



“CAUGHT IN THE MIDDLE”

ABUSES AGAINST CIVILIANS AMID CONFLICT IN MYANMAR’S
NORTHERN SHAN STATE

EXECUTIVE SUMMARY, CONCLUSION, AND RECOMMENDATIONS

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Cover photo: In this picture taken on 13 January 2019, women rest in a monastery-turned-temporary shelter for internally displaced people in Hsipaw, Shan State. Swathes of Shan State – like many of the country's restive borderlands – have been embroiled in conflict for decades. © YE AUNG THU/AFP/Getty Images

**AMNESTY
INTERNATIONAL**



EXECUTIVE SUMMARY

“All the civilians are living in fear. We are stuck... caught in the middle between the military and the armed groups.”

An ethnic Kachin man from Kutkai Township, who was detained and beaten by soldiers from the 99th LID in March 2019, interviewed by Amnesty International on 24 March 2019.

The decades-long conflict in northern Shan State has escalated in recent months following attacks by three ethnic armed groups on military installations and other locations in the country on 15 August 2019. The government stated that the attacks were likely to have been carried out in retaliation for recent successful anti-drug trafficking operations in the region. According to the three ethnic armed groups – calling themselves the “Brotherhood Alliance” – the attacks were launched in response to a military offensive in Rakhine State in the west of the country as well as repeated military operations in northern Shan state, despite a military ceasefire in the area. Civilians in northern Shan State, who have borne the brunt of these previous operations, looks set to endure fresh abuses, conflict, and displacement.

This report examines international human rights abuses and violations of humanitarian law committed since mid-2018 by parties to the ongoing internal armed conflicts in northern Shan State. On 21 December 2018, the Myanmar military announced a unilateral ceasefire in northern and eastern Myanmar, however, as this report shows, while there may have been a reduction of the number of clashes involving the military, Myanmar soldiers have continued to commit serious violations against ethnic minority civilians. The declared ceasefire period has also seen a continuation, and in some areas an escalation, of fighting among ethnic armed groups, some backed by the Myanmar military.

Amnesty International undertook research missions to northern Shan State in March and August 2019. In total, Amnesty International interviewed 88 people, including victims and direct witnesses to violations of international human rights and humanitarian law. The organization also met with local and international humanitarian officials, human rights defenders, community leaders, journalists, and political analysts, and analysed satellite imagery and photographs related to specific documented incidents. Amnesty International wrote to the Myanmar civilian government and military, and to four ethnic armed groups, outlining the organization’s findings, requesting information, and expressing readiness to discuss the situation in northern Shan State. At the time of publication, none had replied.

Amnesty International’s research found that the Myanmar military subjects civilians to arbitrary detention, often arresting men and boys on the basis of their ethnic identity and a perceived link with a particular armed group. As is the case in other conflict-affected areas of Myanmar, arrests and detention were often accompanied by torture and other ill-treatment. Soldiers beat, kicked, and punched detainees in order to obtain information about ethnic armed groups, or else to force detainees to “confess” to being members of such groups. In one incident in March 2019, Myanmar soldiers forced a 35-year-old ethnic Kachin fisherman to squat semi-naked with a grenade in his mouth after accusing him of links to the Kachin Independence Army (KIA). He recalled one of the soldiers asking, “*Are you KIA? I said ‘no’, then they*

started punching and kicking me. They forced me to take off my clothes [and] held a knife to my neck... They put a grenade in my mouth. I was afraid if I moved it would explode”.

In some cases, detainees were taken to military bases where they were held for up to three months. Detainees were usually held in incommunicado detention, without access to lawyers or – for the most part – family members. In one case, a man and a 14-year-old boy were made to undertake forced labour while on a military base in Kutkai town, home to several units from the military’s Northeast Command.

Amnesty International’s research also found that the military has fired indiscriminately in civilian areas, killing and injuring civilians and damaging homes and other property. Myanmar soldiers also shot and killed a 17-year-old ethnic Ta’ang boy in Kutkai Township, suspecting him of being a member of an ethnic armed group in February 2019. In another incident, a 17-year-old ethnic Kachin boy was injured by a mortar shell which was likely fired by the Myanmar military during fighting with the TNLA in early August 2019. Reports of civilians being killed or injured in indiscriminate attacks by the Myanmar military since the 15 August attacks warrant further investigation.

Myanmar soldiers also regularly move through – and at times stay in – villages, exposing civilians to the risk of attack. Amnesty International also documented cases where the military used schools as bases or barracks, and in one instance, a detention and interrogation site where they held and tortured a group of ethnic Kachin villagers. Though less reported by civilians than during Amnesty International’s previous research, at times Myanmar soldiers also confiscated property, taking foodstuffs such as chicken and rice from civilians while using their homes and villages as temporary shelters and bases.

There is evidence that ethnic armed groups also commit abuses against civilians, in particular in areas where there has been intense fighting among armed groups during the military ceasefire. Fighters from ethnic armed groups have abducted civilians – usually men – or otherwise deprived them of their liberty, usually accusing them of supporting a rival group. Civilians were often beaten in order to obtain information about the other groups, as an ethnic Shan man, who was one of two villagers detained by the Ta’ang National Liberation Army (TNLA) and Shan State Army-North (SSA-N) in March 2019, explained: *“They accused me of being SSA-S [Shan State Army-South] and giving information and food to SSA-S soldiers... They tied our hands [and] beat my back and thighs with sticks... I kept saying, ‘I am just an ordinary citizen, I am not in favour of any armed group’.”*

Continuing a practice which has been well-documented by Amnesty International and others, ethnic armed groups have also subjected civilians to forced labour, including forcing them to act as guides. This was especially the case during times of increased fighting. Amnesty International documented several instances of forced labour in February and March 2019 as the TNLA/SSA-N and SSA-S engaged in heavy fighting around Hsipaw Township. While Amnesty International did not document specific individual cases of forced recruitment by ethnic armed groups, many interviewees said that in their villages, increasing numbers of young people, in particular young men, had left for towns, monasteries, or other countries in order to avoid being forcibly recruited.

Ethnic armed groups also remain engaged in widespread “taxation” and extortion, demanding money and food from villages and businesses. The regularity with which these are demanded leaves no doubt that the practice is sanctioned at the most senior levels. In an area with limited livelihood opportunities and where conflict has raged for more than eight years, such “taxes” have a deeply detrimental impact on people’s livelihoods. Ethnic armed groups also expose civilians to risk of attack, often by basing themselves within or moving through civilian populated areas.

The proliferation of conflicts in the area has come with an alarming increase in the number of civilians killed or injured by landmines, improvised explosive devices (IEDs), or other explosive remnants of war (ERW). Civilians were usually affected while travelling to or from areas they rely on for work. Amnesty International interviewed a 47-year-old ethnic Shan man who was injured by a likely IED while he was collecting firewood in Hsipaw Township in March 2019. There had been heavy fighting between the TNLA/SSA-N and SSA-S around that time. The presence of landmines and IEDs has a serious impact on livelihoods, with villagers at times reluctant to travel to areas where they work for fear they may be injured by a blast.

The ongoing conflicts have also led to repeated displacement of civilians. In other parts of Myanmar, civilians have often been displaced to camps for years, whereas in northern Shan State, they tend to be displaced to

makeshift sites for shorter periods – sometimes a few days, sometimes several weeks, sometimes longer – and then return to their homes and farmlands when the fighting has moved on to another area. The irregular but continual nature of this displacement poses challenges for humanitarian organizations working to provide aid and assistance. These challenges are exacerbated by bureaucratic restrictions on access for humanitarian workers, which are imposed by both the military and the civilian government. Short-term displacement also has an adverse impact on livelihoods, in particular when people are displaced from their homes at key points within the land cultivation cycle.

These new and ongoing violations take place against the backdrop of a floundering national peace process. Despite promising to make peace and national reconciliation a priority, the NLD-led government has failed to make progress in negotiating an end to the country's decades-long conflicts. Government failures to make meaningful political concessions coupled with ongoing offensives by the military, which under the 2008 Constitution does not operate under civilian oversight, have fostered deep mistrust among ethnic armed groups. As the 2020 elections draw near, the military is unlikely to allow the government any "successes" to present to voters. Indeed, as the peace process has stalled, the military has become increasingly assertive, announcing a unilateral ceasefire, now lapsed, and engaging in discussions to broker bilateral ceasefires with some of the ethnic armed groups. While efforts to secure a cessation of hostilities are welcome, for civilians, such agreements have rarely brought with them an end to violations and abuse.

Myanmar's military has been repeatedly implicated in serious crimes in recent years, in particular in Kachin, Rakhine, and Shan States. A UN-established independent investigation has called for senior military officials to be investigated and prosecuted for crimes against humanity and war crimes in Kachin, Rakhine, and Shan States, and genocide in Rakhine State. Despite this, members of the Myanmar military continue to enjoy impunity and the freedom and power to commit further crimes. The civilian-led government remains unable or unwilling to independently investigate serious violations, let alone push for prosecution or even suspension of suspects, and has repeatedly refused to cooperate with international bodies in uncovering the truth and delivering justice.

Many of the violations by the military documented in this report were committed by the Myanmar Army's 99th Light Infantry Division (LID), whose members were identified by victims based on the distinct patches on their uniforms or sometimes the markings on their guns. Other violations were committed by soldiers from units under Northeast Command, the regional military command based in northern Shan State.

Units from the 99th LID have been operational in northern Shan State for several years and have been previously implicated in serious violations against civilians by Amnesty International and others. These units – known as combat divisions – are usually based in other parts of the country, and decisions to deploy them could only have come from the Office of the Commander-in-Chief, Senior General Min Aung Hlaing. From August 2017, units from the 99th LID were deployed in northern Rakhine State, where Amnesty International, the UN Fact-Finding Mission, and others have implicated them in atrocities constituting crimes under international law, including mass deportation, murder, rape, and the burning of Rohingya homes.

The fact that less than 18 months after these crimes, soldiers from the same division were committing new violations – including crimes under international law – highlights once again the need for the international community to take action and ensure that those responsible do not continue to enjoy immunity for their crimes. Specifically, the UN Security Council must fulfil its responsibility and refer the situation in Myanmar to the International Criminal Court. Given the renewed military operations in northern Shan State, and reports of further violations against civilians, the Security Council should act not only to ensure accountability for past crimes, but to try to prevent further abuse as consistent with its mandate.

CONCLUSION AND RECOMMENDATIONS

Civilians in northern Shan State continue to bear the brunt of armed conflict. Caught between the Myanmar military and different ethnic armed groups, they are at risk of a catalogue of abuses, including arbitrary detention, torture and other ill-treatment, and indiscriminate attacks. Violations by the military have continued even after the military's announcement of a unilateral ceasefire on 21 December 2018, which lapsed on 21 September 2019. The fracturing of the ethnic armed group landscape in the region has only added more misery and suffering for civilians, exposing them to new arrests, abductions, forced labour, forced taxation, and extortion. Even those who flee are not safe, risking death or injury by landmines or other explosive devices.

The situation raises urgent concerns, in particular in the context of the escalation of fighting between the Myanmar military and ethnic armed groups since August 2019. It is essential that all sides respect international humanitarian and human rights law and take effective measure to protect civilians, allow safe passage to those fleeing the fighting, and ensure humanitarian access for displaced populations and others trapped in conflict areas.

It is also essential that violations of international humanitarian and human rights law are thoroughly, independently, and impartially investigated and that those responsible are held to account – regardless of rank and on what side of the conflict they stand.

The fact that the Myanmar military, which stands accused of crimes against humanity, war crimes, and genocide, continues to commit serious violations across the country clearly underscores the systemic nature of military violations, the near total impunity enjoyed by perpetrators, and the unwillingness of the military to reform. In this context, the international community – specifically the UN Security Council – must finally step in and ensure that violations are investigated and perpetrators brought to justice. By failing to refer Myanmar to the ICC, the UN Security Council is not only abdicating its responsibility to ensure accountability for serious crimes, it is failing its duty to prevent such crimes from continuing to be committed.

TO THE MYANMAR ARMED FORCES

- Immediately end all crimes under international law and other violations of human rights and humanitarian law, including those committed during operations in conflict and ceasefire areas. Adhere strictly to the provisions of international human rights and humanitarian law;
- Suspend immediately from frontline duties anyone suspected of responsibility for crimes under international law and other serious violations of international law;
- End the use of explosive weapons with wide area effects, such as mortars and artillery, against military objectives located in the vicinity or concentrations of civilians;
- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of forcibly disappeared individuals and release them or else transfer them immediately to the police and bring them under the jurisdiction of civilian courts where they can challenge their continued detention;

- End the practice of forced labour of civilians. Hold accountable any commander, irrespective of rank, or soldier that forcibly conscripts civilians, even for short periods;
- Punish soldiers, regardless of rank, who engage in theft of civilian property and take effective action to prevent such breaches of international humanitarian law;
- Provide and facilitate immediate, unfettered humanitarian access to all areas of northern Shan State so that impartial relief can reach all civilians in need of assistance, including those who have been displaced;
- Allow human rights monitors, independent observers, and national and international media workers full and sustained access to all parts of northern Shan State; and
- Cooperate fully with the Independent Investigative Mechanism for Myanmar (IIMM), including by allowing unfettered access throughout the country, so that they may investigate allegations of crimes under international law and other human rights violations and abuses by all parties to the conflicts.

TO THE MYANMAR GOVERNMENT

- Provide immediate, unfettered humanitarian access to all areas of northern Shan State, allowing UN agencies and international and national humanitarian organizations to assess and monitor the needs of affected people, including those who have been displaced, and to deliver assistance to them;
- Cooperate fully with international efforts to investigate and prosecute individuals suspected of involvement in crimes under international law and other human rights violations, including those with command or other superior responsibility;
- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of forcibly disappeared individuals and ensure they are released or else transferred immediately to the police and brought under the jurisdiction of civilian courts where they can challenge their continued detention;
- Immediately and unconditionally release all those imprisoned or otherwise deprived of their liberty solely for peacefully exercising their rights to freedom of expression or association or other human rights, and drop charges against all those facing imprisonment for so exercising their rights;
- Review and repeal, or else amend all laws which arbitrarily restrict the rights to freedom of expression, association, and peaceful assembly – including the Unlawful Associations Act – to ensure Myanmar laws comply with international human rights law and standards;
- Allow human rights monitors, independent observers, and national and international media workers full and sustained access to all parts of northern Shan State;
- Accede to the Rome Statute of the ICC, issue a declaration accepting the ICC’s jurisdiction since 1 July 2002, and incorporate its provisions into domestic law;
- Accede without delay or reservation to key international human rights treaties and their additional protocols, including to the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Implement their provisions in law, policy and practice; and
- Cooperate fully with the Independent Investigative Mechanism for Myanmar (IIMM), including by allowing unfettered access throughout the country, so that they may investigate all allegations of crimes under international law and other human rights violations and abuses.

TO THE KIA, SSA-N, SSA-S, TNLA, AND OTHER ARMED GROUPS

- Immediately end all international humanitarian law violations and human rights abuses. Adhere strictly to the provisions of international humanitarian law;
- End abductions of civilians and immediately release all civilians being detained. Inform families of anyone, civilian or combatant, who continues to be detained by the armed group and allow detainees to correspond with their families;
- End threats of violence and acts of intimidation against civilians;

- Take all feasible measures to avoid basing or moving units through civilian-populated areas;
- Remove from the ranks individuals suspected of violations of international humanitarian law and human rights abuses; and
- Cooperate fully with the IIMM, including in areas the armed group controls or is operating in, so that they may investigate allegations of crimes under international law and other human rights violations and abuses by all parties to the conflicts.

TO THE UN SECURITY COUNCIL

- Refer the situation in Myanmar to the International Criminal Court;
- Impose a comprehensive arms embargo on Myanmar that covers the direct and indirect supply, sale, and transfer, including transit and trans-shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance, and establish a mechanism to monitor and enforce the embargo;
- Impose targeted financial sanctions against senior officials responsible for serious violations and crimes;
- Take immediate action to assess progress on accountability and other human rights issues since the 31 May 2018 letter from the President of the Security Council to the Myanmar authorities, including by requesting a follow-up visit to Myanmar at the earliest opportunity;
- Hold regular, open meetings on the situation in Myanmar and adopt a resolution or resolutions, as necessary, that send an unambiguous message to the Myanmar authorities about the need to allow unrestricted humanitarian access; to allow unfettered access for independent investigators, including the IIMM; and to support international efforts to hold perpetrators criminally accountable.

TO THE INDEPENDENT INVESTIGATIVE MECHANISM FOR MYANMAR (IIMM)

- Investigate and preserve evidence of serious international crimes and violations of international law committed by all parties to the armed conflicts in northern Shan State, including those documented in this report;
- Cooperate closely with the International Criminal Court (ICC), in particular with any investigations into crimes under international law in Myanmar.

TO THE INTERNATIONAL COMMUNITY AS A WHOLE AND MYANMAR'S PARTNERS IN PARTICULAR, INCLUDING THE UNITED STATES, THE EUROPEAN UNION AND ITS MEMBER STATES, ASEAN AND ITS MEMBER STATES, AUSTRALIA, CHINA, INDIA, JAPAN, AND KOREA:

- Immediately suspend the direct and indirect supply, sale, and transfer, including transit and shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance;
- Use all bilateral, multilateral, and regional platforms at your disposal to urge the Myanmar authorities to immediately end crimes under international law and other human rights violations, and to allow humanitarian agencies and independent investigators access to northern Shan State;
- Support the IIMM, and ensure it has the necessary political backing and financial resources in order to fulfil its mandate; and
- Exercise universal and other forms of jurisdiction to investigate any person who may reasonably be suspected of committing crimes against humanity, war crimes, or other crimes under international law in Myanmar. Where there is sufficient admissible evidence, prosecute the suspect in proceedings that meet international standards of fairness and do not involve seeking or imposing the death penalty, or extradite the suspect to a jurisdiction that will similarly do so.

TO THE EUROPEAN UNION AND THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

- Impose or otherwise expand targeted sanctions to include all senior Myanmar officials responsible for serious violations and crimes.

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“CAUGHT IN THE MIDDLE”

ABUSES AGAINST CIVILIANS AMID CONFLICT IN MYANMAR’S NORTHERN SHAN STATE

EXECUTIVE SUMMARY, CONCLUSION, AND RECOMMENDATIONS

This report documents violations of international humanitarian and human rights law committed in northern Shan State, where civilians caught between the Myanmar military and different ethnic armed groups risk a catalogue of abuses by all sides.

Based on two field investigations, the report shows how the military continues to engage in an all-too familiar pattern of arbitrary arrests, detention, torture and other ill-treatment, and indiscriminate attacks which have killed or injured civilians. These violations – many of which amount to war crimes – have continued even after the military announced a unilateral ceasefire, now lapsed, on 21 December 2018.

Many of the violations by the military documented in this report were committed by the Myanmar Army’s 99th Light Infantry Division, which is implicated in some of the worst atrocities against the Rohingya in Rakhine State from August 2017, as well as in war crimes and other serious violations in northern Myanmar in 2016 and 2017.

The report also presents evidence that ethnic armed groups commit abuses against civilians, including abductions, torture and other ill-treatment, forced labour, and extortion. Ethnic armed groups also expose civilians to risk of attack, often by basing themselves within or moving through civilian populated areas.

The situation highlights yet again the need for international action to ensure that those responsible for serious crimes in Myanmar do not continue to enjoy impunity. The UN Security Council, which for too long has stood by as civilians were abandoned to a ceaseless cycle of violence, must fulfil its responsibility and refer the situation in Myanmar to the International Criminal Court.