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The Peace Process and Armed Conflict in Myanmar

Submitted by:
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¹ ND-Burma is a network that consists of 13-member organisations who represent a range of ethnic nationalities, women and former political prisoners. ND-Burma member organisations have been documenting human rights abuses and fighting for justice for victims since 2004. The network consists of nine Full Members and four Affiliate Members as follows:

Full Members:

1. [Assistance Association for Political Prisoners – Burma](#)
2. [Human Rights Foundation of Monland](#)
3. [Kachin Women's Association – Thailand](#)
4. [Ta'ang Women's Organization](#)
5. [Ta'ang Students and Youth Union](#)
6. [Tavoyan Women's Union](#)
7. [Association Human Rights Defenders and Promoters](#)
8. [All Arakan Students' and Youths' Congress](#)
9. [Future Light Center](#)

Affiliate Members:

1. [Chin Human Rights Organization](#)
2. East Bago – Former Political Prisoners Network
3. [Pa-O Youth Organization](#)
4. [Progressive Voice](#)

1.0 Executive Summary

- i. This submission by the Network for Human Rights Documentation Burma (ND-Burma) addresses the peace process and armed conflict in Myanmar. Using case-studies from our reports and briefing papers with documentation supported by our members, the sections provide situational context to the security concerns expressed by civilians and civil-society.
- ii. The human rights situation in Myanmar has deteriorated under the current quasi-civilian government² led by the National League for Democracy (NLD). State Counsellor, Daw Aung San Suu Kyi maintains favorable status among the Bamar majority, though ethnic civilians have distanced their loyalty as she has stood by the military against the backdrop of violations.
- iii. The Nationwide Ceasefire Agreement (NCA) has been signed by ten ethnic armed organizations (EOs). It was agreed upon by the majority of the parties in 2015, with the process being initiated by the former military government in 2011. Despite the intentions of the NCA to halt military operations between the Myanmar Army and EOs, clashes continue.
- iv. Approximately 21 EOs have been engaged in the NCA process through formal and informal capacities. The EOs who have decided to not participate chose to become affiliated with the 16-member National Ceasefire Coordination Team, which was established in 2013 and is considered the main organization in peace negotiations with the government. When the NLD took the office, they established National Reconciliation and Peace Center (NRPC) and Union Peace Dialogue Joint Committee, which is under the NRPC and includes government, parliament, the Myanmar Army, EOs (signatories) and representatives from successful parties in the election.
- v. It has become clear that despite the declaration of unilateral ceasefires agreements in conflict-affected northern Myanmar, these commitments are not sincere as the Myanmar Army continues to wage war.
- vi. According to ND-Burma's documentation, the main human rights abuses civilians suffered from were indiscriminate gunfire, shelling and aerial bombardments, torture leading to deaths and injuries; extrajudicial killings; injuries and deaths due to landmines; inhumane and degrading treatment; arbitrary arrest, detention, forced disappearance; rape and sexual violence.³
- vii. Our submission concludes that the Myanmar Army continues to use strategic military tactics designed to intimidate and isolate villagers to prolong the civil war, rather than seek peaceful alternatives to conflict.

²Despite a landslide victory by the NLD-party in 2015, Myanmar's transition to a democracy is deemed quasi-civilian to mean the government faces significant influence from the Myanmar Army who also use their authority to govern.

³ "Undermining Trust Building: Human Rights Situation During the Northern Ceasefire" (January 1 to April 30 2019)." (Network for Human Rights Documentation-Burma: Briefing Paper) 26 July 2019

1.1 Violations of the Northern Ceasefire Agreement

In late December 2018, amid ongoing and heavy armed conflict in Kachin and Shan States, the Myanmar Army declared a four-month unilateral ceasefire in northern Myanmar.⁴ The ceasefire extended to five military command regions, including conflict zones, among others, Northern Alliance members including the Kachin Independence Army (KIA), the Ta'ang National Liberal army (TNLA) and the Myanmar National Democratic Alliance Army (MNDAA). The exclusion of the Arakan Army (AA) although fighting in Rakhine and Chin States was significant as it made clear the negotiating priorities of the military. The ceasefire was renewed for two months at the end of April 2019 after a period of uncertainty and concluded on 31 August.

The Myanmar Army is establishing new military camps to expand their territory and engaging in indiscriminate gunfire, artillery attacks and aerial bombardments, which violates the ceasefire terms.⁵ Further, the lack of sincere commitment to the northern ceasefires was evident at the beginning of September 2019 when the Myanmar Army and members of the Northern Alliance initially agreed to seven points of a draft bilateral ceasefire that included a halt to troops engaging in further clashes in Rakhine and Shan States.⁶ However, by the end of the month the Myanmar Army let the ceasefire expire and made clear that they are not interested in extending ceasefires with members of the newly formed Northern Alliance on the grounds that they do not support signing the NCA.⁷

EOs who have not signed the NCA are wary of the Myanmar Army's commitment to peace. ND-Burma members have observed that the decisions by the Myanmar Army to extend ceasefire agreements rarely stop fighting. To date, there is no independent monitoring mechanism in place to hold the Myanmar Army accountable for their misconduct in violating ceasefire agreements. The breaching of such has contributed to rising tensions between EOs and Myanmar Army, and also threatens to reduce the credibility of the commitments made at the previous session of the UPR, in which Myanmar supported steps to further enhance peace, development and democracy.⁸ The violation of terms has additionally exacerbated pressures and called into question the sustainability of ceasefires.

In addition to human rights violations against civilians during the ceasefire, ND-Burma has documented the Myanmar Army's increasing presence in ethnic States.⁹ Since the beginning of January 2019, 12 new Myanmar Army camps were established; however, only 11 of those currently remain.¹⁰ The majority of these newly established military bases are located alongside main roads or gas pipelines

⁴ "Undermining Trust Building: Human Rights Situation During the Northern Ceasefire (January 1 to April 30 2019)." (Network for Human Rights Documentation-Burma: Briefing Paper) 26 July 2019

⁵ Ibid

⁶ *The Irrawaddy*, "[Myanmar Gov't, Armed Groups Agree 'In Principle' On Draft Ceasefire](#)," 18 September 2019.

⁷ *The Irrawaddy*, "[Myanmar Military Abandons Truce, Citing EAOs' Lack of Interest in Peace](#)," 23 September 2019.

⁸ UPR of Myanmar, Second Cycle. Right or Area: 5.2 Institutions & Polices. Pg.8. Recommendation: 143.16. Recommendation State: Cambodia. 6 November 2015.

⁹ *Shan Herald News Agency*, 7 February 2019, "[EOs: Burma Army Establishes New Military Camps During Unilateral Ceasefire](#)."

¹⁰ The list of camps established according to current information include: Shan State—4 camps in the Mone Se and Ta Moe Nye sub-townships and Kutkai Township (eventually removed), 1 camp in Mine Lone sub-township, 1 camp in Namkham Township, 3 camps in Mantong Township, 1 camp in Mong Mit Township; Mandalay Region—2 camps in Mogok Township.

and nearby villages, leaving local villagers feeling vulnerable to potential abuses committed by Myanmar Army soldiers or being caught in the crossfire of skirmishes.

Without a sincere commitment to overtures of peace such as the northern ceasefire or other peace-related activities by the Myanmar Army, there will be no genuine progress towards peace and an end to hostilities in Myanmar. They must keep their word for trust building to occur, and this extends to guarantees of non-recurrence of human rights violations towards conflict-affected communities.

1.2 Impacts on Civilian Security and Overall Well-Being

Myanmar is a signatory to the 1949 Geneva Convention, which prohibits the targeting of civilians or their property, and yet civilians in ceasefire areas of Kachin, Shan and Rakhine States continue to face risks to their overall security and livelihoods as clashes remain active. Steps towards meaningful dialogue through the NCA and ceasefire agreements have done little to convince civilians that their livelihoods will be improved if all EAOs commit to the process of national reconciliation. Despite areas where ceasefires have been signed and agreed to, the Myanmar Army continues to violate terms they set out in the NCA framework.

ND-Burma members have been met with restrictions on access and aid blockages by EAOs and the Myanmar Army. These circumstances have increased the risks faced by local responders and human rights defenders. Despite Myanmar supporting the recommendation to allow humanitarian access to all groups who need it, including internally displaced persons in conflict-affected areas, they have failed to uphold their commitment.¹¹

The following human rights violations, documented by ND-Burma members, show the extent to which the abuses committed by the Myanmar Army hinder any genuine commitment to peace:

Artillery fire and Shelling

Indiscriminate attacks and bombardments by the Myanmar Army have resulted in the displacement of thousands of civilians, particularly in Shan State. In March 2019, five-hundred villagers were displaced after the Burma Army conducted airstrikes using helicopter gunships on a Shan State Army (SSPP/SSA) camp near Hsipaw Township, Shan State. Another two-hundred were displaced after government forces clashed with SSPP/SSA and TNLA soldiers in Namtu Township.¹²

ND-Burma member, the Ta'ang Women's Organization (TWO), documented over 200 residents who experienced human rights abuses in seven Ta'ang ethnic-majority townships in northern Shan State in 2019.¹³ TWO detailed the suffering civilians endured including artillery strikes which directly targeted civilian areas, and resulted in many being killed or injured. They were also abducted, held hostage, used as forced guides, tortured, killed and had their homes looted.¹⁴

¹¹ UPR of Myanmar, Second Cycle. Right or Area: 35. Refugees and Internally Displaced Persons (IDPs). Pg. 31. Recommendation 143.121. Recommending State: Kuwait. Source of position: A/HRC/31/13 Para. 143

¹² Radio Free Asia, "[More Than 200 Villagers Displaced by Fighting in Myanmar's Northern Shan State.](#)" 28 March 2019.

¹³ The Irrawaddy: "[Ta'ang Rights Group Blames Myanmar Military for Targeting Civilians.](#)" 10 January 2020.

¹⁴ Ibid

While the Myanmar Army declared a unilateral ceasefire in the north of the country, the conflict in Rakhine State has escalated tremendously as ongoing violence has led to approximately 100,000 people being forcibly displaced by the clashes with the Arakan Army in 2019.¹⁵ During February and March 2019, the Myanmar Army conducted aerial bombardments and artillery attacks in Paletwa Township, Chin State and Ponnagyun Township, Rakhine State which led to further displacement of nearby villagers.¹⁶

According to ND-Burma member, the All Arakan Students' and Youths' Congress (AASYC), the conflict in Rakhine State has worsened since December 2018. Member organizations documented various human rights violations in Rakhine and Chin States including when Myanmar Army soldiers indiscriminately fired into civilian areas.¹⁷

Landmines

Landmines continued to be a hazard for civilians, causing death and injury for those collecting resources in forest areas or tending to their fields. Burma has not acceded to the Mine Ban Treaty, despite an initiative launched by the International Campaign to Ban Landmines in 2003. Documentation from TWO includes a case from six villagers from Taung Palo village, Totsan village tract, Kyauk Mae district, northern Shan State on 8 October 2019 when they were struck by an artillery shell that exploded on their tea farm. One civilian was killed on the spot and another was injured.¹⁸

Arbitrary Arrest & Detention

Civilians are targeted by the Myanmar Army and arrested without reasonable evidence or an explanation. In one documented ND-Burma case, a 17-year-old male resident of Kyauktaw under Mrauk-U district, was arbitrarily arrested and beaten by the Myanmar Army while driving home. Since his release, he has been unable to speak properly and suffers psychological trauma.¹⁹

Torture

Perpetrators of torture are armed forces from the Myanmar Army and opposition groups who use torture to receive information on the designated enemy.

ND-Burma member, the Assistance Association for Political Prisoners (AAPP) observed that torture is commonly used by the police against civilians in detention. Further, there is need for prison reforms that hold the authorities to a higher level of accountability. Power must be used responsibly as a tool to protect – not to intimidate or force confessions through fear.²⁰

¹⁵ *The Irrawaddy*, 20 November 2019. "[Volunteers Say Nearly 100,000 People Displaced by Fighting in Myanmar's Rakhine State.](#)"

¹⁶ *Burma News International*, February 18, 2019. "[Eight Paletwa Villages Report Damage From Fighting Between Tatmadaw, AA.](#)"

¹⁷ AASYC, Human Rights Bulletin, 21 February 2019

¹⁸ TWO News Bulletin, December 2019.

¹⁹ AASYCY, Human Rights Bulletin, 21 March 2019

²⁰ The Systematic use of Torture by Totalitarian Regimes in Burma & the Experiences of Political Prisoners." Assistance Association of Political Prisoners. November 2019.

1.3 A Need for Legal Reform & Access to Transitional Justice Mechanisms

During the last UPR cycle, Myanmar supported the recommendation to respect the rights and fundamental freedoms of all the population – guaranteeing the investigation and punishment of perpetrators of human rights violations, demonstrating its commitment to combat impunity.²¹ However, Myanmar's justice system remains weak and unaccountable to those who have suffered from human rights abuses from the Myanmar Army. ND-Burma member, the Kachin Women's Association Thailand's, recent compilation of abuses by the Myanmar Army concludes, "justice is not being served under Myanmar's military justice system. At the same time, fear of the military is preventing the civilian legal system from functioning."²² Violations continue to target civilians and put their safety at risk despite Myanmar supporting the recommendation to implement policies that ensure the protection of civilians, particularly children, in zones of armed conflict at the previous UPR cycle.²³

The institutions in Myanmar have been designed to protect those in power, rather than those who seek justice for crimes against by militarized stakeholders. The main intelligence agencies include the Office of the Chief of Military Security Affairs, the Myanmar Police Force's Special Branch and the Bureau of Special Investigation, who all report directly or indirectly to the Myanmar Army.²⁴ The oversight of such militarized legal systems calls into question the legitimacy of rulings and risks delegitimizing the integrity of Myanmar's legal jurisdiction.

ND-Burma has long advocated for transitional justice mechanisms to be considered and adopted. In 2015, ND-Burma established a Reparations Working Group (RWG) to advocate for measures to help victims rebuild their lives. The RWG includes all members as well as other civil society organizations campaigning for justice for victims. As a result of the human rights violations, victims suffer multiple consequences including economic hardship and health problems. Victims have stated they wanted some form of action from the government or perpetrators to try and alleviate the impact of abuses suffered.²⁵ Weak rule of law, the continued existence of repressive laws, a corrupt judiciary system and a culture of impunity has resulted in the vast majority of victims never seeing justice, or receiving redress for what they have been forced to endure. Not only is an urgent need end to the conflict in ceasefire areas in Myanmar long over-due, but so are reforms to the law.

Further examination of Myanmar's current mechanisms to uphold transparency and accountability for human rights violations are far from adequate. The Myanmar National Human Rights Commission (MNHRC) is intended to uphold and investigate violations of human rights. However, calls remain for the MNHRC to revise its mandate to build the trust and leadership needed for it to be recognized as an independent national human rights institution.²⁶ Currently, there is a lack of diversity, gender balance and civil society representation where most of the leadership is former military and government

²¹ UPR of Myanmar, Second Cycle. Right or Area: 16: Right to an Effective Remedy, Impunity: Pg. 20. Recommendation 143.82.

Recommending State: Argentina. Source of position: A/HRC/31/13 Para. 143

²² "No justice for Ongoing Burma Army crimes in northern Shan State." The Kachin Women's Association Thailand. January 7 2020.

²³ UPR of Myanmar, Second Cycle. Right or Area: 20.3 International Humanitarian Law. Pg. 23. Recommendation 143.73.

Recommending State: Ecuador. Source of position: A/HRC/31/13 Para. 143

²⁴ Ibid

²⁵ Ibid

²⁶ "Myanmar: A Little Less Conversation, A Little More Action Please," Progressive Voice, 9 December 2019:

<https://progressivevoicemyanmar.org/2019/12/09/myanmar-a-little-less-conversation-a-little-more-action-please/>

officials. The lack of impartiality has called into question the legitimacy of the MNHRC to fulfil its mandate, in particular, within the climate of significant unrest across the country.

Pressure to hold perpetrators of human rights violations accountable continues to take precedent as activists, civil-society organizations and international governments continue to lobby the Myanmar Army and government to act in good faith by cooperating with recommended transitional justice mechanisms. The failure to act against perpetrators suggests that such behavior is acceptable without consequence. Trust in Myanmar's justice systems from civilians has consequently eroded as an outcome.

Recommendations

- In areas where there have been allegations of human rights violations, the government must give unfettered access to humanitarian groups, human rights monitor and media to document.
- Adoption of a military code of conduct that meets international human rights standards and prosecute soldiers accused of human rights violations in civilian, not military courts
- Enact legislative reform to bring the legal system into line with international human rights obligations
- A halt effective immediately to military operations throughout the country, and withdraw all troops from ethnic areas, so that civilians' lives can be protected and inclusive political negotiations can begin – towards a new federal constitution that can grant equality and justice for all ethnic people of Myanmar.
- Any level of peace dialogue process must include victims of human rights violations or representatives of victims group, to be reflected the suffering of the victims in the conflict areas and take some kind of immediate measure and response for the conflict affected community.