

**fidh**

International Federation for Human Rights

**ALTSEAN**  
**BURMA**



# BURMA/MYANMAR

## International crimes committed in Burma: the urgent need for a Commission of Inquiry

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone



August 2009  
n°527a



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# Abbreviations

AAPP – Assistance Association for Political Prisoners  
ALTSEAN-Burma – Alternative ASEAN Network on Burma  
BLC – Burma Lawyers Council  
CEDAW – Committee on the Elimination of Discriminations Against Women  
EAT – Emergency Assistance Team  
ECOSOC – Economic and Social Council  
EJK – Extrajudicial Killings  
FIDH - International Federation for Human Rights  
HREIB – Human Rights Education Institute of Burma  
ICC – International Criminal Court  
ICJ – International Court of Justice  
ICRC – International Committee of the Red Cross  
IDPs - Internally Displaced Persons  
IHRG – International Human Rights Clinic  
ILC – International Labour Conference  
ILO – International Labour Organization  
ITUC – International Trade Union Confederation  
KNLA – Karen National Liberation Army  
KNPP – Karenni National Progressive Party  
KNU – Karen National Union  
NGOs – Non-Governmental Organizations  
NLD – National League for Democracy  
NMSP – New Mon State Party  
SHRF – Shan Human Rights Foundation  
SPDC – State Peace and Development Council  
SWAN – Shan Women’s Action Network  
TBBC – Thailand Burma Border Consortium  
UDHR – Universal Declaration of Human Rights  
UNGA – United Nations General Assembly  
UN HRC – United Nations Human Rights Council  
UN SG – United Nations Secretary General  
UN SR – United Nations Special Rapporteur  
USDA – Union Solidarity and Development Association  
WRP/ERI – Women’s Rights Project/Earth Rights International

# I. Introduction

For many years the International Federation for Human Rights (FIDH), the Alternative ASEAN Network on Burma (ALTSEAN-Burma), and the Burma Lawyers Council (BLC) have been drawing the attention of the international community, in particular of the various United Nations (UN) bodies, to the widespread and systematic human rights violations occurring in Burma<sup>1</sup>. Numerous reports document such violations and demonstrate that they constitute a State policy and are not isolated incidents.

A considerable number of institutional actors, including UN bodies and UN independent experts, have echoed the incidents of serious human rights violations raised by Burmese, regional, and international human rights groups. The military junta has not been held accountable for any of those acts: systematic impunity is prevailing in Burma.

Burma has ratified various international conventions on human rights and humanitarian law, and as a State party it must strictly ensure the respect of its international obligations.<sup>2</sup> Burma has also an obligation to respect and comply with customary norms, such as the prohibition of crimes against humanity, war crimes and torture.

Our objective in this briefing note is to present an overview of existing documentation on serious human rights violations perpetrated by Burma's military regime, and demonstrate that international crimes have been – and are still being – perpetrated in Burma with total impunity. The violations and the relevant international crimes are analyzed and legally defined under the scope of Articles 7 and 8 of the Rome Statute, which established the International Criminal Court (ICC).

The documentation provided in this briefing note is not intended to be exhaustive. It is, however, sufficient to show that there is clear ground for further investigation. Based on existing findings, FIDH, ALTSEAN-Burma, and BLC are calling for the establishment of an international Commission of Inquiry mandated by the United Nations Security Council to investigate: allegations of crimes against humanity; war crimes committed against ethnic nationalities in Eastern Burma; and other widespread and systematic human rights violations perpetrated in other regions of Burma that may constitute crimes against humanity.

Documenting human rights violations in Burma is extremely difficult. Access is denied to international human rights Non-Governmental Organizations (NGOs), while local groups are banned in the country and operate mostly from the Thai and Indo-Burma borders. Inside Burma, those who criticize the military regime's human rights record are systematically and severely repressed. The military regime's cooperation with UN human rights mandate holders has been very poor in recent years. From 2003 to 2007, the UN Special Rapporteur on the situation of human rights in Myanmar was unable to visit the country. With regard to the other special procedures, five of them have requested to carry out field visits in vain.<sup>3</sup> This report is based on public resources which include local, regional, and international human rights groups' reports, and documents issued by UN bodies and the International Labour Organisation (ILO).

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1. The organisations authors of this Note use the name Burma and not Myanmar, imposed by the military regime and used at the official diplomatic and international fora. However, in the text Myanmar and Burma refer to the same country.

2. See Appendix I of the present document.

3. Representative of the Secretary General on Internally Displaced Persons, Special Rapporteur (SR) on the right to food (2003), SR on freedom of religion or belief (2007), SR on summary executions (2007 and 2008), SR on the independence of judges and lawyers (2009).



## II. Background

Since Burma's independence, conflicts have occurred in the country's ethnic regions. Some of Burma's ethnic nationalities have formed armed groups in opposition to the government. Ethnic nationalities-based political parties, including the Shan Nationalities League for Democracy, the Arakan League for Democracy, and the Mon National Democratic Front, won seats in the 1990 election. Furthermore, ethnic opposition groups, including the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), the Chin National Front, and the Shan State National Army, have engaged in armed conflict with the SPDC Army (*Tatmadaw*).<sup>4</sup>

In the early and mid 1990s, Burma's military regime entered into ceasefire agreements with 17 ethnic armed opposition groups<sup>5</sup>. While ceasefire agreements brought an end to the fighting in some areas of Burma, they also resulted in increased militarization and declining socio-economic conditions for many ethnic nationalities.<sup>6</sup> Some ceasefires subsequently broke down, while others prompted new armed groups to form. Many ethnic groups have maintained active resistance against the regime. These groups include the Chin National Front, the Shan State Army-South, the KNPP, and the KNU. The KNU, one of the largest ethnic armed opposition groups, agreed to an informal ceasefire in December 2003, but the *Tatmadaw* has continued to carry out military offensives against Karen civilians. In June 2009, the SPDC's ongoing military offensive forced thousands of Karen civilians to flee and seek refugee in neighboring Thailand.

Despite the ceasefire negotiations and agreements, the actions taken by the SPDC and its military call into question their commitment to peace. Even after the ceasefire, *Tatmadaw* troops continued to attack villages populated by ethnic nationalities, and military operations have continued in Eastern Burma. The New Mon State Party (NMSP) signed a ceasefire agreement with the military junta in 1995, but conditions continued to deteriorate in Mon State after the ceasefire. The SPDC forcibly conscripted local farmers to work on development projects, and the *Tatmadaw* continued to subject local villagers to arbitrary arrests, torture, and other human rights abuses. A New Mon State Party Central Committee member noted that the group wanted dialogue to work "but if the SPDC does not want a political settlement and keeps oppressing our people, we may fight again."<sup>7</sup> Despite the SPDC's ongoing military offensive against civilians in Eastern Burma, the junta declared at various international fora that fighting in Burma ended a long time ago.

Widespread human rights violations occur throughout Burma. The regime silences brutally any dissident voice and a climate of fear has been installed among the population. Impunity prevails in the country and has even been institutionalized following the adoption by a referendum, marked by serious fraud, of a Constitution guaranteeing non persecution for the army.



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4. Other political groups, such as the National Democratic Front, Democratic Alliance for Burma, and National Council for the Union of Burma, seek to unite the various ethnic groups and promote a common position. Over time, the primary demand of ethnic opposition groups has shifted from independence to democracy and federalism.

5. See Piper Rudnick Gray Cary, *Threat to the Peace: a call for the UN Security Council to act in Burma*, September 2005.

6. Most significantly, the ceasefires have not resulted in political settlements that address the root causes of the armed conflict.

7. *The Rome Statute of the International Criminal Court: A Commentary*, under the direction of Antonio Cassese, Paola Gaeta and John R. W.D. Jones, Oxford University Press, 2002.

### III. Legal framework

Despite the fact that Burma is not a State party to the Rome Statute establishing the International Criminal Court, this briefing note is based on the legal framework offered by the Rome Statute, in particular Articles 7 and 8 defining respectively crimes against humanity and war crimes.

Under Article 7 of the Rome Statute:

§1. [...] ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.<sup>8</sup>

8. For the purpose of paragraph 1:

(a) ‘Attack directed against any civilian population’ means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

(b) ‘Extermination’ includes the intentional infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

(c) ‘Enslavement’ means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

(d) ‘Deportation or forcible transfer of population’ means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

(e) ‘Torture’ means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

(f) ‘Forced pregnancy’ means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

(g) ‘Persecution’ means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

(h) ‘The crime of apartheid’ means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

(i) ‘Enforced disappearance of persons’ means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.



In order for every act enumerated under Article 7 to be considered a crime against humanity, it must have been perpetrated as part of a widespread or systematic attack directed against the civilian population with knowledge of the attack. A *widespread* attack is one of a large-scale nature, where several criminal acts are committed resulting generally in a large number of victims. The *systematic* character of an attack denotes its organized nature, which can be demonstrated by the patterns of crimes, i.e. the repetition of similar criminal acts, showing that such acts are part of a preconceived plan.

Nearly all of the acts enumerated in Article 7 of the Rome Statute have been largely documented in Burma and appear to have been perpetrated by the military regime in a widespread or systematic manner.<sup>9</sup>

The Rome Statute also provides a definition of war crimes in case of internal conflict. Article 8 of the Rome Statute is therefore relevant to this analysis since in Burma various ethnic armed groups have been fighting the *Tatmadaw*.

Under Article 8 of the Rome Statute:

§2: [...] (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- (iii) Taking of hostages;
- (iv) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
- (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:
  - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
  - (ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the law of armed conflict;
  - (iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
  - (v) Pillaging a town or place, even when taken by assault;
  - (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
  - (vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
  - (viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
  - (x) Declaring that no quarter will be given;
  - (xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;

9. They must be part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

As explained above, in order for a crime to be considered a crime against humanity, the relevant criminal act must have been committed as part of a systematic or widespread attack directed against the civilian population. The notion of crime against humanity entails, therefore, the commission of numerous criminal acts. War crimes can be isolated acts and are not necessarily part of a larger pattern. It must be recalled that war crimes are criminal acts that are committed within the framework of an armed conflict.

FIDH, ALTSEAN–Burma, and BLC have gathered documentation and analysed it under the provisions of Article 7 and Article 8 of the Rome Statute applicable to crimes against humanity and war crimes. FIDH, ALTSEAN-Burma, and BLC assert that a number of widespread and systematic human rights violations, documented by UN mechanisms and local, regional, and international NGOs, present *prima facie* evidence in conformance with those definitions and correspond to the criteria and the various elements constituting international crimes.

## a. Murder

### Extrajudicial killings in ethnic minority areas

UN human rights bodies and agencies have documented the occurrence of extrajudicial killings consistently since 1992.<sup>10</sup> These reported extrajudicial killings took place in ethnic nationalities' areas, and were perpetrated by the *Tatmadaw*.<sup>11</sup>

Thailand Burma Border Consortium (TBBC) highlighted that “reports from Shan, Karenni and Karen communities during 2008 signify that the Burmese Army continues to use murder as a means of instilling fear into communities across Eastern Burma.”<sup>12</sup> TBBC reported in detail several cases of extrajudicial killings perpetrated by members of the *Tatmadaw* throughout 2008. None of those cases have been investigated by the SPDC authorities.<sup>13</sup>

Amnesty International (AI) has gathered evidence of acts perpetrated by the military regime between 2005 and 2007, which constitute crimes against humanity, in particular killings of detainees, shooting on sight, and killings as collective punishment, committed mainly in Karen State.<sup>14</sup> AI reported that in many cases, villagers “had apparently been detained as suspected members of KNU, or under suspicion of having information about Karen National Liberation Army (KNLA)<sup>15</sup> activities”. It was also reported that the bodies of villagers who had been detained by the *Tatmadaw* were discovered outside their villages often several weeks after their arrest.<sup>16</sup> In addition, AI reported that “the *Tatmadaw* on several occasions warned that they would shoot on sight all people found outside their villages during periods of village closure or when the KNLA was in the area.” Two UN Special Rapporteurs also drew attention to the *Tatmadaw*'s “shoot on sight” policy.<sup>17</sup> This policy follows either the forced displacement of civilian populations or the evacuation of specific areas or the surrounding of areas ahead of an attack by the *Tatmadaw* against insurgent armed groups. Several sources reported cases where the military had warned the population that every person found outside the villages during

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10. See Tables elaborated by the Harvard Law School in appendix.

11. See International Human Rights Clinic at Harvard Law School (IHRC), *Crimes in Burma*, May 2009, p. 64 and s.

12. TBBC is a consortium of 12 international non-governmental organizations (NGOs) from ten countries providing food, shelter and non food items to refugees and displaced people from Burma. TBBC also engages in research on the root causes of displacement and refugee outflows.

13. TBBC, *Internal displacement and international law in Eastern Burma*, October 2008, p. 42 and s.

14. Amnesty International, *Crimes against humanity in Eastern Myanmar*, June 2008.

15. The Karen National Liberation Army (KNLA) is the military arm of the Karen National Union (KNU). Shortly after Burma's independence in 1948, the KNLA emerged to fight for the independence of Karen State.

16. Amnesty International, *Crimes against humanity in Eastern Myanmar*, June 2008, p. 9.

17. Quoted in footnote 352 of IHRC, *Crimes in Burma*, May 2009.

periods for example of village closure would be shot.<sup>18</sup> Villagers looking for food were allegedly shot without even having the possibility to explain to the army the reasons for their presence in the area (search for food, a health emergency, etc.).<sup>19</sup>



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AI also reported that the *Tatmadaw* targeted the civilian population in retaliation for KNLA activities. Other sources also reported cases of killings as collective punishment against civilians living in areas where armed rebel groups were operating.<sup>20</sup> Despite the fact that collective punishment is expressly prohibited under international customary law, the *Tatmadaw* has applied this method as a regular response to the alleged attacks of armed opposition group.<sup>21</sup>

### Death in custody of political prisoners

According to the Assistance Association for Political Prisoners of Burma (AAPP), from 1988 to May 2009 at least 139 political prisoners have died in detention as a direct result of severe torture, denial of medical treatment or inadequate medical care. Many political prisoners were suffering from treatable medical conditions.<sup>22</sup> The killings of these democracy activists took place with total impunity despite the fact that in a number of cases the authorities responsible for the individuals' death were known.<sup>23</sup>

### Other violations of the right to life

The brutality of the regime and its complete disregard for human life is illustrated by the **Depayin Massacre**. On 30 May 2003, thousands of SPDC-backed armed militiamen brutally attacked Daw Aung San Suu Kyi, the NLD Deputy Chairman U Tin Oo, and the convoy of their sympathizers near Depayin, in Northern Burma's Sagaing Division. The day after the incident, SPDC officials said that four people died and 50 were injured as a result of the clashes. According to thorough investigations carried out by Burmese pro-democracy and human rights groups, this attack was premeditated and masterminded by the military regime. Rights groups stressed that "it might be an assassination attempt systematically plotted by the authorities," and "the actual perpetrators might be the members of Union Solidarity and Development Association (USDA) and notorious criminals who were released with this purpose from prison and whose actions were directly controlled by the authorities."<sup>24</sup> According to independent sources, 10 persons died and 108 disappeared as a result of the Depayin attack (see list in appendix).

18. Karen Human Rights Group, UK Burma Campaign, Free Burma Rangers (FBR) and several other NGOs have published reports that documented the *Tatmadaw's* "shoot on sight."

19. Amnesty International, *Crimes against humanity in Eastern Myanmar*, June 2008. UN Special Rapporteur on the situation of human rights in Myanmar and Special Rapporteur on Extrajudicial summary and arbitrary executions, Implementation of General Assembly Resolution 60/251 of 15 March 2006 titled "Human Rights Council: Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions"; Addendum: Summary of cases transmitted to Government and replies received, U.N. Doc. A/HRC/4/20/Add.1, 222-23 (March 12, 2007), including letter of allegation of May 15, 2006 sent jointly with the Special Rapporteur on the situation of human rights in Myanmar.

20. TBBC, *Internal Displacement and international law in Eastern Burma*, October 2008, p. 42.

21. AI report, *op. cit.*, p. 11.

22. AAPP, *Burma's Prisons and Labour Camps: Silent Killing Fields*, May 2009.

23. AAPP, *Eight Seconds of Silence, The Death of Democracy Activists behind Bars*, May 2006.

24. The Ad Hoc Commission on Depayin Massacre, Preliminary report, in *Legal issues on Burma Journal*, No. 15, published by the Burma Lawyer's Council in August 2003, p. 8 and 9.



This incident has never been seriously investigated by the military regime.<sup>25</sup>

The killings that took place during the **Saffron Revolution** must also be mentioned. While no accurate number of killed or wounded can be provided, it is clear that the crackdown was brutal. Most of the participants to the demonstrations witnessed people that had been shot, seriously injured, and beaten to death by riot police and *Tatmadaw* soldiers. FIDH and ITUC sent a mission following the repression in order to gather evidence on the human rights violations committed by the SPDC during the Saffron Revolution. The mission members were unable to determine the exact number of those killed and whereabouts of those detained. Human rights organizations located on the Thai-Burma border, and having constant contacts inside Burma, had the same difficulty.<sup>26</sup>



The UN Special Rapporteur on the situation of human rights in Myanmar said that during the repression of peaceful demonstrations from 26 to 29 September 2007, the SPDC security forces, including the army and the riot police, as well as members of the Union Solidarity and Development Association and the Swan Arr Shin militia, had used excessive force against civilians, including unnecessary and disproportionate lethal force. Following the crackdown, the Special Rapporteur received reports on alleged killings, severe beatings, arrests, torture and

25. For an analysis of the Depayin massacre as a crime against humanity, see Professor Michael C. Davis & C. Raj Kumar, An opinion on the Depayin Massacre as a crime against humanity, accessible at <http://www.article2.org/mainfile.php/0206/113/>.

26. FIDH/ITUC, *Burma's "Saffron Revolution" is not over, Time for the international community to act*, December 2007, p. 11.



deaths in custody. The Special Rapporteur noted that there were solid grounds to believe that at least 31 persons had died, and that some 3,000 to 4,000 people had been arrested as a result of the crackdown on the peaceful demonstrations.<sup>27</sup>

Accountability for human rights violations committed during the repression of the Saffron Revolution is still pending. The SPDC established an “Investigation Body” chaired by the Minister for Home Affairs to investigate the deaths, arrests, and disappearances in connection with the September 2007 crackdown.<sup>28</sup> However, no identification and sanction of the personnel responsible has yet occurred.<sup>29</sup> The Special Rapporteur on the situation of human rights in Myanmar added that he had no information regarding the intervention of an independent and impartial court in the investigation of the abuses.<sup>30</sup>

Overall, the cases of extrajudicial killings, summarized above, show that these acts are not committed in a random manner but are systematic and perpetrated as part of a plan or state policy. This is particularly true for the acts of murder perpetrated against members of ethnic nationalities. Killings are part of a deliberate strategy and are commonly used to warn and intimidate the civilian population. The culture of impunity surrounding those killings also supports the existence of common patterns and the systematic nature of these crimes.

## b. Enslavement

Forced labour affects people who are illegally recruited by individuals, governments, or political parties and forced to work, usually under threat of violence or other penalties.<sup>31</sup> It is a form of slavery.<sup>32</sup>

Of all the international human rights-related institutions, the ILO<sup>33</sup> has conducted the most exhaustive examination of forced labour prohibited by the ILO Forced Labour Convention (commonly known as ILO Convention No. 29), which Burma ratified in 1955. The ILO has severely criticised the practices of portering and forced labour, sometimes described as enslavement.<sup>34</sup>

After years of examination by its regular supervisory mechanisms, in 1996 the ILO established a special Commission of Inquiry on the matter. An ILO Commission of Inquiry is an exceptional procedure, reserved for the gravest violations of core international labour standards. The Commission issued its report in July 1998.<sup>35</sup> The report concluded that, “there is abundant evidence before the Commission showing the pervasive use of forced labour imposed on the civilian population throughout Myanmar by the authorities and the military for portering, the construction, maintenance and servicing of military camps, other work in support of the military, work on agriculture, logging and other production projects undertaken by the authorities or the military, sometimes for the profit of private individuals, the construction and maintenance of roads, railways and bridges, other infrastructure work and a range of other tasks, none of which

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27. U.N. Document A/HRC/6/14.

28. U.N. Document A/HRC/7/G/8.

29. U.N. Document A/63/341, Para. 52.

30. *Ibid.*, para. 53.

31. Under ILO Convention No. 29, “the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

32. Accessible at <http://www.antislavery.org/homepage/antislavery/modern.htm>

33. The ILO is a tripartite organization. Its 181 Member States, which include Burma, are represented by Governments and employers’ and workers’ (i.e., trade union) organizations.

34. TBBC report op.cit. p.44. In its monthly report, the Shan Human Rights Foundation and the Karenni Information Center describe in detail cases of forced labour considered by Burmese exile groups as enslavement.

35. Report of the ILO Commission of Inquiry, available at <http://www.ilo.org/public/english/region/asro/yanmar/>

comes under any of the exceptions listed in Article 2(2) of the Convention.”<sup>36</sup>

The Commission called on the regime authorities to act “without delay” to end forced labour and qualified the practice as a possible crime against humanity: “A state which supports, instigates, accepts or tolerates forced labour on its territory commits a wrongful act and engages its responsibility for the violation of a peremptory norm in international law. Whatever may be the position in national law with regard to the exaction of forced or compulsory labour and the punishment of those responsible for it, any person who violates the prohibition of recourse to forced labour under the Convention is guilty of an international crime that is also, if committed in a widespread or systematic manner, a crime against humanity.”<sup>37</sup>

Despite the SPDC’s formal commitment in 1998, and repeated regularly since then, to implement the recommendations of the Commission in order to eradicate forced labour, the practice remains widespread and systematic.<sup>38</sup> Forced labour practices are consistently accompanied by violations of other fundamental rights, including forced relocation, arbitrary detention and execution, rape, torture and the forced recruitment of child soldiers. In June 2000, the International Labour Conference adopted a Resolution that highlighted the persistence of systematic forced labour in Burma.<sup>39</sup> The Resolution, adopted under Article 33 of the ILO Constitution (a provision which had never been invoked before), called on ILO Constituents and other international organizations to review their relations with Burma and cease any relations that might have the direct or indirect effect of aiding and abetting forced labour.

Burma has remained on the agenda of every session of the ILO Governing Body and ILO Conference ever since. The terms of the June 2000 Resolution were further recalled and strengthened by the International Labour Conference in June 2006. In November 2006, the ILO Governing Body for the first time formally examined how to use international legal mechanisms going beyond its internal procedures. In particular, it examined in detail options available before the International Court of Justice (ICJ) and the International Criminal Court (ICC). One option would be to refer the matter to the ICJ, asking it to determine, through an Advisory Opinion, what consequences could be drawn under international law from the SPDC’s consistent failure to implement the recommendations of the Commission of Inquiry. The other option would be to make available to the ICC Prosecutor, through the UN Security Council, all available information concerning forced labour, a violation that falls under the ICC’s mandate. This would be in line with the Conclusions and Recommendations of the 1998 Commission of Inquiry, which had ruled that forced labour in Burma could constitute a crime against humanity and that those responsible could be held accountable under international law. Both of these options are described in detail in a report examined by the ILO Governing Body at its 297th session held in November 2006.<sup>40</sup>

In February 2007, the ILO and the SPDC agreed to a mechanism allowing victims of forced labour to present formal complaints to be investigated and addressed by the country’s legal system. This mechanism, which is known as the Supplementary Understanding, provides an avenue for victims of forced labour to submit complaints to the ILO Liaison Office in Rangoon

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36. ILO, Forced labour in Myanmar (Burma), Commission of Inquiry, Official Bulletin, Vol. LXXXI, Series B, special supplement, 1998, para. 528.

37. *Ibid.*, para. 538.

38. International Labour Organisation, 1998, Forced Labour in Myanmar (Burma), Commission of Inquiry Official Bulletin, VOL LXXXI, series B, special supplement, 1998.

39. ILC is the annual assembly of ILO. It meets every year in June in Geneva.

40. See ILO document GB.297/8/2, 297th Session of the Governing Body, Geneva, November 2006: “*Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29): Legal aspects arising out of the 95th Session of the International Labour Conference*”, see in particular concerning the ICC: Section III: “*Information concerning international criminal law in relation to forced labour*”, §14-26, accessible at: <http://www.ilo.org/public/english/standards/relm/gb/docs/gb297/pdf/gb-8-2.pdf>

and includes guarantees that no retaliatory action will be taken against them. The trial period of this mechanism was extended for a second time on 26 February 2009 for an additional 12 month period.<sup>41</sup>

In June 2009, the ILO Committee on the Application of Standards issued a number of recommendations to the SPDC, including assurances that perpetrators of forced labour would be prosecuted and punished under the Criminal Code and to cease harassment, retaliation, and imprisonment of individuals who made use or facilitated the use of the complaint mechanism. In its 2008 annual report, the International Trade Union Confederation (ITUC) denounced the imprisonment and/or prosecution of persons who filed complaints to the ILO for forced labour.<sup>42</sup>

Amnesty International reported that “if civilians cannot or will not perform forced labour, they, their families or their communities, run the risk of reprisals or collective punishment at the hands of the *Tatmadaw*. In addition, the manner and conditions in which forced labour is carried out often constitute ill-treatment, and as described above, victims are occasionally tortured to death or summarily executed”.<sup>43</sup>

In addition, according to Amnesty International, during 2006 and 2007 refugees and Internally Displaced Persons (IDPs) in Karen State were regularly forced by the *Tatmadaw* to work and to act as porters. Their tasks included carrying ammunitions, food, water, and firewood, and acting as minesweepers, sentries or military guides.<sup>44</sup>

The ICC Elements of Crimes recognize that deprivation of liberty through labour can constitute an act of enslavement. The systematic and widespread nature of cases of forced labour in Burma is well-documented. These acts are clearly State policy. The responsibility of the regime is further implicated by its consistent reluctance to abide by the recommendations of international bodies to put an end to such practice.

### c. Deportation or forcible transfer of population

As reported by the Internal Displacement Monitoring Center, “The scale of internal displacement, especially in government-controlled areas of Myanmar, remains unknown due to the political sensitivities of the government. Displacement is believed to be widespread with close to half a million people displaced internally on the eastern border alone over the last decade. A million people are estimated to have become internally displaced across Myanmar over the past decade. An estimated three million people have been forced to migrate within and outside of Myanmar due to conflict, persecution, human rights violations and repressive government measures.”<sup>45</sup>

Since 2002, TBBC has collaborated with community-based organisations to document internal displacement in Eastern Burma, and publishes an annual report on the scale and characteristics of internal displacement. In its 2008 annual report, TBBC compiled for the first time abuses screened under the legal framework of crimes against humanity<sup>46</sup>.

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41. Accessible at [http://www.ilo.org/global/About\\_the\\_ILO/Media\\_and\\_public\\_information/Press\\_releases/lang--en/WCMS\\_081868/index.htm](http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_081868/index.htm)

42. Accessible at <http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=MMR&Lang=EN>

43. Amnesty International, *Crimes against humanity in Eastern Myanmar*, June 2008, p. 21.

44. *Ibid.*, p. 23; see also TBBC, *Internal displacement and international law in eastern Burma*, October 2008, p. 44 and s.

45. Accessible at [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/77C12CB7338CDAC9C12573E20054F7F7?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/77C12CB7338CDAC9C12573E20054F7F7?OpenDocument)

46. TBBC, *Internal Displacement and international law in Eastern Burma*, October 2008.



TBBC reported that between 1996 and 2007, the *Tatmadaw* destroyed or forcibly relocated more than 3,200 villages in Eastern Burma. TBBC reported that in 2007 more than 167 villages were destroyed and around 5,000 people were displaced, while in 2008, the organization has documented the forced displacement of a further 142 villages and hiding sites.<sup>47</sup> An estimated 66,000 people were forced to leave their homes as a result of, or in order to avoid, the effects of armed conflict and human rights abuses during the past year alone.<sup>48</sup>

The causes of forced displacement in Burma include the imposition of forced labour, extortion, land confiscation, agricultural production quotas, and restrictions on access to fields and markets. The prevalence of these factors is exacerbated by hydro-electric projects in Shan and Karen States, mining

projects in Shan and Karenni States and Pegu Division, the gas pipeline in Mon State as well as commercial agriculture and infrastructure projects in general.<sup>49</sup>

Under Article 7 of the Rome Statute, “deportation or forcible transfer of population” means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.” In addition, under Article 8(2) viii, “Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand,” in the framework of an internal conflict constitutes a war crime.

In line with international human rights and humanitarian law, including refugee law, the UN Guiding Principles on internal displacement set out the rights and guarantees relevant to the protection of IDPs in all phases of displacement, providing protection against arbitrary displacement; protection and assistance during displacement; and during return or internal resettlement and reintegration. The principles notably restate the right not to be arbitrarily displaced and prohibit displacement on ethnic, religious or racial grounds. The principles reaffirm that national authorities have the obligation to ensure that IDPs’ basic rights to food, water, shelter, dignity and safety are met. They should accept the assistance of the international community where they do not have the capacity to provide assistance and protection to IDPs.

The conditions of displacements and relocations carried out by the SPDC in Eastern Burma, and the regime’s failure to provide humanitarian assistance to IDPs constitute a blatant violation of the UN Guiding Principles.<sup>50</sup>

The documentation that is available on forced displacement in Burma makes it clear that the

47. TBBC, *Internal Displacement and International Law in Eastern Burma*, October 2008, p. 2.

48. *Ibid.*, p. 3.

49. *Ibid.*, p. 2.

50. Under the Guiding Principles on Internal Displacement, Introduction, para. 2, internally displaced persons (IDPs) are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”



scale in which this crime is committed is widespread and systematic, in particular across the Eastern part of the country. This is demonstrated by the high number of IDPs. The pattern in which forced displacement is perpetrated as well as the “Four Cuts” policy show the existence of a plan to bring about forced displacement, making this crime part of a generalized practice and thus systematic.<sup>51</sup>

#### d. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law

The UN estimates that there are more than 2,100 prisoners of conscience in Burma.<sup>52</sup> In his latest report, the UN Special Rapporteur on the situation of human rights in Myanmar reported that “from September to December 2008, some 300 prisoners of conscience were given harsh sentences, including a dozen detainees who were given 65-year prison sentences. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief, all publicly condemned the severe convictions and unfair trials.”<sup>53</sup>

According to AAPP, “Shortly after sentencing, the regime began to systematically transfer political prisoners to prisons all around Burma, far from their families. This has a serious detrimental impact on both their physical and mental health. Medical supplies in prisons are wholly inadequate, and often only obtained through bribes to prison officials. It is left to the families to provide medicines, but prison transfers make it very difficult for them to visit their loved ones in jail. Prison transfers are also another form of psychological torture by the regime, aimed at both the prisoners and their families. Since November 2008, at least 228 political prisoners have been transferred to jails away from their families [...]. Political prisoners’ right to healthcare is systematically denied by the regime.”

AAPP stated that “the regime’s treatment of political prisoners directly contravenes the 1957 UN standard minimum rules for the treatment of prisoners. The International Committee of the Red Cross (ICRC) carried out its last prison visit in Burma in November 2005.<sup>54</sup> In December 2005, the ICRC suspended prison visits in the country, as it was not allowed to fulfil its independent, impartial mandate.”<sup>55</sup>

The organization made public the list of 38 political prisoners whose health conditions are of particular concern.<sup>56</sup> The continuous confinement of Daw Aung San Suu Kyi and her recent transfer to Insein prison in May 2009 on trumped up charges also illustrate the SPDC’s policy of “severe deprivation of physical liberty in violation of fundamental rules of international law.”

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51. In the early 1970’s, Burma’s dictator General Ne Win introduced a new counter-insurgency strategy called the Four Cuts policy. This policy aims to undermine the armed opposition’s access to recruits, information, supplies and finances by forcibly relocating villagers from contested areas into government controlled areas. The policy has aimed to turn “black” opposition controlled areas into “brown” contested areas and ultimately into “white” areas controlled by the junta.

52. Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/10/19, 11 March 2009, para. 21.

53. Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/10/19, 11 March 2009, para. 3.

54. See ICRC Press Release, *Myanmar: ICRC denounces major and repeated violations of international humanitarian law*, June 2007.

55. Irrawaddy, *Relief agency wants to go alone*, 21 December 2005.

56. AAPP, *Burma’s Prisons and Labour Camps: Silent Killing Field*, May 2009.



In view of the widespread practice of arbitrary arrest of political prisoners and in the absence of an independent judiciary able to guarantee the respect of their right to a fair trial<sup>57</sup>, FIDH, ALTSEAN-Burma, and BLC consider that there is *prima facie* evidence of crimes against humanity.

#### e. Torture

##### **Torture against civilians in ethnic minority areas**

The *Tatmadaw* has been routinely using torture to discourage any attempt of support or cooperation of civilians with the insurgent armed groups, to obtain information about the armed groups' activities or as retaliation for allegedly being rebels' sympathisers.

Torture also serves as a mean to force the villagers to obey to army's orders such as portering, respecting curfews or providing food, money, and other objects of value to the soldiers, in particular during periods when the payment of their salary is delayed.

Amnesty International reported four circumstances in which torture has been taking place in Eastern Burma: torture during interrogation, torture to enforce *Tatmadaw* orders, torture of forced military porters, and torture as collective punishment.<sup>58</sup>

##### **Torture of political prisoners**

According to AAPP, "Torture in Burma's interrogation centres and prisons is brutal and systematic. Political prisoners are subject to extreme physical assaults resulting in internal bleeding and unconsciousness. In Burma, torture is not limited to physical assaults, but extends to the authorities maintenance of general prison conditions and the ineptness of the prison health care system. Prison authorities routinely and deliberately aggravate prison conditions and deny medical care to political prisoners, causing a level of suffering that amounts to torture."<sup>59</sup>

AAPP has documented numerous cases of torture of political prisoners occurred since 1988. The organization warns that this work is by no means exhaustive, as most former political prisoners remain inside Burma, unable to speak about their torture for fear of repercussions.

According to AAPP, "political prisoners are deprived of food, water, sleep, light, and use of the toilet during interrogation and punishment. [...] Political prisoners are punched, kicked, slapped, kneed, and beaten with a variety of [instruments], including rubber or wooden batons,

57. The UN Special Rapporteur on the situation of human rights in Myanmar notes that "None of the prisoners with whom the Special Rapporteur spoke had been represented in the court by legal counsel. Many did not even know the definition of the word 'lawyer.'" Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/10/19, 11 March 2009, para. 20.

58. Amnesty International, *Crimes against humanity in Eastern Myanmar*, June 2008, p. 13 and s.

59. AAPP, *Eight seconds of silence, The Death of Democracy Activists behind Bars*, May 2006.

truncheons, rifle butts, rubber cords, bamboo sticks and plastic pipes.” AAPP describes various positions in which prisoners are placed, “In one form, a political prisoner is strung up by their feet and then spun around repeatedly. Another form is when a prisoner is made to assume the position of an ‘airplane.’ [...] In some cases, the prisoners’ faces are covered with cloth as water is poured over them making it impossible to breath. [...] Electric shocks have been administered to political prisoners, and are generally applied to the most sensitive parts of a person’s body, including the genitals.” AAPP reported that the use of psychological torture has increased over the years in Burma.<sup>60</sup>

In conclusion, torture in Burma appears to be widespread and systematic. The UN Special Rapporteur on the situation of human rights in Myanmar stated that torture “was taking place on a widespread and systematic basis.”<sup>61</sup> There is consequently clear ground to consider that this constitutes prima facie a crime against humanity.

#### f. Rape and other grave sexual violence

Rape and sexual violence committed by the military regime continue to occur throughout Burma. The majority of incidents take place in ethnic states, which have been most impacted by the regime’s ongoing oppression and increased militarization. Sexual violence is being used by the regime as an integral part of its strategy to subjugate the ethnic nationalities and establish control over their lands and resources. It serves multiple purposes: terrorizing local communities into submission; flaunting the power of the dominant troops over the enemy; humiliating and demoralizing ethnic resistance forces; and also serving as a “reward” to its troops for fighting.<sup>62</sup> Women’s groups and human rights groups from Burma have been continuously documenting and exposing the SPDC’s sexual violence against women and girls from Shan, Kachin, Chin, Karen, Mon, Karenni, and Arakan States through a number of reports.<sup>63</sup>

In June 2002, Shan Women’s Action Network (SWAN) and Shan Human Rights Foundation (SHRF) released “License to Rape,” a report which documented 173 incidents of rape and other forms of sexual violence, involving 625 girls and women, committed by *Tatmadaw* troops in Shan State, mostly from 1996-2001. Eighty-three percent of the rapes were committed by officers, in most cases in front of their troops. The rapes involved extreme brutality and often torture, such as beating, mutilation and suffocation. Twenty-five percent of the rapes resulted in death. Sixty-one percent were gang-rapes, and in some cases, women were detained and raped repeatedly for periods of up to four months. Out of the total 173 documented incidents, in only one case was a perpetrator punished. More commonly, the complainants were fined, detained, tortured or even killed by the military.<sup>64</sup> “License to Rape” gives clear evidence that rape is officially condoned as a “weapon of war” against the women in Shan State and that the SPDC has committed war crimes and crimes against humanity in the form of sexual violence, against Shan women.

Following the release of “License to rape”, the Women’s Rights Project of Earth Rights International (WRP/ERI), in collaboration with Refugees International, conducted a month-long investigation into rape cases in Burma perpetrated by the military. This second report, titled “No Safe Place,” documents 43 cases of rape among women from Karen, Karenni, Mon,

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60. AAPP, *The Darkness We See, Torture in Burma’s Interrogation Centers and Prisons*, December 2005.

61. Special Rapporteur on the situation of human rights in Myanmar, A/HRC/7/18, 7 March 2008, para. 58.

62. Women’s League of Burma, *In the shadow of the junta, CEDAW shadow report*, p. 2.

63. Shan Women’s Action Network, *License to Rape*, 2002; Karen Women’s Organization, *Shattering Silences*; Women’s League of Burma, *System of Impunity*, 2004; Mon Women’s Organization, *Catwalk to the Barracks*, 2005; *State of Terror and Unsafe State*, 2007 (see Appendix IV).

64. SHRF and SWAN, *License to Rape*, May 2002.



Tavoyan and Shan ethnic nationalities. Nearly 20% of the rapes were committed in military bases. In nearly one-third of the cases, higher-ranking officers committed the rapes, and in only two cases were any punishments given, which were in any case extremely lenient.

The report concludes that:

- Rape and increased militarization go hand-in-hand. When more soldiers are deployed, the number of rape incidents increases.
- Rape sometimes occurs in military bases, military barracks, and military detention centres. In those cases where the officer wasn't actually committing the offence on military property, he knew or should have known about these offences.
- Rape often occurs in conjunction with other human rights abuses, such as forced labour, forced relocation, forced portering, torture, and extrajudicial executions.
- Widespread rape is committed with impunity, both by officers and lower ranking soldiers.<sup>65</sup>



In its November 2008 report titled “Forgotten Future: Children and armed conflict in Burma,” the Human Rights Education Institute of Burma (HREIB) noted that, “Increased militarization in ethnic minority and rural areas has led to rape and other forms of sexual abuse against children. [...] Documented crimes include: attempted rape, rape, gang rape, and sexual assault. In some cases victims were also killed after suffering grave sexual abuse. In other cases children were forced to witness their mothers and sisters being raped and abused. Although the documented cases focus on incidences involving young girls, sexual violence is a problem that affects boys as well. [...] Members of the *Tatmadaw* and non-state armed groups who perpetrate acts of rape and other forms of sexual violence are rarely prosecuted for these abuses. Laws and policies, which purport to protect the rights of young children in Burma, are futile if they are not backed with the political will of the government to enforce them.”<sup>66</sup>

The United Nations and human rights groups have expressed their deepest concern regarding the “particularly alarming” high figures of victims of rape and sexual violence, in particular in Eastern Burma.<sup>67</sup> FIDH, ALTSEAN-Burma, and BLC note that the number of victims reported is far below the actual figures as in many cases victims do not dare to report the incident. For example, the UN Special Rapporteur on the situation of human rights in Myanmar stated that between 1996 and 2001, he received reports of the rape of women and girls in Shan State.<sup>68</sup> The UN Special Rapporteur on Torture documented the same violations and observed that the allegations were made against soldiers from 52 different *Tatmadaw* battalions.<sup>69</sup> On many

65. EarthRights International, *Burma's Soldiers: Equal Opportunity Rapists*, November 2002.

66. HREIB, *Forgotten Future: Children and armed conflict in Burma*, November 2008, p. 12-13.

67. See Special Rapporteur on the situation of human rights in Myanmar, 2006 I, supra note 3, at § 30. The Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, E/CN.4/2006/6/Add.1, Mar. 21, 2006. For more documentation, see, e.g., Refugees International, *No Safe Place: Burma's Army and the Rape of Ethnic Women*, April 2003; Shan Human Rights Foundation & Shan Women's Action Network, *License to Rape: the Burmese Military Regime's Use of Sexual violence in the Ongoing War in Shan State*, May 2002; Karen Women's Organization, *Shattering Silences: Karen Women Speak Out About the Burmese Military Regime's Use of Rape as a Strategy of War in Karen State*, April 2004.

68. The Special Rapporteur on the situation of human rights in Myanmar, Report of the Special Rapporteur on the situation of human rights in Myanmar, delivered to the General Assembly, 21 September 2006, A/61/369, para. 32.

69. See Report of the UN Special Rapporteur on the human rights situation in Myanmar, and Report on the UN



occasions there was apparently no attempt to conceal the bodies of dead women who were raped and subjected to other acts of violence. This trend continued in the period between 2002 and 2005, during which he received reports of 188 rape cases in Shan State.<sup>70</sup>

In its 2006 annual report, the UN Special Rapporteur on Torture qualified rape as a “Widespread and systematic violence against women and girls. Women and girls are subjected to violence by soldiers, especially sexual violence, as ‘punishment’ for allegedly supporting ethnic armed groups. The authorities sanction violence against women and girls committed by military officers, including torture, *inter alia*, as a means of terrorising and subjugating the population, particularly those in the Shan state.”<sup>71</sup>

In its 2008 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern that *Tatmadaw* soldiers committed acts of sexual violence, including rape, against women from ethnic nationalities, including Shan, Mon, Karen, Palaung, and Chin.<sup>72</sup>

The documentation that is available on rape in Burma reveals that the scale in which this crime is committed is of a widespread or systematic nature, largely committed by the *Tatmadaw*.

#### g. Persecution against any identifiable group in connection with a crime within the jurisdiction of the ICC

The International Human Rights Clinic at Harvard Law School pointed out that “the study of violations in eastern Burma highlights that ethnic nationalities are particularly vulnerable to the systematic abuses most often reportedly perpetrated by the Burmese military forces”.<sup>73</sup>

The UN General Assembly expressed grave concern at the discrimination and violations suffered by persons belonging to Burma’s ethnic nationalities, particularly in border and conflict areas, and attacks by SPDC military forces on villages in Karen State and other ethnic states in Burma, leading to extensive forced displacements and serious violations and other abuses of the human rights of the affected populations.<sup>74</sup>

The ILO confirmed that “the burden of forced labour appears to be particularly great for non-Burman ethnic groups, especially in areas where there is a strong military presence”.<sup>75</sup>

An example of the persistent discrimination and other violations of the most basic rights of Burma’s ethnic groups is the case of the Muslim Rohingya communities in Arakan State. Thousands of Rohingya have fled the oppression of the regime, which has systematically discriminated against them by denying them the most fundamental rights of citizenship. Arbitrary arrest and detention, harassment, torture, forced labour, extortion, confiscation of land and property, restrictions on movement, access to healthcare and education, as well as religious persecution, are the main patterns of systematic persecution of Rohingya by the SPDC.<sup>76</sup>

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Special Rapporteur on Torture, *op. cit.*, para. 153-155.

70. International Human Rights Clinic at Harvard Law School (IHRC), *Crimes in Burma*, May 2009, p. 52.

71. E/CN.4/2006/6/Add.1, p. 153.

72. CEDAW/C/MMR/CO/3, para. 24.

73. International Human Rights Clinic at Harvard Law School (IHRC), *Crimes in Burma*, May 2009, p. 3.

74. United Nations General Assembly (UNGA) Resolution 62/222, paragraph 2 (d).

75. ILO, Forced labour in Myanmar (Burma), Commission of Inquiry, Official Bulletin, Vol. LXXXI, Series B, special supplement, 1998, para. 528.

76. See ALTSEAN-Burma, *Rohingya and Muslims in Arakan State: Slow-burning genocide*, August 2006; see also FIDH, *Repression, discrimination and ethnic cleansing in Arakan*, April 2000.

## h. Enforced disappearances

Enforced disappearances occur throughout Burma. In the total absence of the rule of law, an independent judiciary and legal remedies, the SPDC has the absolute power to commit such violations without any investigation or protection mechanisms. The relatives of victims of enforced disappearances have no effective remedies. Those disappeared can be villagers in rural areas, members of ethnic nationalities, human rights defenders, civil society activists, political opponents, journalists or members of political parties. In most of the cases, victims of enforced disappearances were detained *incommunicado* in unofficial or secret places without access to legal assistance or any contact with their families.<sup>77</sup>

As an example, AAPP reported that 15 activists disappeared from SPDC prisons between 1988 and May 2006.<sup>78</sup> One hundred and eight persons reportedly disappeared as a result of the Depayin attack (see list of victims in appendix). Amnesty International reported on enforced disappearances in Eastern Burma after local villagers had been detained by the *Tatmadaw*. However, due to restrictions on the organization's access to Karen State, it has not been possible to establish whether the enforced disappearance of the eight individuals concerned is still continuing.<sup>79</sup>

In its 2008 annual report, Amnesty International confirmed 72 cases of enforced disappearances that took place in the country in 2007. The UN Special Rapporteur on the situation of human rights in Myanmar has sent 74 cases of individuals who were victims of enforced disappearance to the SPDC and requested information on their whereabouts.<sup>80</sup>

Establishing the existence of a pattern of widespread or systematic enforced disappearances is extremely difficult in Burma because access to information is very limited. To date, there is not any in-depth documentation work on this particular issue. Consequently, there is a clear need for additional investigation in this field.

## i. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health

In February 2009, the Emergency Assistance Team (EAT) and the Johns Hopkins Bloomberg School of Public Health issued a joint report that highlighted the serious human rights violations committed by the SPDC in the aftermath of cyclone Nargis which struck the Irrawaddy delta on May 2, 2008, killing at least 140,000 people. According to the report, the SPDC obstructed aid relief to cyclone survivors, detained aid workers, and severely restricted freedom of information. The report concluded that the abuses described may amount to crimes against humanity under Article 7(1)k of the Rome Statute.<sup>81</sup>

In its 2008 annual report, TBBC noted that “despite concessions made in the Irrawaddy Delta after Cyclone Nargis, the junta's restrictions on humanitarian access continue to obstruct aid workers elsewhere in Burma, particularly in conflict-affected areas.”<sup>82</sup>

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77. See Altsean-Burma, *Uncounted: political prisoners in Burma's ethnic areas*, August 2003.

78. AAPP, *Eight Seconds of Silence, The Death of Democracy Activists behind Bars*, May 2006.

79. Amnesty International, *Crimes against humanity in eastern Myanmar*, June 2008, p. 19.

80. Report of the UN Special Rapporteur on the situation of human rights in Myanmar, A/63/341, para 51.

81. Johns Hopkins Bloomberg School of Public Health and Emergency Assistance Team (Burma), *After the Storm: Voices from the Delta*, February 2009.

82. TBBC, *Internal displacement and international law in Eastern Burma*, October 2008, p. 3.

FIDH believes that an international Commission of Inquiry mandated by the UN Security Council should investigate reports of the SPDC's failure to provide adequate humanitarian assistance to communities affected by cyclone Nargis.

#### j. Widespread use of child soldiers<sup>83</sup>

Rights groups claim that *Tatmadaw* has recruited more than 70,000 child soldiers.<sup>84</sup> Some are not older than 11 years old, despite Burma's international obligations under the Convention on the Rights of the Child. Human Rights Watch has documented a large number of individual cases where young boys were recruited by the *Tatmadaw* to take part in military operations.<sup>85</sup> Human Rights Watch noted that "in Burma, child soldiers have become a commodity, literally bought and sold by military recruiters who are desperate to meet recruitment quotas imposed by their superiors. Declining morale in the army, high desertion rates, and a shortage of willing volunteers have created such high demand for new recruits that many boys are targeted in massive recruitment drives and forced to become soldiers in Burma's national army."<sup>86</sup>



HREIB stated that "children are regularly recruited and used as child soldiers in the *Tatmadaw*, and to a lesser extent some Non-State Armed Groups. Although there have been some initiatives to end the use of child soldiers, the SPDC's efforts lack strong political will and have been largely ineffectual. For instance, since the formation by the Burmese junta of the Committee for the Prevention of Military Recruitment of underage Children in 2004, there has been little evidence to suggest that military personnel have been prosecuted through the legal system for alleged involvement in the recruitment/use of child soldiers".<sup>87</sup> Media reported that child protection advocates have been imprisoned for lodging complaints against the use of child soldiers.<sup>88</sup>

In accordance with UN Security Council Resolution 1612 (2005), a UN-led Task Force on Monitoring and Reporting in Myanmar was established in June 2007 to monitor and report on six grave violations against children in armed conflict using information from the UN in collaboration with NGOs.<sup>89</sup>

In four consecutive reports on children and armed conflict submitted to the UN Security Council, the UN Secretary General said that the *Tatmadaw* continued to recruit and use children.<sup>90</sup> In his November 2007 report, covering the period from July 2005 to September 2007, the

83. Main documents relating to child soldiers in Burma are available at the following link: <http://www.child-soldiers.org/regions/country?id=146>.

84. Human Rights Watch, *My gun was as tall as me: Child soldiers in Burma*, 2002, p. 3.

85. See Human Rights Watch, *Sold to be soldiers: The Recruitment and Use of Child Soldiers in Burma*, October 2007, <http://www.hrw.org/en/reports/2007/10/31/sold-be-soldiers>.

86. Human Rights Watch, *op. cit.*, p. 4.

87. HREIB, *Forgotten Future: Children and Armed Conflict in Burma*, November 2008, p. 12.

88. Mizzima News, "NLD leader sentenced for trying to complain to ILO on use of child soldiers", September 2008; available at <http://www.mizzima.com/news/inside-burma/1055-nld-leader-sentenced-for-trying-to-complainto-ilo-on-use-of-child-soldiers.pdf>

89. Watchlist on Children and Armed Conflict, *No More Denial: Children Affected by Armed Conflict in Myanmar (Burma)*, May 2009.

90. U.N. Documents S/2003/1053, S/2005/72, S/2006/826, S/2007/757.

UN Secretary-General said that “there are extensive reports of children sighted in uniform, sometimes armed, riding in trucks, and marching and participating in military trainings or parades, which corroborate individual reports and point to a worrisome trend. These reports implicate the *Tatmadaw* and a number of non-State armed groups.”

Despite the SPDC formal policy of prohibiting the recruitment of children under the age of 18, the UN Secretary-General observed the following trends:

- There is an enormous pressure to accelerate *Tatmadaw* recruitment rates. Recruitment centres have had difficulty meeting their targets/quotas. Incentives such as money and rice are offered for maintaining recruitment targets. If a soldier wants to leave the army, reportedly, he must recruit as many as four replacements.
- There are several common patterns of under-age recruitment into the *Tatmadaw*. One is recruitment from the street or from pagodas of poor and unaccompanied children who are vulnerable to promises of food and shelter. This has been reported primarily in Rangoon and Mandalay and, increasingly, in rural areas. Other children are recruited from the street by “brokers” who are self-appointed agents with ties to local commanders and/or recruitment officers. Brokers can receive up to 40,000 kyat (approximately US\$ 30) and a bag of rice from local commanders for each new recruit.
- Some children picked up by police for not having a national identification card are offered the “choice” of either being arrested or going into the army. In October 2005, a 15-year-old was arrested by police in Irrawaddy Division for not having an identification card and was taken to a military centre in Rangoon. After military training, he was sent to the front line in Karen State. In 2006, he fled to a refugee camp in the border area.
- Credible sources indicate a pattern of “pre-recruitment” in which children from vulnerable families are taken to *Tatmadaw* bases. They are not officially recruited, do not receive identification numbers, and are used in non-combatant capacities. Once they attain the age of majority, they are subsequently enlisted.<sup>91</sup>

As described in article 8(2)vii of the Rome Statute, conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities constitutes a war crime.

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91. Report of the Secretary-General on children and armed conflict in Myanmar, S/2007/666, 16 November 2007.



## IV. Conclusion: a call for an international Commission of Inquiry

Despite serious difficulties in gathering first-hand evidence of human rights violations in Burma, FIDH, ALTSEAN-Burma, and BLC assert that the content of all publicly available sources of information reveals a consistent pattern of widespread and systematic human rights violations which constitute crimes against humanity and war crimes, as defined under Articles 7 and 8 of the Rome Statute.

Almost all the acts enumerated under Article 7 of the Rome Statute have been repeatedly documented by independent sources of information, including NGOs and UN mechanisms. This is particularly true in Eastern Burma, where attacks against civilians by SPDC armed forces have been long documented by United Nations bodies.<sup>92</sup>

According to all observers, the crimes are systematic and widespread and the perpetrators enjoy total impunity. As declared by the UN Special Rapporteur on the situation of human rights in Myanmar, “the culture of impunity remains the main obstacle to securing respect for human rights in Myanmar and to creating a favourable environment for their realization. Throughout his mandate, the Special Rapporteur has received reports of widespread and systematic human rights violations, including summary executions, torture, forced labour practices, sexual violence and the recruitment of child soldiers. These violations have not been investigated and their authors have not been prosecuted. Victims have not been in a position to assert their rights and receive a fair and effective remedy.”<sup>93</sup>

In addition, the SPDC’s 2008 Constitution institutionalizes immunity for the actions committed by Burma’s military regime. Article 445 of the 2008 Constitution states: “No proceedings shall be instituted against the SLORC/SPDC authorities or any member thereof or any members of the Government, in respect of any act done in the execution of their respective duties.” This provision effectively grants an amnesty to members of the military regime for crimes they committed during their rule.

Despite 37 resolutions adopted by the UN General Assembly, the UN Commission on Human Rights and the UN Human Rights Council, and despite the active mobilisation of the International Labour Organisation, the SPDC continues to commit acts that amount to crimes against humanity.

At UN Security Council level, the attention has primarily been focused on the work of the UN Secretary-General’s Special Adviser on Myanmar Ibrahim Gambari. As part of the UN “good offices” role, Gambari has repeatedly encouraged SPDC officials to engage in genuine dialogue with pro-democracy groups.



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92. See UN Press Release, *UN Human Rights Experts Call on Myanmar to End Counter-Insurgency Operations Targeting Civilians in Northern Karen State and Eastern Pegu Division*, 16 May 2006.

93. Special Rapporteur on the situation of human right in Myanmar, A/HRC/7/18, para. 58.

However, Gambari's efforts have been unsuccessful. The SPDC ignored all calls for dialogue with pro-democracy groups and failed to release political prisoners, including Daw Aung San Suu Kyi. In addition, the SPDC unilaterally drafted and adopted a Constitution that perpetuates military rule in Burma. The refusal of SPDC Chairman Senior General Than Shwe to allow UN Secretary-General Ban Ki-moon to meet with Daw Aung San Suu Kyi in July 2009 is the latest evidence of the failure of UN efforts.

The UN Security Council has been unsuccessful in addressing and preventing crimes against humanity in Burma. At the 2005 World Summit, world leaders recognized that there is a "responsibility to protect" victims from those crimes. This responsibility falls upon the international community in general – and the UN Security Council in particular – when State authorities fail to provide an independent and effective redress to victims or fail to prevent the recurrence of the crimes – which is the case in Burma today.

On April 28, 2006, when voting Resolution 1674 on the Protection of Civilians in Armed Conflicts, UN Security Council members agreed on "the importance of taking measures aimed at conflict prevention and resolution" without limiting this objective to international conflicts. Most importantly, Resolution 1674 highlighted the fact that "the deliberate targeting of civilians and other protected persons, and the commission of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict, may constitute a threat to international peace and security," and thus clarified the grounds for action by the UN Security Council in line with Chapter VII of the UN Charter.

The situation in Burma, which falls directly under Resolution 1674, should be analysed in the light of the UN Security Council members' commitment to "consider such situations" and "adopt appropriate steps."

Establishing the facts is a preliminary step for any justice process, whatever options will be contemplated in that regard. FIDH, ALTSEAN-Burma, and BLC therefore urge the UN Security Council to appoint an international Commission of Inquiry to investigate human rights violations and determine whether the acts constitute crimes against humanity and war crimes.

The commission should have a mandate:

- to investigate and verify the allegations brought forward by various UN procedures and institutions and NGOs on human rights violations perpetrated by the military regime in Burma,
- to determine whether these human rights violations constitute crimes against humanity and war crimes under international law,
- to document whether measures have been taken by the authorities to prevent the crimes, prosecute the perpetrators, and provide justice for victims,
- to make recommendations on remedies and accountability and justice for these crimes.

Because there is no statute of limitation for crimes against humanity and war crimes, if violations are determined, a second step for the UN Security Council is to consider appropriate accountability mechanisms. The referral by the UN Security Council to the ICC may be one of those options.

In the meantime, we believe and hope that the mobilisation of the international community through the UN Security Council will help preventing the perpetration of further crimes and serve to convince the SPDC to engage in genuine and inclusive dialogue with pro-democracy groups and representatives of the ethnic nationalities.

The International Federation for Human Rights, the Alternative ASEAN Network on Burma and Burma Lawyers Council believe that the United Nations have exhausted all political and diplomatic remedies. Now, the UN Security Council must establish an international Commission of Inquiry on Burma in order to investigate international crimes in the country and put an end to impunity for regime officials who perpetrate such crimes. The future of the people of Burma depends on the mobilisation of the international community. The world should not abandon them....



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## Appendix I: International Conventions signed and /or ratified by Burma/Myanmar

CONVENTION	SIGNATURE	RATIFICATION/ ACCESSION	RESERVATIONS
Convention on the Prevention and Punishment of the Crimes of Genocide, 9 December 1949	30 December 1949	14 March 1946	“(1) With reference to article VI, the Union of Burma makes the reservation that nothing contained in the said Article shall be construed as depriving the Courts and Tribunals of the Union of jurisdiction or as giving foreign Courts and tribunals jurisdiction over any cases of genocide or any of the other acts enumerated in article III committed within the Union territory. “(2) With reference to article VIII, the Union of Burma makes the reservation that the said article shall not apply to the Union.”
Convention for the Elimination against all form of discrimination against women		22 July 1997	Reservation: Article 29 “[The Government of Myanmar] does not consider itself bound by the provision set forth in the said article.”
UN Convention against Transnational Organized Crimes		30 Mars 2004	
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 9 September 2003		30 Mars 2004	
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime		30 Mars 2004	



CONVENTION	SIGNATURE	RATIFICATION/ ACCESSION	RESERVATIONS
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	14 March 1956	29 April 1957	
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	14 March 1956		
Convention on the Rights of the Child		15 July 1991	<p>On 19 October 1993, the Government of Myanmar notified the Secretary-General its decision to withdraw the following reservations made upon accession with regard to articles 15 and 37:</p> <p>Article 15</p> <p><i>“1. The Union of Myanmar interprets the expression ‘the law’ in article 15, paragraph 2, to mean the Laws, as well as the Decrees and Executive Orders having the force of law, which are for the time being in force in the Union of Myanmar.</i></p> <p><i>“2. The Union of Myanmar understands that such restrictions on freedom of association and freedom of peaceful assembly imposed in conformity with the said Laws, Decrees and Executive Orders as are required by the exigencies of the situation obtaining in the Union of Myanmar are permissible under article 15, paragraph 2.</i></p> <p><i>“3. The Union of Myanmar interprets the expression ‘national security’ in the same paragraph as encompassing the supreme national interest, namely, the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of national sovereignty, which constitute the paramount national causes of the Union of Myanmar.”</i></p>

CONVENTION	SIGNATURE	RATIFICATION/ ACCESSION	RESERVATIONS
Convention on the Rights of the Child		15 July 1991	<p>Article 37</p> <p>“The Union of Myanmar accepts in principle the provisions of article 37 as they are in consonance with its laws, rules, regulations, procedures and practice as well as with its traditional, cultural and religious values. However, having regard to the exigencies of the situation obtaining in the country at present, the Union of Myanmar states as follows:</p> <p><i>“1. Nothing contained in Article 37 shall prevent, or be construed as preventing, the Government of the Union of Myanmar from assuming or exercising, in conformity with the laws for the time being in force in the country and the procedures established thereunder, such powers as are required by the exigencies of the situation for the preservation and strengthening of the rule of law, the maintenance of public order (ordre public) and, in particular, the protection of the supreme national interest, namely, the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of national sovereignty, which constitute the paramount national causes of the Union of Myanmar.</i></p> <p><i>“2. Such powers shall include the powers of arrest, detention, imprisonment, exclusion, interrogation, enquiry and investigation.”</i></p>
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts	12 November 2001		
Freedom of Association and Protection of the Right to Organise Convention		4 March 1955	

CONVENTION	SIGNATURE	RATIFICATION/ ACCESSION	RESERVATIONS
Convention concerning Forced or Compulsory Labour		4 March 1955	
The Four Geneva Convention of the 12 August 1949		25 August 1992	
The Hague Convention, 1954		10 February 1956	

# Appendix II: List of victims of Depayin Massacre, elaborated by the Ad hoc Commission on Depayin Massacre

## The list of the victims of Depayin Massacre\*

### ACRONYM

CEC	Central Executive Committee	NLD	National League for Democracy	MP	Parliament
CRPP	Committee Representing Peoples' Parliament	PP	Political Prisoner		
Div	Division	Tsp	Township		

MP	22
Died	10
Arrested/ Sentenced	134
Disappeared	108
<b>Total</b>	<b>274</b>
Released	22
<b>All</b>	<b>296</b>

### Died In Crack down

No.	NAME	FATHER'S NAME	AGE	OCCUPATION	ADDRESS	REMARK
1.	Min Zaw Oo			Technological College Student	Monywar	
2.	Myint Soe			NLD Organizer		
3.	Pyin Nya Thiri, U			Oakan Tawra Monestry		
4.	San Myint @ Raju			Driver	Mandalay North West	
5.	Thein Soe			NLD Member, Thingangyun		
6.	Thein Toe Aye			NLD	Mandalay South West	
7.	Tin Maung Oo			Photographer	Mandalay South West	
8.	Toe Toe Lwin (F)				Mandalay South West	
9.	Unknown			Buddhist novice	Oakan Monastery, Monywa	
10.	Win Thiha Maung			Student, Secound Year Eco.	Monywar	

Source: Ad Hoc Commission on Depayin Massacre, *Legal Issues on Burma Journal*, No. 15, August 2003, p. 48-52.



## Disappeared

NO.	NAME	FATHER'S NAME	AGE	OCCUPATION	ADDRESS	REMARK
1	Andastiya, U			Buddhist Monk, Kayah State		Disappeared
2	Aung Aung (DPNS)					Disappeared
3	Aung Aung Latt (F)				Mandalay North East	Disappeared
4	Aung Htoo			NLD, Organizer, Botahtaung Tsp.	Rangoon	Disappeared
5	Aung Khin			Mandalay	Mandalay	Disappeared
6	Aung Kyaw Myint			NLD	Mandaly South East	Disappeared
7	Aung Kyaw Soe				Mandalay North East	Disappeared
8	Aung Naing				Mandalay North East	Disappeared
9	Aung Soe, U			NLD, Secretary, Monyw a Tsp.	Monyw a	Disappeared
10	Aye Win			NLD	Htun-don New Tsp.	Disappeared
11	Aye Win, U			NLD (Bassein Tsp.), Irrawaddy Div.	Bassein, Irrawaddy Div.	Disappeared
12	Chit San,U	U Kyaw Hla	36	NLD Member	Mandalay	Escaped to Thailand
13	Chit Win,U			NLD, Monyw a Tsp.	Monyw a	Disappeared
14	Chit Yin				Mandalay South East	Disappeared
15	Cho,U			NLD office owner	Myitkyina	Disappeared
16	En-Din La Seng				Da-ning Tsp., Kachin State	Disappeared
17	Hla Moe Win			NLD	Mandalay South West	Disappeared
18	Hla Myint,Dr					Disappeared
19	Hla Soe Win				Mandalay South West	Disappeared
20	Hla Than, U			NLD	Mandalay North West	Disappeared
21	Htut Soe			NLD (Youth), Rangoon	Rangoon	Disappeared
22	Htw ay,U				Mandalay South East	Disappeared
23	Khin Aung Htw ay				Mandalay North East	Disappeared
24	Khin Aye Myint (F)				Mandalay	Disappeared
25	Khin Ma Ma Tun(F)			NLD	Mandlay North East	Disappeared
26	Khin Maung Oo				Mandalay	Disappeared

NO.	NAME	FATHERS' NAME	AGE	OCCUPATION	ADDRESS	REMARK
27	Khin Maung Thaung				Mandalay South West	Disappeared
28	Khin Mya Win (F)				Mandalay South West	Disappeared
29	Khin Oo			NLD (Youth), Mayangon	Rangoon	Disappeared
30	Khin Zaw, U	U Khin Soe	50	Organizer, Mandalay South West	Mandalay South West	Escaped to Thailand
31	Ko Lay				Mandalay North East	Disappeared
32	Ko, U			NLD, Vice Chairperson, Mogok Tsp.	Mogok Tsp., Mandalay Div.	Disappeared
33	Kyaw Aye, U			Driver	Sagaing	Disappeared
34	Kyaw Din, U			NLD, Mogok Tsp.	Mogok Tsp., Mandalay Div.	Disappeared
35	Kyaw Htaik				Mandalay North East	Disappeared
36	Kyaw Kyaw				Mandalay North West	Disappeared
37	Kyaw Myo Oo				Mandalay North East	Disappeared
38	Kyaw Myo Thu			NLD	Mandalay South West	Disappeared
39	Kyaw Soe				Mandalay North West	Disappeared
40	Kyaw Swar Win, U			NLD	Mandalay North West	Disappeared
41	Kyaw Than				Mandalay North East	Disappeared
42	Kyaw Tin Win			NLD (Youth), Daw poung	Rangoon	Disappeared
43	Kyaw Zwar Win				Mandalay North West	Disappeared
44	Kyi Kyi Myint (F)				Mandalay South West	Disappeared
45	Linn Htut Soe				Mandalay North East	Disappeared
46	Maran Po Thar, U			NLD, Kachin State		Disappeared
47	Maung Maung Lay			NLD (Youth)(student)	Kyimyinding	Disappeared
48	Maung Zaw			NLD	Htun-don New Tsp.	Disappeared
49	Min Oo, U			NLD	Mandalay North West	Disappeared
50	Min Thein				Mandalay South West	Disappeared
51	Myint Htay			NLD (Youth)(student)	Hlaing Thaya, Rangoon	Disappeared
52	Myint Myint Kyi (F)				Mandalay	Disappeared
53	Myint Myint, Daw (F)			NLD, Monywa Tsp.	Monywa	Disappeared
54	Myint Oo				Mandalay South East	Disappeared

NO.	NAME	FATHER'S NAME	AGE	OCCUPATION	ADDRESS	REMARK
55	Myint Wai				Yenanchaung, Magwe	Disappeared
56	Myo Naing			NLD	Mandalay	Disappeared
57	Myo Oo, U			NLD	Mandalay North West	Disappeared
58	Myo Tint				Mandalay South West	Disappeared
59	Naing Naing			DPNS		Disappeared
60	Naing Zaw Win, U			Joint Secretary, NLD, Kachin State		Disappeared
61	Nay Myo Linn				Mandalay North West	Disappeared
62	Ne Win, U			Vice-Chair person, NLD, Kachin State		Disappeared
63	Ngwe Kyaing(F)			NLD office owner's wife	Myitkyina	Disappeared
64	Nyunt Nyunt(F)			Mandalay North West	Mandalay	Disappeared
65	Phoe Zaw	U Than Maung	23	NLD Member	Mandalay	Escaped to Thailand
66	San Linn, U			NLD, Chair person, Mogok Tsp.	Mogok Tsp., Mandalay Div.	Disappeared
67	Sann Lwin				Mandalay North East	Disappeared
68	Soe Soe				Htun-don new Tsp., Mandalay	Disappeared
69	Soe Win			Driver		Disappeared
70	Soe Win				Rangoon	Disappeared
71	Than Htay				Mandalay South East	Disappeared
72	Than Saung, U			NLD member		Disappeared
73	Than Tun Oo, U			NLD	Mandalay North West	Disappeared
74	Than Tun, U			NLD	Mandalay South East	Disappeared
75	Than Win				Mandalay North East	Disappeared
76	Than Win, Daw (F)			NLD, Monywa Tsp.	Monywa	Disappeared
77	Than Win, U			NLD		Hospitalized
78	Than Zaw Win			NLD	Sagaing	Disappeared
79	Thanda Soe (F)	U Ko Ko Gyi			Mandalay North West	Disappeared
80	Thein Aung Lay				Mandalay North West	Disappeared
81	Thein Oo,			Office in-charge, NLD (H-Q), Rangoon	Rangoon	Disappeared
82	Thein Soe				Rangoon	Disappeared

NO.	NAME	FATHERS' NAME	AGE	OCCUPATION	ADDRESS	REMARK
83	Thein Tun			NLD (Y outh)	Y ankin, Rangoon	Disappeared
84	Thein Zan					Disappeared
85	Tin Maung Aye				Mandalay North West	Disappeared
86	Tin Myint (F)				Mandalay South West	Disappeared
87	Tin Myint, U			NLD	Mandalay South West	Disappeared
88	Tin Tin Myint (F)				Mandalay	Disappeared
89	Tin Tun Oo				Mandalay	Disappeared
90	Toe (F)				Mandalay South West	Disappeared
91	Toe, U			NLD	Mandalay South West	Disappeared
92	Tun Tun				Mandalay North West	Disappeared
93	Tun Tun Win				Mandalay North East	Disappeared
94	Tun Win				Mandalay South West	Disappeared
95	Ven. Eindria			Monk	Monyw a	Hospitalized
96	Ven. Zaw tica			Monk		Hospitalized
97	Ven. Zaw tica			Monk	Monyw a	Hospitalized
98	Win Aung,Dr				Amarapura Tsp.	Disappeared
99	Win Ei Phyu (F)				Mandalay North East	Disappeared
100	Win Myint Oo				Mandalay South East	Disappeared
101	Wunna (F)				Mandalay South West	Disappeared
102	Wunna Aung			NLD	Mandalay South West	Disappeared
103	Wunna Maung	U Kyaw Maung	26	NLD Member	Htun-don New Tsp.,Mandalay	Escaped to Thailand
104	Y an Naung Soe				Mandalay North East	Disappeared
105	Ye Min San			NLD	Htun-don New Tsp.	Disappeared
106	Ye Min Zaw				Mandalay South West	Disappeared
107	Ye Ye Linn (F)				Mandalay North East	Disappeared
108	Zaw Lin				Mandalay	Disappeared



# Appendix III: International Human Rights Clinic at Harvard Law School, Human Rights Violations Listed by General Assembly Resolutions, by Commission on Human Rights and Human Rights Council Resolutions, Listed by Reports of the Special Rapporteur on the situation of human rights in Myanmar

Chart A: Human Rights Violations Listed by General Assembly Resolutions

Year	Resolution?	Forced Displacement	Sexual Violence	Extrajudicial Killing	Torture	Arbitrary Detention
1991	✓ <sup>i</sup>	-	-	-	-	-
1992	✓ <sup>ii</sup>	✓ P*, 12*	-	✓ P	✓ P	✓ P, 8
1993	✓ <sup>iii</sup>	✓ P*, 14*	✓ P, 7	✓ P, 7	✓ P, 7	✓ P, 11
1994	✓ <sup>iv</sup>	✓ P, 10	✓ P, 10	✓ P, 10	✓ P, 10	✓ P, 4
1995	✓ <sup>v</sup>	✓ 11, 16*	✓ 11	✓ 11	✓ 11	✓ 5
1996	✓ <sup>vi</sup>	✓ 11, 16*	✓ 11	✓ 11	✓ 11	✓ 5
1997	✓ <sup>vii</sup>	✓ 12, 20*	✓ 12	✓ 12	✓ 12	✓ P
1998	✓ <sup>viii</sup>	✓ 10, 17*	✓ 10	✓ 10	✓ 10	✓ 5
1999	✓ <sup>ix</sup>	✓ 13, 16*	✓ 14	✓ 13	✓ 13	✓ 6
2000	✓ <sup>x</sup>	✓ 14*, 15	✓ 16	✓ 14	✓ 14	✓ 5
2001	✓ <sup>xi</sup>	✓ 18, 19*	✓ 18	✓ 20	✓ 18	✓ 7
2002	✓ <sup>xii</sup>	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 3
2003	✓ <sup>xiii</sup>	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 2
2004	✓ <sup>xiv</sup>	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 2
2005	✓ <sup>xv</sup>	✓ 2, 2*	✓ 2	✓ 2	✓ 2	✓ 2
2006	✓ <sup>xvi</sup>	✓ 2, 3*	✓ 2	✓ 2	✓ 2	✓ 2
2007	✓ <sup>xvii</sup>	✓ 2, 4*	x	✓ P	x	✓ P
2008	✓ <sup>xviii</sup>	✓ 2, 4*	✓ 2	x	✓ 2	✓ 2

Source: International Human Rights Clinic at Harvard Law School (IHRC), *Crimes in Burma*, May 2009, p. 93-100.

P: Preface of resolution (before the numbered paragraphs start).

[#]: Paragraph number where the document mentions a certain crime by specific reference. Thus, if the resolution does not refer to the specific crime but refers to human rights or humanitarian violations in general, the table does not document this. The numbers provided are examples and are not necessarily documenting every instance a crime is mentioned.

\* For “displacement” The table provided examples of the document mentioning forced displacement and refugee flows to neighboring states. Those marked with an asterisk are refugee flows.

NB:

- Until 1998, the resolutions referred specifically to “abuse of women,” but didn’t refer to sexual violence more specifically. In 1998, the resolutions begin to refer to sexual violence more specifically, listing violations, e.g. rape.
- The date provided for the Resolution is the date upon which the General Assembly held the plenary meeting at which it adopted the resolution, this does not necessarily coincide with the date of general distribution.

Notes for Chart A:

- <sup>i</sup> GA. Res. 46/132. U.N. Doc. A/RES/46/132 (Dec. 17, 1991).
- <sup>ii</sup> GA. Res. 47/144 U.N. Doc A/RES/47/144 (Dec. 18, 1992).
- <sup>iii</sup> GA. Res. 48/150 U.N. Doc. A/RES/48/150 (Dec. 20, 1993).
- <sup>iv</sup> GA. Res. 49/197, U.N. Doc. A/RES/49/197 (Dec. 23, 1994).
- <sup>v</sup> GA. Res. 50/194 U.N. Doc. A/RES/50/194 (Dec. 22, 1995).
- <sup>vi</sup> GA. Res. 51/117 U.N. Doc. A/RES/51/117 (Dec. 12, 1996).
- <sup>vii</sup> GA. Res. 52/137 U.N. Doc. A/RES/52/137 (Dec. 12, 1997).
- <sup>viii</sup> GA. Res. 53/162 U.N. Doc. A/RES/53/162 (Dec. 9, 1998).
- <sup>ix</sup> GA. Res. 54/186 U.N. Doc. A/RES/54/186 (Dec. 17, 1999).
- <sup>x</sup> GA. Res. 55/112 U.N. Doc. A/RES/55/112 (Dec. 4, 2000).
- <sup>xi</sup> GA. Res. 56/231 U.N. Doc. A/RES/56/231 (Dec. 24, 2001).
- <sup>xii</sup> GA. Res. 57/231 U.N. Doc. A/RES/57/231 (Dec.18, 2002).
- <sup>xiii</sup> GA. Res. 58/247 U.N. Doc. A/RES/58/247 (Dec. 23, 2003).
- <sup>xiv</sup> GA. Res. 59/263 U.N. Doc. A/RES/59/263 (Dec. 23, 2004).
- <sup>xv</sup> GA. Res. 60/233 U.N. Doc. A/RES/60/233 (Dec. 23, 2005).
- <sup>xvi</sup> GA. Res. 61/232 U.N. Doc. A/RES/61/232 (Dec. 22, 2006).
- <sup>xvii</sup> GA. Res. 62/222 U.N. Doc. A/RES/62/222 (Dec. 22, 2007).
- <sup>xviii</sup> GA. Res. 63/245 U.N. Doc. A/RES/63/245 (Dec. 24, 2008).

**Chart B: Human Rights Violations Listed by Commission on Human Rights and Human Rights Council Resolutions**

Year	Resolution?	Forced Displacement	Sexual Violence	Extrajudicial Killing	Torture	Arbitrary Detention
1992	✓ i	✓ 9*	-	-	-	✓ 2
1993	✓ ii	✓ P*, 13*	✓ P, 6	✓ P, 6	✓ P, 6	✓ P, 9
1994	✓ iii	✓ 7, 16*	✓ 7	✓ 7	✓ 7	✓ 10
1995	✓ iv	✓ P*, 11	✓ 11	✓ 11	✓ 11	✓ 4
1996	✓ v	✓ 10, 17*	✓ 10	✓ 10	✓ 10	✓ 10
1997	✓ vi	✓ 2, 2*	✓ 2	✓ 2	✓ 2	✓ 2
1998	✓ vii	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 3
1999	✓ viii	✓ 4, 4*	✓ 4	✓ 4	✓ 4	✓ 4
2000	✓ ix	✓ 6, 6*	✓ 6	✓ 6	✓ 6	✓ 5
2001	✓ x	✓ 4, 4*	✓ 4	✓ 4	✓ 4	✓ 4
2002	✓ xi	✓ 5, 5*	✓ 5	✓ 5	✓ 5	✓ 5
2003	✓ xii	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 3
2004	✓ xiii	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 3
2005	✓ xiv	✓ 3, 3*	✓ 3	✓ 3	✓ 3	✓ 3
2006	x	x	x	x	x	x
2007	✓ xv	x	x	✓ 1	x	✓ 1
2008	✓ xvi	✓ 6	x	x	✓ 6	✓ 6

P: Preface of resolution (before the numbered paragraphs start).

[#]: Paragraph number where the document mentions a certain crime by specific reference. Thus, if the resolution does not refer to the specific crime but refers to human rights or humanitarian violations in general, the table does not document this. The numbers provided are examples and are not necessarily documenting every instance a crime is mentioned.

\* For “displacement” The table provided examples of the document mentioning forced displacement and refugee flows to neighboring states. Those marked with an asterisk are refugee flows.

NB:

- Until 2000, the resolutions referred specifically to “abuse of women,” but didn’t refer to sexual violence more specifically. In 2000 the resolutions begin to refer to rape and other forms of sexual violence.

Notes for Chart B:

- <sup>i</sup> Comm'n on H.R. Res. 1992/58, U.N. Doc. E/CN.4/RES/1992/58 (Mar. 3, 1992).
- <sup>ii</sup> Comm'n on H.R. Res. 1993/73, U.N. Doc. E/CN.4/RES/1993/73 (Mar. 10, 1993).
- <sup>iii</sup> Comm'n on H.R. Res. 1994/85, U.N. Doc. E/CN.4/RES/1994/85 (Mar. 9, 1994).
- <sup>iv</sup> Comm'n on H.R. Res. 1995/72, U.N. Doc. E/CN.4/RES/1995/72 (Mar. 8, 1995).
- <sup>v</sup> Comm'n on H.R. Res. 1996/80, U.N. Doc. E/CN.4/RES/1996/80 (Apr. 23, 1996).
- <sup>vi</sup> Comm'n on H.R. Res. 1997/64, U.N. Doc. E/CN.4/RES/1997/64 (Apr. 16, 1997).
- <sup>vii</sup> Comm'n on H.R. Res. 1998/63, U.N. Doc. E/CN.4/RES/1998/63 (Apr. 21, 1998).
- <sup>viii</sup> Comm'n on H.R. Res. 1999/17, U.N. Doc. E/CN.4/RES/1999/17 (Apr. 23, 1999).
- <sup>ix</sup> Comm'n on H.R. Res. 2000/23, U.N. Doc. E/CN.4/RES/2000/23 (Apr. 18, 2000).
- <sup>x</sup> Comm'n on H.R. Res. 2001/15, U.N. Doc. E/CN.4/RES/2001/15 (Apr. 18, 2001).
- <sup>xi</sup> Comm'n on H.R. Res. 2002/67, U.N. Doc. E/CN.4/RES/2002/67 (Apr. 25, 2002).
- <sup>xii</sup> Comm'n on H.R. Res. 2003/12, U.N. Doc. E/CN.4/RES/2003/12 (Apr. 16, 2003).
- <sup>xiii</sup> Comm'n on H.R. Res. 2004/61, U.N. Doc. E/CN.4/RES/2004/61 (Apr. 21, 2004).
- <sup>xiv</sup> Comm'n on H.R. Res. 2005/10, U.N. Doc. E/CN.4/RES/2005/10 (Apr. 14, 2005).
- <sup>xv</sup> Comm'n on H.R. Res. S-5/1, U.N. Doc. A/HRC/RES/S-5/1 (Oct. 2, 2007).
- <sup>xvi</sup> Comm'n on H.R. Res. 8-14, U.N. Doc. A/HRC/RES/8/14 (Jun. 18, 2008).



**Chart C: Human Rights Violations Listed by Reports of the Special Rapporteur on the situation of human rights in Myanmar**

Year	Resolution?	Forced Displacement	Sexual Violence	Extrajudicial Killing	Torture	Arbitrary Detention	Visit
1993	✓ <sup>i</sup>	✓ 76, 133*	✓ 77-8	✓ 71-5	✓ 97-100	✓ 117-199	Burma
1994	✓ <sup>ii</sup>	✓ 10* 49, 55	✓ 49, 55	✓ 53-5	✓ 48	✓ 68	Burma/ Thailand
1995	✓ <sup>iii</sup>	✓ 118-120	✓ 102, 114	✓ 95-103	✓ 114-6	✓ 104-106	Burma/ Thailand
1996	✓ <sup>iv</sup>	✓ 138	✓ 91,114	✓ 85-92	✓ 114-116	✓ 104-105	Burma/ Thailand
1997	✓ <sup>v</sup>	✓ 72-79	✓ 22, 85	✓ 20	✓ 22	✓ 105	No Access/ Thai
1998	✓ <sup>vi</sup>	✓ 74	✓ 65-66	✓ 24-27	✓ 49-52	✓ 28-48	No Access
1999	✓ <sup>vii</sup>	✓ 27-34	✓ 67	✓ 60	✓ 21, 37	✓ 60	No Access/ Thai
2000	✓ <sup>viii</sup>	✓ 38	✓ 50-2, 56	✓ 15-16	✓ 63	✓ 8, 58	None
2001 (a)**	✓ <sup>ix</sup>	✓ 71	-	✓ 64	✓ 64	✓ 44-55	Burma/Jap/ Mal
2001 (b)**	✓ <sup>x</sup>	✓ 98, 98*, 99*100	✓ 17	-	-	✓ 43	Burma
2002	✓ <sup>xi</sup>	-	✓ 10	✓ 11	✓ 26	✓ 11, 26	Burma
2003	✓ <sup>xii</sup>	✓ 46-9	✓ 58-9	✓ 44, 57	✓ 56	✓ 56	Thailand
2004	✓ <sup>xiii</sup>	✓ 44	-	✓ 44	✓ 40	✓ 24	Burma/ Thailand
2005	✓ <sup>xiv</sup>	✓ 82-85	✓ 65, 72	✓ 68	✓ 46, 51-3	✓ 94	No Access
2006	✓ <sup>xv</sup>	✓ 44-5	✓ 30	✓ 46-47	✓ 46	✓ 34	NoAccess/ Ind/Mal/ Thai/Ind
2007	✓ <sup>xvi</sup>	✓ 56	✓ 41	✓ 56	✓ 37	✓ 49	NoAccess/ Ind/Mal/ Thai/Ind
2008	✓ <sup>xviii</sup>	✓ 69, 71*	✓ 58, 78, 87	✓ 58, 80	✓ 58	✓ 43	Burma/ Thailand

P: Preface of document (before the numbered paragraphs start).

[#]: Paragraph number where document mentions certain crime.

Examples are included rather than every instance.

-Dates given are the dates the reports came out. So the “visit” section refers to whether there was a visit allowed in the making of the report, rather than whether there was a visit allowed that year. E.g. although there was no visit allowed in 2004, rather in 2003, the 2004 report was based on a 2003 visit.

\* For “displacement” I counted both refugee flows and internal displacement. Those marked with an asterisk are refugee flows.

\*\* The rows 2001(a) and (b) are to be read together as 2001(a) was an interim report about a fact-finding mission the Special Rapporteur undertook in 2001. The report in 2001(b) was the full report later submitted about the fact-finding mission. .

NB:

The table does not document every report issued by the Special Rapporteur during this period. In the years where the Special Rapporteur issued more than one report only one is included as an illustrative example.

Notes for Chart C:

<sup>i</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, in accordance with Commission resolution 1992/58, U.N. Doc. E/CN.4/1993/37 (Feb. 17, 1993).

<sup>ii</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, in accordance with Commission resolution 1993/73, U.N. Doc. E/CN.4/1994/57, (Feb. 16, 1994).

<sup>iii</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, in accordance with Commission resolution 1994/85, U.N. Doc. E/CN.4/1995/65, (Jan. 12, 1995).

<sup>iv</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, in accordance with Commission resolution 1995/72, U.N. Doc. E/CN.4/1996/65, (Feb. 5, 1996).

Notes for Chart C, cont'd:

- <sup>v</sup> The Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, *Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar*, in accordance with General Assembly resolution 51/117 and Economic and Social Council decision 1997/272, U.N. Doc. E/CN.4/1997/64 (Feb. 6, 1997).
- <sup>vi</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, submitted in accordance with Commission on Human Rights resolution 1997/64, U.N. Doc. E/CN.4/1998/70, (Jan. 15, 1998).
- <sup>vii</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, submitted in accordance with Commission on Human Rights resolution 1998/63, U.N. Doc. E/CN.4/1999/35, (Jan. 22, 1999).
- <sup>viii</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, submitted in accordance with Commission on Human Rights resolution 1999/17, U.N. Doc. E/CN.4/2000/38 (Jan. 24, 2000).
- <sup>ix</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, delivered to the General Assembly*, U.N. Doc. A/56/312 (Aug. 20, 2001).
- <sup>x</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, in accordance with Commission resolution 2001/15, U.N. Doc. E/CN.4/2002/45 (Jan. 10, 2002).
- <sup>xi</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, in accordance with Commission resolution 2002/67, U.N. Doc. E/CN.4/2003/41 (Dec. 27, 2002).

Notes for Chart C, cont'd:

<sup>xii</sup> The Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, *Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, delivered to the General Assembly*, U.N. Doc. A/58/219, (Aug. 5, 2003).

<sup>xiii</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Situation of human rights in Myanmar, delivered to the U.N. Econ. & Soc. Council [ECOSOC], Comm'n on Human Rights*, U.N. Doc. E/CN.4/2004/33 (Jan. 5, 2004).

<sup>xiv</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, delivered to the General Assembly*, U.N. Doc. A/60/221, ¶ 83 (Aug. 12, 2005).

<sup>xv</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Report of the Special Rapporteur on the situation of human rights in Myanmar, delivered to the General Assembly*, U.N. Doc. A/61/369, (Sept. 21, 2006).

<sup>xvi</sup> The Special Rapporteur on the situation of human rights in Myanmar, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled "Human Rights Council": Report of the Special Rapporteur on the situation of human rights in Myanmar, delivered to the General Assembly*, U.N. Doc. A/HRC/4/14, (Feb. 12, 2007).

<sup>xvii</sup> The Special Rapporteur on the situation of human right in Myanmar, *Human Rights Situations that Require the Council's Attention: Report of the Special Rapporteur on the situation of human rights in Myanmar, delivered to the General Assembly, Human Rights Council*, U.N. Doc. A/HRC/7/18, (Mar. 7, 2008).



# Appendix IV: Documentation of Rape and Sexual Violence

Name of Report	Licence to Rape	Shattering Silences	System of Impunity	Catwalk to the Barracks	Unsafe State	Total
Release date	May 2002	April 2004	September 2004	July 2005	March 2007	
Focus area	Shan State	Karen State	All ethnic states and central Burma	Mon State	Chin State	
Period covered	1996 – 2001	1988-2004	2002-2004	1995-2004	1989-2006	
No. of cases	173	125	26	37	38	399
No. of women & girls	625	127	34	50	39	875
No. of girls (under 18)	77	20	15	11	5	161
Remark	83% of rape cases committed by high-ranking military officers (commander – corporal). 61% gang-rapes 25% of the rapes resulted in death In only one case was a perpetrator punished by his commanding officer.	Half of the rape incidents were committed by high-ranking officers; 40% were gang-rapes; In 28% of cases women were killed after being raped	17 cases were gang rapes by senior military officers or authorities, or with their complicity.	Scores of "comfort women" forced to work by day -forced into sexual slavery at night. 30 young women, including schoolgirls, Made to stay at military base and take part in a military "fashion and beauty show." Over half cases committed by military officers, often in front of, or together with their troops.	Women and girls as young as 12 are being raped in their homes and farms, while travelling outside their village and when conscripted as forced labour.	

Source: Women of Burma, *In the Shadow of the Junta, CEDAW Shadow Report*, 2008, p. 56.

# Photo comments

- On the cover page:** Karen women, internally displaced persons (text on back and cover page: quotation from the Universal Declaration of Human Rights)
- Page 4:** Propaganda poster to promote the role of Armed forces, placing the civilian people under the military. The phrase mentioned in that photograph is “The 55th Anniversary of Armed Forces Day”
- Page 7:** Karen village destroyed after a *Tatmadaw* attack
- Page 11:** Villagers hiding in the forest of Burma
- Page 12:** A Buddhist monk during the repression of the Saffron Revolution
- Page 16:** Internally Displaced Persons (IDPs) in Eastern Burma
- Page 18:** A supporter of Daw Aung San Suu Kyi demonstrating in the streets of Rangoon
- Page 20:** *Tatmadaw* soldiers in the streets of Rangoon
- Page 23:** A girl victim of Nargis cyclone in front of a temporary settlement
- Page 25:** The army in the streets of Rangoon during repression that followed the Saffron Revolution
- Page 27:** A monk demonstrating during the Saffron Revolution

## Keep your eyes open

### Establishing the facts – **Investigative and trial observation missions**

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

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FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### Mobilising the international community – **Permanent lobbying before intergovernmental bodies**

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

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FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

## ALTSEAN-Burma



ALTSEAN-Burma (Alternative ASEAN Network on Burma) is a network of organizations and individuals based in ASEAN member states working to support the movement for human rights and democracy in Burma. The network is comprised of human rights & social justice NGOs, political parties, think tanks, academics, journalists and student activists. ALTSEAN-Burma was formed at the conclusion of the Alternative ASEAN Meeting on Burma held at Chulalongkorn University, Bangkok, in October 1996.

## The Burma Lawyers' Council



The Burma Lawyers' Council (BLC) is an independent organization that was formed in a liberated area of Burma in 1994. After the military seized power in Burma in 1962, and after the student uprising in 1988, the pro-democracy movement consisted mainly of students who were committed to the path of armed resistance. With this in mind, lawyers came together and formed what has now become an integral part of the pro-democracy movement. The BLC is the only organization in the democratic movement of Burma which contributes to the promotion of human rights solely from the legal perspective. It is neither aligned with nor under the authority of any political organization.

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Design: Stéphanie Geel

**FIDH**  
represents **155**  
**human rights organisations**  
on **5** continents



Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone

## About FIDH

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Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.