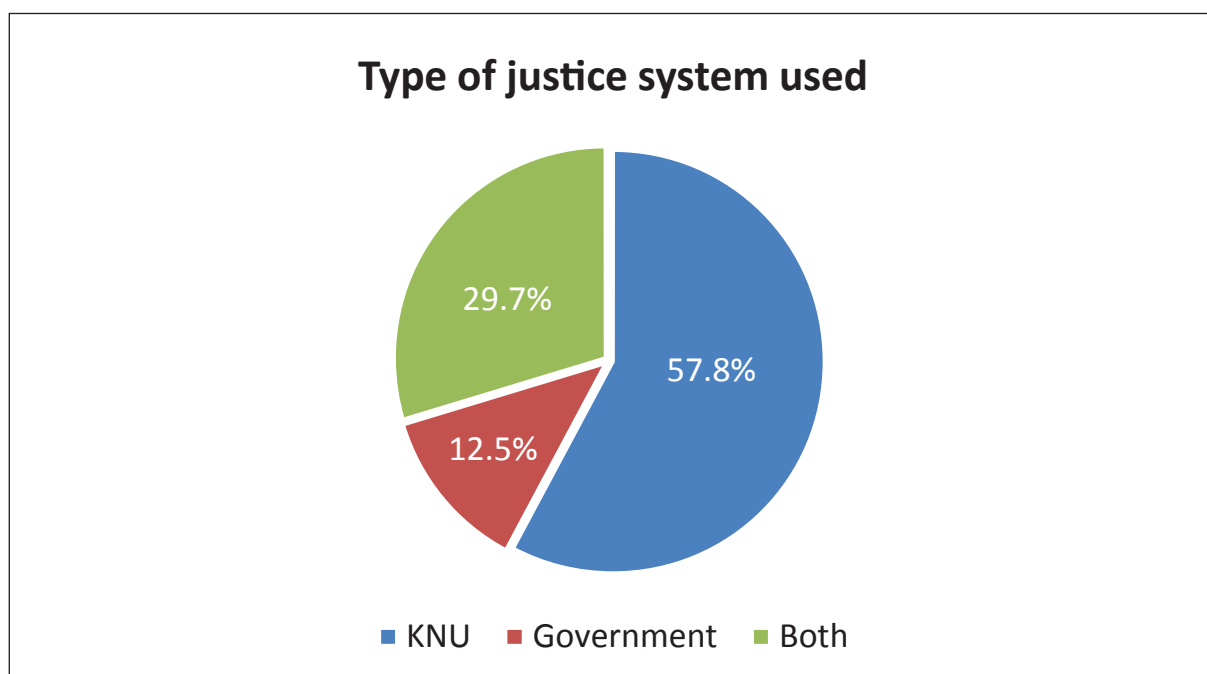
<sup>407</sup> See Source #14.



## B) Perspectives on the Current Administration of Justice in Southeast Myanmar

Southeast Myanmar does not use one uniform justice system. Local communities use a combination of three justice systems depending on who controls the area in which they live. The three justice systems are: their customary justice system, the Myanmar government justice system and the KNU justice system.<sup>408</sup> Given that every village uses customary justice principles and practices for cases resolved locally, everybody theoretically interacts with this system first. However, there are two alternatives for more complex cases that need to be resolved by higher authorities. This depends on whether the village is under Myanmar government control, KNU control, or mixed control (both).

The following chart shows the percentage of respondents who use the KNU justice system, government justice system, or both.



Interviewees found that the former and current justice systems are ill-equipped to address human rights violations and abuses that occurred before the ceasefire. However, given that violations and abuses continue to occur, this warrants the question of whether the current justice systems are capable of dealing with them. The following section attempts to answer that question.

Those living in mixed control areas or along the border between KNU- and Myanmar-controlled areas can theoretically access both justice systems. A male interviewee from Thandaunggyi Township, Toungoo District told KHRG: *“Both Myanmar and KNU justice systems are used in my village. When something happens, it just depends on the plaintiff which justice system he/she would like to use. [...] Yes, if you like both and want to use both justice systems, you can. Both of them can solve the problems for you.”*<sup>409</sup>

<sup>408</sup> SaferWorld, “Security, justice and governance in south east Myanmar; Justice provision in south east Myanmar”, January 2019.

<sup>409</sup> See Source #45.

For example, this female respondent from Thandaunggyi Township, Toungoo District has access to both systems and uses this to her advantage: *“Both the KNU justice system and the Myanmar government [justice system] are practiced in our village. Regarding land cases, we ask for help from both sides. If we cannot get help from the KNU, we can ask the Myanmar government. If we cannot get help from the Myanmar government, we can ask the KNU. So we have to try to get justice until we get it.”*<sup>410</sup>

Alternatively, access is sometimes split along geographical lines, even within a small area. A male interviewee from Thandaunggyi Township, Toungoo District said: *“There are two types of justice systems in our community. The people who live near the main road [near the town] just practice the Myanmar government’s justice system. The people who live far from the main road just practice the KNU’s justice system.”*<sup>411</sup>

All of these systems have shortcomings. This is unsurprising given that none of the relevant actors have a history of a strong judiciary. The predominant systems will now be examined in turn.

## **i. Customary justice system**

Karen communities have a preference for resolving cases at a local level. Regardless of the other justice systems available, the smallest cases tend to be resolved by village leaders.

In the words of a male interviewee from Mone Township, Nyaunglebin District: *“It is just small cases that we can solve at the village level. We make huge cases become small cases and small cases get lost.”*<sup>412</sup> Indeed, this phrase used in the second sentence is the embodiment of a general sentiment among Karen civilians, who prefer not to publicly air their issues unless they are significant, and prefer to solve these issues as quickly, quietly, and amicably as possible. It is for this reason that the problem-solving mechanisms at the village level tend to be dispute resolution or mediation, rather than a trial-like atmosphere.

For these smaller cases, interviewees had few complaints about the administration of justice by local leaders. Common issues raised were corruption and bribery. As one female interviewee from Thandaunggyi Township, Toungoo District explained: *“The local justice system that we are using now is also not so fair sometimes. There is also corruption and bribery in our justice system. It has not completely disappeared yet.”*<sup>413</sup> However, most people did not mention this, suggesting that it is not necessarily a problem everywhere. In fact, one male interviewee from Mone Township, Nyaunglebin District went on at length about how *not* corrupt the village leaders are in his village: *“Yes, I heard about it but in our community there is no corruption at all. Sometimes people do not even want to take on the position of village head because it is completely free from corruption. However, local people take the leadership role not for their benefits; they are just willing to volunteer for their community. We also follow our community procedures. We do not practice penalty and compensation [through money] as it can lead to corruption.”*<sup>414</sup>

<sup>410</sup> See Source #43.

<sup>411</sup> See Source #35.

<sup>412</sup> See Source #52.

<sup>413</sup> See Source #68.

<sup>414</sup> See Source #61.

The biggest challenge with this justice system is that it is limited in its scope of application. Village leaders have limited power to enforce judgments and they cannot handle cases that are significant enough to fall within the purview of the KNU or the Myanmar government. For those cases, at least one of the following systems is necessary.

## ii. Myanmar government justice system

In areas with access to the Myanmar government justice system, local communities tend to engage with this system when their cases are complex. However, several barriers prevent some cases from being dealt with under this justice system. First, it is perceived as being too expensive. Besides the costs of the lawyers and court fees, there is the cost of transportation to and from the court and the lost wages incurred for anybody who attends court. There is also a perception that cases in the Myanmar justice system drag on for a long time, which means more visits, more money spent, more potential income lost, and more time between the incident and the punishment or relief sought. As a female interviewee from Thandaunggyi Township, Toungoo District explained: *“If we go to court, we need money for transportation fees. Therefore, we must not only find money for transportation fees but we also need to find money for food because our family needs food to eat. We are just delaying truth [justice].”*<sup>415</sup>

Another barrier to engagement with the Myanmar justice system is the real or perceived bias in the system against Karen civilians. Most notably, there is a language barrier for those who do not speak Burmese, which is generally true for Karen from rural areas. As one male respondent from Thandaunggyi Township, Toungoo District said: *“Even though they go to the court, they have challenges such as a language barrier and a lack of knowledge about the law and court system.”*<sup>416</sup> One male interviewee from Bu Tho Township, Hpapun District perceived the Myanmar government justice system to be unfair and prejudiced: *“The local people in Hpapun District depend more on the KNU justice system because their justice system is fairer than the Myanmar government justice system. It is because the Myanmar government justice system is biased and partial towards employees of the Myanmar government.”*<sup>417</sup>

Corruption and bribery were identified as issues within the Myanmar court system. As in any adversarial system, there is an advantage for those who can afford better and more lawyers, find more extensive evidence, experts, and witnesses, and are more knowledgeable about and experienced with the justice system. However, corruption is common and pervasive in Myanmar’s courts. As one female interviewee from Thandaunggyi Township, Toungoo District said: *“we could not hire a lawyer and we could not pay off the judge. That’s why we did not win the case.”*<sup>418</sup>

Additionally, the lack of transparency within this justice system has undermined civilians’ faith therein and reinforced the notion of impunity for powerful actors. As one woman from Thandaunggyi Township, Toungoo District said: *“They do not investigate in a transparent way. We wanted to ask some questions but they did not let us ask questions. They did not take our answers into consideration. This is not good. They did not listen to what we want to say. I do not know what they are hiding. They should listen to our feelings in order to investigate the case.”*<sup>419</sup>

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<sup>415</sup> See Source #41.

<sup>416</sup> See Source #35.

<sup>417</sup> See Source #26.

<sup>418</sup> See Source #41.

<sup>419</sup> See Source #43.

Another interviewee raised concerns about the inconsistent criminal procedural standards, the disproportionality of charges to the crime committed, and the application of the law. One interviewee highlighted the complete lack of uniformity in investigative standards and sentencing for drug possession: *“When they arrested one young boy with one or two tablets of Yaba [methamphetamine drugs] in their hands, they sentenced him to several years in jail. However, when they arrested [a person who was in] a car full of Yaba, they did not take action to investigate.”*<sup>420</sup> A female respondent from Thandaunggyi Township, Toungoo District also noted how there was a lack of organisation in the courts: *“We cannot get the real decision letter [written judgement] as they said they couldn’t find it in the court, but I’m sure somebody has this letter.”*<sup>421</sup>

### iii. KNU justice system

KHRG documentation – primarily within KNU areas or mixed-controlled areas closer to KNU territory – demonstrates that local communities rely on the KNU justice system to a larger extent due to its accessibility. However, it does not always reliably bring justice for them; many interviewees raised fairness as an issue within this system. Police often failing at law enforcement and civilians’ lack of legal knowledge and awareness are barriers identified by respondents. In addition, corruption, bias and inappropriate punishments in the courts prevent the justice system from delivering justice.

#### a) Advantages of the KNU justice system

Interviewees reported that they rely on the KNU justice system due to its transparency and accessibility. For example, a male respondent from Thandaunggyi Township, Toungoo District extolled its transparency: *“Actually, we prefer the KNU’s justice system because the KNU authorities apply two steps; first they investigate the case in order to determine who the actual victims are and who are only opportunists or attackers. They call two people [defendant and plaintiff] to make sure that they know what actually happened. Moreover, they also call village authorities and villagers in order to come and listen to the case [as witnesses], which means more transparency in the court process. There are three judges in a panel, KNU police who investigate the case in the field, defendant and plaintiff, and villagers and village authorities. Then, the three judges try to investigate the case in a clear way by asking questions. So we feel like we can have more justice in the KNU court.”*<sup>422</sup>

Interviewees found the KNU’s dispute resolution mechanism to be fair. A male interviewee from Htantabin Township, Toungoo District stated: *“Everything is done with the KNU justice system. There are no negative consequences after the court [and] we don’t need to go twice.”*<sup>423</sup> A male respondent from Kyonedoe Township, Dooplaya District added: *“Based on my experience attending court proceedings, I see that it is quite good. Our leaders try to solve the cases and bring people into unity by calming down the tension between perpetrators and victims.”*<sup>424</sup>

Another important reason local communities have faith in the KNU justice system is due to its association with the KNU, their ethnic representatives who have been advocating for Karen people against the Myanmar government for over seven decades. For example, a female interviewee from Bilin Township, Thaton District told KHRG: *“The KNU is responsible for justice*

<sup>420</sup> See Source #77.

<sup>421</sup> See Source #41.

<sup>422</sup> See Source #35.

<sup>423</sup> See Source #11.

<sup>424</sup> See Source #28.

*because we are ethnic Karen and we belong to them.”*<sup>425</sup> Similarly, a male respondent from Kyainseikgyi Township, Dooplaya District said: *“They [KNU] desire to live with freedom as an ethnic group and protect the Karen. Although they live in a country controlled by nationalism [Burmanisation], I think they will find a way to build peace.”*<sup>426</sup>

In the same vein, the KNU system has historically been the only one accessible for many civilians in Southeast Myanmar. When asked which government has the responsibility to promote justice, a female respondent from Kyonedoe Township, Dooplaya District said: *“The Myanmar government has this responsibility but they do not reach our community. We only rely on the KNU.”*<sup>427</sup>

## **b) Barriers to justice**

Although many Karen people prefer to deal with the KNU justice system, their responses highlight significant improvements to be made within this justice system.

### **Corruption and bribery**

Civilians have witnessed extensive bribery and corruption in the KNU justice system. According to a female interviewee from Kyonedoe Township, Dooplaya District: *“In the past, bribery and corruption was common practice in the ‘more money, win court’ system, but it has transformed into a system where [perpetrators are forced to pay] compensation instead of being subject to a penalty. For example, a perpetrator was supposed to give 50,000 kyats instead of serving 3 months in prison. Some authorities asked for 100,000 kyats from the perpetrator [without punishment].”*<sup>428</sup> This can even result in wrongful convictions of victims and others, as this woman from Kawkareik Township, Dooplaya District explained: *“There were corruption and bribery the [KNU] justice system. The right person became wrong and the wrong person became right after the corruption.”*<sup>429</sup>

Consequently, those with the financial capacity, such as businesses, can abuse the corrupt system to benefit their commercial interests. Speaking about both the KNU and Myanmar government systems, a male respondent from Ler Muh Lah Township, Mergui-Tavoy District added: *“I have experienced injustice in the judiciary. I have seen that the judges favour businessmen in the justice system.”*<sup>430</sup>

### **Weak administration of justice**

The KNU justice system can be weak in its administration of justice due to jurisdictional issues over certain perpetrators and its severe shortage of resources.

Sentencing for perpetrators is rarely enforced properly within the KNU justice system, as a female interviewee from Bilin Township, Thaton District illustrated: *“one of my younger brothers said: ‘The KNU justice system is easy because even though we committed murder and are sentenced to serve in prison, we just have to cook for them [KNU police officers] for a while and*

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<sup>425</sup> See Source #16.

<sup>426</sup> See Source #50.

<sup>427</sup> See Source #76.

<sup>428</sup> See Source #76.

<sup>429</sup> See Source #70.

<sup>430</sup> See Source #5.

*then we are relieved from the punishment. We can live [in freedom].”*<sup>431</sup> She continued: *“I do not believe in the KNU justice system yet because they are weak in applying the law for justice.”*<sup>432</sup>

The KNU system can only be enforced in KNU-controlled areas. For instance, one woman from Thandaunggyi Township, Toungoo District explained how disappointed she was with the consequences of the rape of a 15 year old girl by a road construction crew from Thaton Town (Myanmar government-controlled area): *“The case was resolved with only 4,000,000 kyats as compensation for the victim, but there was no punishment for the perpetrator. The [leaders] said that the perpetrator was from the other part [Government-controlled area] and the victim is from a KNU-controlled area so they solved the case informally.”*<sup>433</sup>

Some interviewees were pessimistic about the KNU justice system due to the significant delays in processing claims or a complete lack of response. A female interviewee from Kyaukkyi Township, Nyaunglebin District said: *“There is no hope in stopping human rights violations for me. It is meaningless even though you hope for that. When we first came back to this place, we submitted complaint letters to the township leaders. [...] We submitted our letters but we do not know whether they threw them into the rubbish bin or submitted them to the district office. We were altogether eleven households who submitted complaint letters.”*<sup>434</sup> A man from Kyainseikgyi Township, Doolaya District similarly speculated: *“The leaders [local authorities] are responsible for taking action on any incident, but they do not do it. [...] Maybe they might not know their responsibilities, they do not want to do it or they just want the case to be forgotten.”*<sup>435</sup>

### **No right to appeal and lack of effective representation in court**

The KNU justice system does not provide any avenue for an appeals process. A female interviewee from Bilin Township, Thaton District said: *“We just have an agreement between us [perpetrators and victims] and then we forgive each other. [...] After they [court] make a decision, we have to agree with it. Even though we are not satisfied, we cannot do anything and we just have to stay in silence. We are not happy with the injustice [charge].”*<sup>436</sup>

Interviewees also keyed in on the lack of legal professionals participating in this system. This raises the issue of effective representation of participants in court proceedings. For example, a man from Thandaunggyi Township, Toungoo District said: *“There are no lawyers in their justice system. [...] They don’t have highly educated people to put in this position and they will let the young educated people participate and be the lawyers. There are government lawyers and private lawyers [in the government system] so whenever you want you can hire them. But in [the] KNU [justice system] they don’t have lawyers to hire.”*<sup>437</sup>

### **c) Recommendations**

Many interviewees offered suggestions on improving or replacing the current KNU justice system.

<sup>431</sup> See Source #16.

<sup>432</sup> See Source #16.

<sup>433</sup> See Source #18.

<sup>434</sup> See Source #8.

<sup>435</sup> See Source #50.

<sup>436</sup> See Source #16.

<sup>437</sup> See Source #77.

Although some local civilians attended KNU legal awareness workshops and have knowledge about the KNU justice system, such awareness is still absent in most local communities. As one male respondent from Win Yay Township, Dooplaya District said: *“I have never seen a law book enacted by the KNU. We don’t know the details of imprisonment for a person who committed a crime.”*<sup>438</sup> There was a common sentiment among civilians that the KNU should organise more legal awareness training sessions for local communities: A female respondent from Bilin Township, Thaton District said: *“I want to see all civilians being aware of the laws[.] [...] I want them [the justice system] to strongly enforce the law, give awareness to the civilians and [govern the country] by law.”*<sup>439</sup> A male respondent from Thandaunggyi Township, Toungoo District suggested training those in positions of authority: *“The village leaders and village heads should learn how KNU law looks like during the training.”*<sup>440</sup>

Many interviewees recommended these training programmes for their deterrent effects. For example, one male respondent from Kyainseikgyi Township, Dooplaya District advised: *“When the civilians are aware of the law, they will know that the consequences of committing mistakes are arrest and punishment. When everyone knows the laws, there will be peace, we will respect each other, and there will be peace without [security] concerns.”*<sup>441</sup>

Interviewees urged the KNU to improve its justice system by combating corruption. For example, a male respondent from Shwegyin Township, Nyaunglebin District reported: *“Local leaders who accept bribes and who are corrupt should be reprimanded so that they will admit their wrongdoings and stop treating people unfairly. Otherwise, the local people will not be satisfied or trust them.”*<sup>442</sup>

Furthermore, respondents recommended that the KNU justice administrators take fair and consistent approaches in applying the law, regardless of the perpetrators’ position and background. For example, a male respondent from Win Yay Township, Dooplaya District said: *“I would like to suggest that the KNU governors do not practice the habit of partiality. For instance, I would like them to make judgments equally according to the rules they set.”*<sup>443</sup>

## Conclusion

Those interviewed by KHRG paint a picture of fractured justice systems with a lot of room for improvement in Southeast Myanmar. As it stands, all three of them are incapable of bringing justice to the victims of past and present human rights violations in a satisfactory way. Notably, the existence of three overlapping justice systems have resulted in a dire lack of consistency in the application and enforcement of the law. The Karen community has a strong preference for the KNU justice system because they perceive it as best positioned to serve their needs. However, even this system is rife with problems, as illustrated by interviewees’ criticisms and recommendations.

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<sup>438</sup> See Source #33.

<sup>439</sup> See Source #16.

<sup>440</sup> See Source #69.

<sup>441</sup> See Source #16.

<sup>442</sup> See Source #49.

<sup>443</sup> See Source #33.

The following table summarises the problems respondents identified within the three systems:

Identified shortcomings of each justice system		
CUSTOMARY JUSTICE ADMINISTRATION	MYANMAR GOVERNMENT JUSTICE SYSTEM	KNU JUSTICE SYSTEM
<ul style="list-style-type: none"> <li>• Corruption at the village head level</li> <li>• Inability to enforce judgments</li> <li>• Inability to deal with larger cases</li> <li>• Lack of consistency from location to location</li> </ul>	<ul style="list-style-type: none"> <li>• Bribery and corruption</li> <li>• Villagers do not know the law</li> <li>• Justice system does not enforce its own code</li> <li>• Inability to rein in military actors</li> <li>• No transparency</li> <li>• Weak investigation</li> <li>• Language barrier</li> <li>• Takes too much time to process cases</li> <li>• Too expensive</li> <li>• Does not adequately punish wrongdoers</li> <li>• Inadequate enforcement</li> <li>• Biased against and does not understand Karen people</li> <li>• Disorganised/does not handle cases carefully</li> </ul>	<ul style="list-style-type: none"> <li>• Fails to take action on villager complaints</li> <li>• Bribery and corruption</li> <li>• Villagers do not know the law</li> <li>• Justice system does not enforce its own code</li> <li>• Too lenient</li> <li>• Inconsistent application of laws</li> <li>• Does not adequately serve justice</li> <li>• Those administering justice system may be unqualified</li> <li>• Inadequate enforcement</li> <li>• Lack of resources</li> </ul>



## Conclusion

This report demonstrates that justice and accountability for past and current (gross) human rights violations remain a distant aspiration for civilians living in Southeast Myanmar. Impunity reigns for perpetrators of these crimes, while victims are repeatedly denied the right to justice and redress. At present, civilians continue to suffer from the repercussions of armed conflict and current human rights violations and abuses, including challenges related to their livelihood, health and education.

Serious human rights violations were committed by the Tatmadaw against the civilian population in Southeast Myanmar prior to the 2012 Preliminary Ceasefire Agreement, including widespread and systematic killings, torture, and sexual and gender based violence. To date, the Myanmar government has shown no genuine will to establish meaningful accountability mechanisms for military atrocities. A lack of judicial independence and an absence of civilian court jurisdiction over the Tatmadaw further exacerbate the culture of impunity for perpetrators. This rings true not only for Southeast Myanmar, but also for crimes committed in Rakhine, Shan and Kachin States. For civilians, impunity for perpetrators of (gross) human rights violations poses a significant barrier to justice and sustainable peace in the country.

While the signing of the 2012 Preliminary Ceasefire Agreement has brought about a decrease in situations of violence and an improvement in the enjoyment of fundamental human rights, many challenges remain. Notably, violations of the 2015 NCA and land confiscations plague Southeast Myanmar. The current justice systems are ill-equipped to effectively address current human rights violations and abuses due to a lack of transparency, corruption, discrimination and a general lack of judicial capacity within the systems.

The peace process in Southeast Myanmar cannot move beyond the current deadlock without fair, impartial, effective, and independent justice systems to hold accountable perpetrators of past and current human rights violations and abuses. This concept of no peace without justice and no justice without peace was captured succinctly by a member of the KWO: *“How can we build peace without accountability? Actually, accountability has to go parallel with the peace process.”* A holistic approach to justice should also include guarantees of fundamental human rights, redress for past violations, and consideration of the voices of local communities. Moving forward, all civilians, regardless of ethnicity, religion, race, and gender, must be able to engage with the peace and other democratic processes in the country. In order to foster sustainable peace, Myanmar must cease all on-going human rights violations, and strive towards adhering to principles of democracy, justice, accountability, and the rule of law within all branches of the government.

## **Photos: Front and back cover**

### **Front cover photo:**

This photo was taken on November 25<sup>th</sup> 2012 in Tanintharyi Township, Mergui-Tavoy District. It shows a man sitting at the prow of a motorboat while he is traveling.

### **Back cover photo:**

This photo was taken on May 18<sup>th</sup> 2006 in Yeh Muh Plaw village tract, Lu Thaw Township, Hpapun District. It shows a widow with four children at a displacement site. Her husband was killed by Tatmadaw soldiers in 2006.

*[All photos: KHRG unless otherwise cited]*





Inhabitants of Myanmar's ethnic minority regions continue to struggle with the enduring effects of past human rights violations and abuses, both those suffered in the midst of war and those experienced as a result of militarisation and economic depredation. Efforts to address these abuses and their effects are hampered by on-going armed conflict, the existence of parallel justice systems, lack of political will, and by the fact that civil war and human rights abuses continue throughout the country.

In 2015, the signing of the Nationwide Ceasefire Agreement (NCA) created some possibilities for positive change. As the peace process is now at a deadlock, it remains unclear to what extent it will be able to address the historical legacy of human rights abuse and emerging patterns of abuse in Southeast Myanmar. The consequences of past abuses continue to impact the daily lives of local people, often combining with new forms of abuses to compound people's economic marginalisation.

It is therefore paramount to guarantee that victims of human rights violations have access to both justice and reparation. Whether or not these concerns are being effectively addressed can only be determined by the civilians affected. This report presents their perspectives on changing patterns of abuse, set against historical trends in Southeast Myanmar, as well as on access to justice and remedies for past and present human rights violations.

*"They just ruled the country as they liked. They did not actually comply with the law. During the era of the military government, we only feared the gun. At that time, no one dared to keep their chin up because the military simply followed orders. Therefore, nobody raised their voice about justice. Instead, it was better for us to stay silent. I have never felt or touched justice."*

Male village head from Thandaunggyi Township, Toungoo District/northern Kayin State

**Karen Human Rights Group (KHRG) was founded in 1992 and documents the situation of villagers and townspeople in rural Southeast Myanmar through their direct testimonies, supported by photographic and other evidence. KHRG operates independently and is not affiliated with any political or other organisation. Examples of our work can be seen online at [www.khrg.org](http://www.khrg.org), or printed copies of our reports may be obtained subject to approval and availability by sending a request to [khrg@khrg.org](mailto:khrg@khrg.org).**

**KHRG**

**Karen Human Rights Group**  
Documenting the voices of villagers in rural Burma