

“They Came and Destroyed Our Village Again” The Plight of Internally Displaced Persons in Karen State

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Glossary

ASEAN	Association of Southeast Asian Nations
CBO	Community-based organization
CIDKP	Committee for Internally Displaced Karen People
DKBA	Democratic Karen Buddhist Army
HURFOM	Human Rights Foundation of Monland
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IMNA	Independent Mon News Agency
KESAN	Karen Environment and Social Action Network
KHRG	Karen Human Rights Group
KIO	Kachin Independence Organization
KNLA	Karen National Liberation Army
KNPP	Karenni National Progressive Party
KNU	Karen National Union
MNEC	Mon National Education Committee

NLD	National League for Democracy
NMSP	New Mon State Party
PKDS	Pan-Kachin Development Society
SLORC	State Law and Order Restoration Council
SPDC	State Peace and Development Council
TBBC	Thailand Burma Border Consortium
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund

I. Summary

When the Tatmadaw entered my village they killed men and beat women when they caught them.¹

Burmese soldiers came into Tho Mer Kee village and burnt down all the houses. They killed all our pigs, goats and chickens—and then shot the buffalos for fun.²

We had to flee to the jungle, where we stayed for a week, with very little food. Then we returned to re-build our homes, and try to farm again. However, the next year, they [the Tatmadaw] came and destroyed our village again.³

While the nonviolent struggle of Daw Aung San Suu Kyi against the Burmese military government's continuing repression has captured the world's attention, the profound human rights and humanitarian crisis endured by Burma's ethnic minority communities has largely been ignored.⁴

Decades of armed conflict have devastated ethnic minority communities, which make up approximately 35 percent of Burma's population. The Burmese army, or *Tatmadaw*, has for many years carried out numerous and widespread summary executions, looting, torture, rape and other sexual violence, arbitrary arrests and torture, forced labor, recruitment of child soldiers, and the displacement and demolition of entire villages as part of military operations against ethnic minority armed opposition groups. Civilians bear the brunt of a state of almost perpetual conflict and militarization.

Violations of international human rights and humanitarian law (the laws of war) by the *Tatmadaw* have been particularly acute in eastern Karen state, which runs along the northwestern border of Thailand. One woman described to Human Rights Watch more than twenty years of *Tatmadaw* brutality:

¹ Human Rights Watch interview conducted at Thwa Hta village, Papun District, June 2003.

² Human Rights Watch interview with N.L. at Hor Ker IDP settlement, Papun District, May 2003.

³ Human Rights Watch interview with S.L. at Hor Ker IDP settlement, Papun District, May 2003.

⁴ In 1989 the English name of the country was changed from Burma to Myanmar by the ruling State Law and Order Restoration Council (SLORC, now called the State Peace and Development Council, or SPDC). English versions of place names were changed to Burmanized versions at the same time, e.g., Rangoon became Yangon. The National League for Democracy, which won elections in 1990 that were subsequently rejected by the military government, does not recognize these name changes, and ethnic groups that are not ethnic Burman regard them as part of an effort to Burmanize national culture. Human Rights Watch uses the term "Burma."

The Burmese Army troops first attacked in November 1979, while we were harvesting our fields near Ler Kaw village. They shot and killed my sister, who was only thirteen, and my cousin, who was fifteen. We had to flee, but they chased after us and shot and killed another villager. There was no fighting near the village at that time. The Burma Army troops just wanted to kill us Karen villagers.

The Burmese soldiers attacked us again at Htee Hto Kaw Kee, in 1992. They shot and killed my husband and injured other villagers. The soldiers burned down our houses and killed and ate our animals. They also burned our rice barn, destroying 190 tins of rice. [They also] killed my son-in-law, who was just collecting betel nut in the forest. He [had] small children.

In January 1998, at Lo Kee village, my cousin's husband was killed by Burmese troops when they entered the village. Many people fled to the jungle. In March 2002 my other cousin's husband was also killed. Their house and livestock were destroyed too.

The woman's mother added more details to the account, and clarified that the Burmese troops faced no armed resistance that could justify their attack on the villagers:

I will never forget our suffering at Ler Kaw village. When the soldiers shot my thirteen-year-old daughter, her intestines came out. Her father and I tried to save her, and escape. She was in agony, and screaming, but we couldn't do anything to ease her pain. She died after an hour. We haven't done anything against the government. All we had in our hands when their troops attacked was our paddy, and harvesting tools. If the soldiers had called us, we would have gone to talk with them. They didn't have to shoot.⁵

One result of the *Tatmadaw's* brutal behavior has been the creation of large numbers of internally displaced persons (IDPs) and refugees among Burma's ethnic minority communities. Conflict and its consequences have been going on for so long that in many ethnic minority-populated areas, continuous forced relocations and displacement—

⁵ Human Rights Watch interviews with N.W. and her mother from Nyaunglebin District (July 2003).

interspersed with occasional periods of relative stability—have become a fact of life for generations of poor villagers.

The scale of the IDP problem in Burma is daunting. Estimates suggest that, as of late 2004, as many as 650,000 people were internally displaced in eastern Burma alone. According to a recent survey, 157,000 civilians have been displaced in eastern Burma since the end of 2002, and at least 240 villages destroyed, relocated, or abandoned. The majority of displaced people live in areas controlled by the government, now known as the State Peace and Development Council (SPDC), or by various ethnic armed groups that have agreed to ceasefires with the government. But approximately eighty-four thousand displaced people live in zones of ongoing armed conflict, where the worst human rights abuses continue. Many IDPs live in hiding in war zones. Another two million Burmese live in Thailand, including 145,000 refugees living in camps.

Karen State is the location of some of the largest numbers of IDPs in Burma. Since 2002, approximately 100,000 people have been displaced from Karen areas, which include parts of Pegu and Tenasserim Divisions. Though a provisional ceasefire was agreed in December 2003 between the SPDC and the Karen National Union (KNU), sporadic fighting continues. *Tatmadaw* military operations against the KNU's army, the Karen National Liberation Army (KNLA), in the first months of 2005 caused numerous deaths and injuries to civilians in poor villages along the Thai border. They also forced many civilians to flee internally or to Thailand. For example, at least 9,000 civilians were displaced in Toungoo District, in the far north of Karen State bordering Karenni State, and in Nyaunglebin District in northwest Karen State, during major *Tatmadaw* offensives between November 2004 and February 2005.

The majority of Karen IDPs have been forced out of their homes as a direct result of the *Tatmadaw*'s "Four Cuts" counter-insurgency strategy, in which the Burmese army has attempted to defeat armed ethnic groups by denying them access to food, funds, recruits, and information from other insurgent groups. H.T., a twenty-eight year-old Karen from Dooplaya District, described his experience with the *Tatmadaw* in January 2005:

There were two groups [of *Tatmadaw* soldiers]. The first was commanded by Lt. Soe Myint Aw, and the second was commanded by Captain Toe Toe Aung. They had about sixty men each. Lt. So Myint Aw told us that the "strategic commander" gave them orders to attack the village. I just ran. It took twenty minutes to walk to the border. We stayed there on Monday. There is a motorbike and a phone that

everyone in the village can use. We had to leave them there. I could hear machine gun fire and mortars when I was running to the borderline. I am afraid for my family, and very afraid that the SPDC will kill me. It's possible I will be tortured when I go back. Eleven SPDC soldiers were killed by the KNU. I don't want to go back to see the [SPDC] soldiers. I want to go back to my village when the fighting stops but I will be prepared to run once again.⁶

This report describes the situation in government-controlled areas, including relocation sites, which are generally not accessible from across the Thailand border. The report identifies two main causes of displacement:

- **Displacement due to armed conflict** as a direct result of fighting, or because armed conflict has undermined human and food security and livelihood options; and
- **Displacement due to human rights violations, particularly land rights** caused by *Tatmadaw* and militia confiscation of land and other violations of land rights, especially in the context of natural resource extraction, such as logging and mining. Other rights violations, such as forced labor, killings, torture, and rape, also cause displacement.

The report describes patterns of abuse and forced relocation over a period of many years. It documents how serious violations of international humanitarian law and human rights abuses continue to occur in some parts of Karen State, such as Toungoo and Nyaunglebin Districts, while other areas are relatively quiet. It recommends a need to think of new and more realistic answers to the dilemmas faced by IDPs, many of whom may not be able—or may not want—to go home again.

For this report, Human Rights Watch interviewed community leaders, representatives of nongovernmental organizations (NGOs), staff at community-based organizations (CBOs), U.N. officials, and many others. Most important, we interviewed forty-six Karen IDPs living in the Papun hills, in mid-late 2003, and along the Thai border, in early 2005. These forty-six individuals altogether were displaced more than one thousand times. Incredibly, five individuals had been forcibly displaced more than one hundred

⁶ The units involved in the attack on Ka Law Gaw were Light Infantry Battalion #356 and Infantry Battalion # 230. Both were commanded by the Regional Military Command No. 12 based in Hpa-an. It seems likely that the orders to attack Ka Law Gaw village came from a regional command order.

times. One of these five, an elderly woman, first fled to the jungle during World War II, when Japanese soldiers came to her village.

All the interviewees for this report had been farmers and continue to derive most of their food from working their own or others' rice fields. These fields remain susceptible to destruction by *Tatmadaw* patrols. Displacement often means that new land must be cleared for farming, rather than farmers being able to return to former swidden fields in sustainable rotation after fallow swiddens have regained their fertility. Over time, the disruption of traditional agricultural practices has seriously undermined livelihoods and caused encroachment by swidden farmers into primary forest, rather than rotating their plots in secondary forest customarily used for swidden agriculture.

Many IDPs have been displaced for some time, and live alongside others who are not—or have not recently been—displaced. Their needs may therefore be similar to those of other vulnerable populations in peri-urban and rural Burma.

The main problems identified by interviewees were lack of consistent access to food; insufficient income and livelihood problems; human rights abuses and poor physical security related to displacement and fighting; lack of access to education and health services; and, finally, the problem of landmines, which destroy both land and their victims' lives. Their primary need is to be able to farm properly, without disturbance, and thus improve income and food security, as well as better access to education and health services. All wanted to, as one interviewee put it, “live in peace and with justice.” Most of these problems are linked to longer-term structural problems, and can only be addressed in the context of socio-economic—and above all political—solutions to Burma's protracted ethnic conflicts.

The findings of this report caution against assuming that all IDPs necessarily want to return “home.” Returning home can be a problematic concept for people who have been on the move for long periods of time. Many IDPs may wish to return home, if it still exists, but others may want to stay put or resettle elsewhere. Some who have returned home or have otherwise resettled still face major problems, while others have not. Some have not moved and built new lives in the place to which they were displaced, often in the jungle hills or in a relocation site.

Thus, those providing assistance should avoid taking a one-size-fits all approach to meeting the needs of IDPs. Instead, the focus should be on individual choice and the needs of specific communities. Indeed, the U.N. Guiding Principles on Internal Displacement, which summarize existing international law as it applies to IDPs, make

choice the touchstone. Competent authorities have a duty to “establish conditions, as well as provide the means” to allow voluntary resettlement and integration in the place to which people are displaced, if that is their choice.⁷

An understanding of long-term patterns of forced displacement should inform the design of humanitarian, development, and socio-political interventions on behalf of the displaced. One aspect that deserves careful consideration is the effect of ceasefires on the human rights situation and on displacement. Over the past decade many armed ethnic groups have entered into ceasefires with the military government in Rangoon. In some parts of the country, ceasefires have meant a reduction in the most severe forms of human rights abuses, though this has not usually led to greater respect for other basic rights, such as freedom of expression or the right to due process of law. But in many cases, ceasefires have been quietly accompanied by the reemergence of local civil society actors. This has been one of the most important, yet under-studied, aspects of the ceasefires in Burma.

The SPDC and KNU agreed to an informal ceasefire in December 2003. In some parts of Karen State, the situation began to stabilize. Across the whole of Tenasserim Division, and much of lower and western Karen State, there has been less fighting and fewer of the most severe type of human rights violations, such as extrajudicial executions and torture, than before. Some IDPs are beginning to return from hiding places in the jungle and from relocation sites to build more permanent houses and grow crops other than swidden rice. However, the *Tatmadaw* continues its aggressive use of forced labor, especially on road-building projects, land confiscation, and arbitrary taxation in many areas. It has recently stepped up attacks on a variety of armed ethnic groups. Under the right conditions, a ceasefire between the SPDC and the KNU could deliver a substantial improvement in the human rights situation, creating the space in which local and international organizations can begin to address the urgent needs of Karen IDPs. But the situation may yet return to guerilla warfare and full-scale counterinsurgency.

Many of the ceasefires are now under threat. Since the purging of General Khin Nyunt last October, hard-liners in the SPDC have attempted to undermine ceasefires agreed between Rangoon and several armed ethnic groups since 1989. In mid-2005, the future of these ceasefires looks more and more uncertain.

⁷ The U.N. Guiding Principles on Internal Displacement (U.N. Document E/ CN.4/1998/53/Add.2; November 11, 1998) [online], http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html (English); http://www.unhcr.ch/html/menu2/7/b/principles_burm1.htm (Burmese); http://www.unhcr.ch/html/menu2/7/b/principles_karen1.htm (S'ghaw Karen) (retrieved May 21, 2005).

If the SPDC and KNU reach a genuine settlement—an outcome about which Human Rights Watch takes no position—the current transitional period may develop into the type of post-ceasefire scenario seen in Mon and Kachin States since the mid-1990s. There may be more space for civil society to emerge. CBOs and local NGOs can play important roles in the needs analysis, planning, implementation, monitoring, and evaluation stages of projects. This is particularly true in remote areas inaccessible to international agencies. Donors can assist this process with careful, well-targeted grants to capable local organizations.

Sadly, experiences in Mon and Kachin states show that displacement does not necessarily come to an end with the cessation of armed conflict. Instead, the causes of displacement may change, as the *Tatmadaw* expands into previously contested areas and confiscates land as part of its efforts to consolidate control and make money. Increased and more industrialized natural resource extraction and other economic activities, such as large-scale agricultural production and development-induced activities, including road and bridge construction, can lead to further displacement. These factors indicate the importance of focusing on the protection of economic, social, and cultural rights, including the critical need to clarify land tenure for indigenous groups and to protect their customary land rights.

In April 2005 the U.N. Commission on Human Rights called upon the Burmese government:

- (a) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other government agents in all circumstances;
- (b) To end widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, in particular against women belonging to ethnic minorities, and to investigate and bring to justice any perpetrators in order to end impunity for these acts;
- (c) To end the systematic enforced displacement of persons and other causes of refugee flows to neighboring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international

community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies.⁸

Human Rights Watch urges the military government in Rangoon to implement these recommendations immediately. It must issue orders to its troops to end all attacks on civilians. In addition to constituting serious human rights abuses, these attacks undermine any hopes the SPDC may have of reaching a political settlement with representatives of Karen communities. To address the internal displacement problem in Karen areas, Human Rights Watch also urges:

- All parties to the conflict to allow greater international access to conflict areas to provide humanitarian assistance and protection to IDPs. Landmine mapping and clearance is a particularly urgent unmet need. International and local agencies should employ protection staff and provide protection training to all other field staff, and offer such training to all appropriate government officials.
- The development and implementation of policies regarding individual and community land rights and access to land in Burma, including restitution of, or compensation for, property confiscated, stolen, or illegally occupied, and respect for customary rights to land.
- Emphasis on the principle that every solution should be voluntarily chosen through the informed consent of the displaced individual, whether that solution be integration, relocation, or return home.
- That the provision of humanitarian and development assistance is not misused by the government and the *Tatmadaw* to further military objectives in conflict-affected, often traditionally semi-autonomous, areas. It is critical that international agencies such as the United Nations High Commissioner for Refugees (UNHCR) should be able to function independently without unnecessary restrictions.
- Donors to work with local NGOs and rights-respecting local government officials and ceasefire groups to provide services, such as formal and informal education, vocational and skills training and materials, health services, including training of medics, micro-credit programs, natural resource management and environmental protection.
- The provision of aid and assistance through civil society groups and networks, many of which are operational in areas inaccessible to international agencies.

⁸ United Nation Economic and Social Council, Commission on Human Rights (Sixty-first session, Agenda item 9), "Question of the violation of Human Rights and Fundamental Freedoms In Any Part Of The World - Situation of human rights in Myanmar" (E/CN.4/2005/L April 29, 2005).

Building the capacity of such groups must be a priority. Donors should foster the emergence of under-represented groups, such as non-Christians, minorities within Karen State, and women, and should not concentrate all resources on a narrow set of professional and westernized NGOs. Genuine partnership and joint ownership of projects with civil society actors should be encouraged. Needs and vulnerability assessments should mainstream conflict resolution, protection and gender issues, and highlight policies that effectively address the needs of the poor. Both the SPDC and KNU must be persuaded to let these processes take place, even if they do not like the outcome.

A more detailed set of recommendations can be found in Section VII at the end of this report.

II. Background

Aung San Suu Kyi, the NLD, and the SPDC's failed national dialogue

After a quarter-century of one-party military rule, hundreds of thousands of student and other demonstrators took to the streets across Burma in 1988, calling for democracy and the rule of law. The ruling State Law and Order Restoration Council (SLORC) brutally crushed the movement, killing thousands of civilians. Over the next few years, the SLORC further consolidated its control, establishing its own mass organizations. However, despite severe restrictions on freedom of speech, association, and assembly, many brave individuals and groups have continued to speak out and work for democracy and development at both the community and national levels.

In a reaction to widespread protests, the SLORC held elections in May 1990. The highly popular and outspoken Aung San Suu Kyi, who had been placed under house arrest in 1989, and her party, the National League for Democracy (NLD), won 82 percent of the seats. However, the generals refused to allow the NLD and its allies to form a government, instead imprisoning several hundred more political opponents the following year. Since that time, the junta has insisted on maintaining military rule, changing only its name in 1997 to the State Peace and Development Council (SPDC). Since its refusal to recognize the results of the May 1990 election, the military government has resisted all options but a managed transition—by the military—to a vaguely described military-led “democracy.”

Despite winning the Nobel Peace Prize in 1991 for her nonviolent resistance to the government, Aung San Suu Kyi has been in and out of house arrest since 1989. Many

NLD leaders and party activists have also spent a great deal of time arbitrarily detained under house arrest or imprisoned under horrendous conditions. In the mid-1990s, and again in May 2003, Suu Kyi was briefly released, but her efforts to peacefully mobilize supporters were met again with violent military suppression when on May 30, 2003, an SPDC-organized mob at Depayin killed at least four of her bodyguards and possibly dozens of onlookers.

For decades across Burma, human rights abuses, many of them committed by the Burmese army, or *Tatmadaw*, have been rampant. Common tools of state control include torture, rape, and forced conscription of child soldiers. By mid-November 2004 there were more than 1,400 political prisoners in Burma, and although the SPDC announced at the same time it would release 3,937 prisoners, including a handful of prominent political prisoners, there has been no commensurate political liberalization.

In August 2003, Burma's newly appointed Prime Minister and Chief of Military Intelligence, General Khin Nyunt, announced a reconvening of the National Convention (NC) to draft a new constitution, one of seven steps in the government's "roadmap to democracy."⁹ Although this process was clearly dominated by the military, it was effectively the only national-level discussion about instituting a democratically elected government and dealing with the concerns of Burma's many ethnic groups. Yet, three days before the National Convention reconvened, Burma's two main opposition parties announced that they would not join the convention. The government had failed to meet demands to release Suu Kyi and reopen NLD offices across the country, or to demonstrate to the NLD and the United Nationalities Alliance (UNA), a coalition of ethnic nationality parties elected in 1990, that it would permit genuine debate over key issues. The National Convention has therefore been widely perceived as illegitimate, both inside Burma and abroad.

Internal divisions within the SPDC boiled over when on October 19, 2004, Khin Nyunt—regarded as the second or third most powerful person in the country—was arrested. The fall of Khin Nyunt was preceded and accompanied by the closing down of his powerful military intelligence apparatus and the arrest of many of his associates. Khin Nyunt was replaced as prime minister by Lt-General Soe Win, the man responsible for orchestrating the attack on Aung San Suu Kyi's motorcade at Depayin on May 30, 2003.

⁹ Burma has had two previous constitutions, promulgated in 1947 (before independence in 1948) and in 1974 (by the Ne Win regime). First called in 1993, the National Convention had been suspended since 1996.

To most observers, these events signaled the consolidation of power by the hard-line junta Chairman and Vice-Chairman, Generals Than Shwe and General Maung Aye. The government was careful to portray the move as a change of personnel, rather than of policy. A week later, Than Shwe made the first trip by a Burmese head of state to India in more than twenty years. With continued political and economic support from China and an ever-close relationship with India, the generals remained in a strong position to try to ride out western sanctions and any unease among its Association of Southeast Asian Nations (ASEAN) partners.

Fifty years of ethnic conflict

While the world's attention has been focused on national-level politics and the fate of Aung San Suu Kyi, much less attention has been paid to the highly complex and brutal abuses of ethnic minorities in more remote parts of the country. The situation is particularly acute in areas of ongoing armed conflict.

Ethnic minorities constitute at least 35 percent, or eighteen million, of Burma's estimated fifty-two million people. Historically, the "ethnic question" has been at the heart of Burma's protracted political, social and humanitarian crises. Ethnic insurgent armies have operated along Burma's borders for decades in several areas since independence in 1948. However, by the early 1980s, the *Tatmadaw* had gained the upper hand against the ethnic rebels, and the areas under their control began to shrink. Increasing numbers of civilians became displaced by the fighting in eastern and northern Burma, and were no longer able to retreat to relative safety behind the "front lines" of the conflict and rebuild their villages. Instead, many had to flee across the border to Thailand, China, India, or Bangladesh.

Much recent political science literature has focused on the "opportunity motives" for insurgency. However, Burma's rebellions have long been driven by a mixture of genuine grievances and political-military-economic opportunism. Especially following the military take-over by General Ne Win in 1962, ethnic nationality elites have been excluded from meaningful participation in politics, while minority-populated border areas have experienced chronic underdevelopment, combined with often unsustainable natural resource extraction. Meanwhile, in its largely successful campaigns against a myriad of ethnic and communist insurgent organizations, the SPDC and its precursors have extended militarized control into previously semi-autonomous border areas, causing massive social, economic and human disruption—and greatly weakening the armed opposition.

Every Burmese regime since the establishment of military rule in 1962 has sought to suppress ethnic minorities and bring previously insurgent-dominated border areas under Rangoon's control. The strategy has had military and ethnic dimensions: not only would ethnic minority communities be broken up and their ability to resist weakened, but it would also allow for the spread of state-sponsored "Burmanization," in which minority cultures, histories, and political aspirations would be eliminated in favor of a "national" identity. The Burmese regimes in essence view all ethnic minorities as a potential security threat¹⁰, and, as a result, have "allowed security issues to come to dominate all aspects of government policymaking."¹¹

The *Tatmadaw's* often brutal counter-insurgency strategies set the tone for coercive methods of dealing with dissent—whether armed revolt, nonviolent political dissent, or apolitical civilians—over the following decades.¹² The *Tatmadaw's* "Four Cuts" (*pya ley pya*) counter-insurgency strategy, used since 1963, best embodies the state's approach to suppressing ethnic minorities. A rebel group has been fully "cut" if it no longer has access to new recruits, intelligence, food, or finances. This approach aims to transform "black" (rebel-held) areas into "brown" (contested/free fire) areas, and then into "white" (government-held) areas.

In response, ethnic insurgent groups have positioned themselves as the defenders of minority populations, adopting guerrilla-style tactics. This has invited retaliation against the civilian population, against which the insurgents have been unable to defend villagers. As a result, rural Burma has now essentially been engaged in a half century of chronic, low-grade warfare. Human rights abuses are rife, most notably torture in detention and rape, and the conflict has further deepened the poverty of an already poor population. Traditional ways of life have been destroyed.

¹⁰ In May 1999, the Ministry of Information published a Declaration of Defense Policy, which underlined the leadership role of the *Tatmadaw* in opposing "those...holding negative views...and...all destructive elements." As cited in: Maung Aung Myoe, *Military Doctrine and Strategy in Myanmar: A Historical Perspective*, (ANU Strategic and Defence Studies Centre, Working Paper 339; 1999), p. 18. The 'Three National Causes' were announced as the basis of SLORC rule in September 1988: *ibid.* pp. 3-14.

¹¹ Burma Ethnic Research Group (BERG), "Internal Displacement in Burma," in *Disasters* Vol. 24, September 2002, p. 236.

¹² As Mary Callahan observes, at least until 1988, "the displacement and killing of citizen's of Burma's frontier regions occurred mostly off the radar screen of the population residing in central regions". [To this day, the inhabitants of central Burma remain largely unaware of the systematic abuses perpetrated in their name by the *Tatmadaw* in border regions; the same might also be said of some foreign observers, whose experience of the country is restricted to firmly government-controlled areas]: Mary Callahan, *Making Enemies: War and State Building in Burma* (Cornell: Cornell University Press, 2003), pp. 223.

In order to undermine perceived support for armed ethnic or communist groups, since the 1960s the military government and *Tatmadaw* have created well over a million IDPs by forcibly moving thousands of ethnic nationality villages across the country. IDPs are highly vulnerable to *Tatmadaw* abuses and have serious difficulty maintaining livelihoods. Even after conflict has died down, many are unable to return to their previous farms and settlements, due to the prevalence of landmines and confiscation of land or other resources. Plans for massive infrastructure projects in border areas—including dams and new roads—will also prevent the resettlement of IDPs and repatriation of refugees.

Ethnic nationality groups have sought to advance their agenda politically as well as militarily. Although most of the 1,076 delegates to the 2003 National Convention were handpicked by the SPDC, they included over one hundred representatives from armed ethnic nationality groups that have concluded ceasefire agreements with Rangoon, such as the Kachin Independence Organization (KIO) and New Mon State Party (NMSP). Despite their reservations about the process, most groups apparently attended the convention in good faith in the hope of registering their aspirations on the national political agenda and using the ceasefire agreements to address some of the key issues that have caused armed conflict in Burma for over five decades.

Although demands varied to some extent, there was general agreement among them to press for granting states more authority, transforming ceasefire armies into local security forces, and, most importantly, establishing a federal union of Burma, under the rubric of “ethnic or national democracy.” In expressing their concerns on the national political stage, ethnic groups have made it harder for the international community, while pursuing the resolution of political issues in Rangoon, namely the restoration of multiparty democracy in Burma, to ignore the “ethnic question.”

However, the convention’s Convening Work Committee refused to put the proposals of the ethnic groups on the agenda, claiming they fell outside the National Convention’s current remit.¹³ The ceasefire groups were told that their proposal would be submitted directly to the Prime Minister, General Khin Nyunt, yet his ouster in October 2004 means that the proposals remain in limbo.

The National Convention did not reconvene until February 17, 2005. It did so without the NLD and the Shan State Army-North (SSA-N) ceasefire group, which boycotted the convention following the arrest of several Shan leaders in early February. These included

¹³ Chief Justice U Aung Toe, the head of the Committee, reminded the groups that the 2003 NC’s function was to conclude the work suspended in 1993, and to promulgate the regime’s 6 principles and 104 proposals.

Khun Htun Oo and Sai Nyunt Lwin, Chairman and General Secretary of the Shan Nationalities League for Democracy (SNLD), the party with the second largest number of MPs-elect from 1990. The Shan leaders were detained following a meeting in Taunggyi (southern Shan State) on February 7, where plans were discussed to form a stronger coalition between Shan State ceasefire groups and the 1990 parties, who were not at the convention.¹⁴

On February 13, six ceasefire groups issued a statement, repeating their demands of the previous year and calling for a review of the draft constitution's Principle No. 6, which provides that the military will continue to play a leading role in politics. They also asked for non-ceasefire groups to be allowed observer status at the convention, to allow disagreements and debate, and for the convention minutes to record such dissenting voices. Upon arrival, delegates to the convention were cut off from each other and from most contact with the outside world.

On March 7, 2005, U.N. Secretary-General Kofi Annan told the United Nations Commission on Human Rights that:

Most regrettably, it...remains the Secretary-General's view that the National Convention, in its present format, does not adhere to the recommendations made by the General Assembly in successive resolutions.

He thus reiterates his call on the Myanmar authorities, even at this late stage, to take the necessary steps to make the roadmap process more inclusive and credible. The Secretary-General also encourages the authorities to ensure that the third phase of the roadmap, the drafting of the constitution, is fully inclusive. A national referendum will be held after that. It is his considered view that unless this poll adheres to internationally accepted standards of conduct and participation, it may be difficult for the international community, including the countries of the region, to endorse the result.¹⁵

¹⁴ Nandar Chann, "Divide or Rule," *The Irrawaddy*, April 2005 [online], <http://www.irrawaddy.org/aviewer.asp?a=4584&z=104> (retrieved May 20, 2005).

¹⁵ U.N. Commission on Human Rights, Sixty-first session, Report of the Secretary-General on the situation of human rights in Myanmar (E/CN.4/2005/130, March 7, 2005). The report was submitted in furtherance of the Secretary-General's good offices efforts in pursuance of General Assembly resolution 59/263 of December 23, 2004.

In mid-March it was revealed that the National Convention would take another break, from mid-April. Some observers interpreted this as a sign of “unsolved problems with ethnic ceasefire groups.”¹⁶

In late April 2005 a battalion of the Shan State National Army (SSNA) ceasefire group was pressured by the SPDC into surrendering its weapons. Many observers viewed this as an escalation of the government’s crackdown on Shan opposition groups.¹⁷ Then, on April 29, another northern Shan State–based ceasefire group, the Palaung State Liberation Army (PSLA), was also forced to surrender its weapons. This development may indicate that the government is intent on picking off ceasefire groups one-by-one, persuading the smaller groups and less well-organized groups to disarm first, before moving on to the better established Wa, Kachin, Mon, and other militias.¹⁸ In late May the SSNA leader, Colonel Sai Yi, took his three remaining battalions back to war with Rangoon, merging his forces with the Shan State Army-South (SSA-S), which had never agreed to a ceasefire.¹⁹ This was the first time in a decade that a ceasefire group had resumed armed conflict with the military government.

It is an open secret that the Thai government is pressuring the KNU to sign an agreement with Rangoon because it wants to be rid of the 140,000 mostly Karen refugees in the kingdom and is keen to exploit the economic opportunities that peace may bring to its borders. KNU negotiators have emphasized the extent of the displacement crisis in Burma, and suggested that the plight of IDPs be addressed before any refugee repatriation is undertaken. Most aid workers and diplomats agree that the time is not yet right to begin sending refugees back from Thailand.

The Karen

Despite the limited opportunities for community development and peace-building represented by the ceasefires in conflict-related areas, much of Karen and Karenni States, southern Shan State, and Tenasserim Division—in the east and southeast of Burma—are still affected by low-level armed conflict. For the civilian victims of civil war, the situation remains dire.

¹⁶ *The Irrawaddy*, March 21, 2005.

¹⁷ “Shan rebels hand over arms to Myanmar military,” *Deutsche Presse*, April 14, 2005; “Another ethnic ceasefire group to disarm,” *The Irrawaddy*, April 28, 2005.

¹⁸ Human Rights Watch interview, May 10, 2005. Since late 2004, the Democratic Karen Buddhist Army (DKBA), the main Karen ceasefire group, has also come under pressure to disarm.

¹⁹ “Col Sai Yi: Ceasefire pact torn down by Rangoon,” *The Irrawaddy*, May 23, 2005.

The five to seven million Karen in Burma and approximately 350,000 Karen in Thailand speak twelve mutually unintelligible, but related, dialects. Between 80-85 percent of Karen are either S'ghaw (mostly Christian and animist living in the hills) or Pwo (mostly lowland Buddhists). About 25-30 percent are Christian, 5-10 percent are animist, and the rest are Buddhist. An estimated 30 percent of Karen people live in urban settings and 70 percent in rural areas. About 40 percent are plains dwellers and 60 percent live in the hills.²⁰

As demarcated by the government, Karen State consists of seven townships (Pa'an, Kawkareik, Kya-In Seik-Gyi, Myawaddy, Papun, Thandaung and Hlaingbwe), with a population in 1995 of approximately 1.3 million.²¹ The percentage of Karen living in Karen State has decreased considerably due to the outflow to Thailand.

Rejecting the government's administrative boundaries, the KNU has organized the Karen "free state" of Kaw Thoo Lei²² into seven districts, each of which corresponds to a Karen National Liberation Army (KNLA) brigade area.²³ The districts are divided into twenty-eight townships and then into groups of villages administered as a unit by the KNU—that is, in areas where the KNU still exercises some influence. This civilian structure is paralleled by an often more extensive KNLA military administration.

The majority of the Karen live in Tenasserim Division (KNU Mergui-Tavoy District), eastern Pegu (or Bago) Division (which overlaps with Nyaunglebin District), Mon State (which overlaps with parts of Duplaya and Thaton Districts), and the Irrawaddy Division, areas that are mostly government-controlled.²⁴ Neither the government nor the KNU has ever conducted a reliable population survey. However, a report issued in 1998 estimated the population of Kaw Thoo Lei at between 2-2.4 million people, or about half the Karen population of Burma.²⁵

²⁰ Burma Ethnic Research Group (BERG), *Forgotten Victims of a Hidden War: Internally Displaced Karen in Burma* (Chiang Mai April 1998), p. 34.

²¹ *Ibid.* p. 8.

²² *Kaw Thoo Lei* may be translated as either 'the land burned black' (by 'slash-and-burn' farming, or by warfare), 'the pure land,' or 'the land of the *thoo lei* plant' (i.e. 'flowerland').

²³ Brigade 1 – Thaton District, Brigade 2—Taungoo District, Brigade 3 – Nyaunglebin (or Kler Lwee Htoo) District, Brigade 4 – Mergui-Tavoy District, Brigade 5 – Papun (or Mudraw) District, Brigade 6 – Duplaya District, Brigade 7 – Pa'an District. In addition, the KNLA deploys a number of Special Battalions, based in economically important border areas, and personally loyal to the family of General Bo Mya.

²⁴ The Burmese government's territorial administration divides the country into seven predominantly ethnic-nationality populated States and seven mainly Burman-populated Divisions. The KNU administration divides Kaw Thoo Lei (which roughly overlaps with Karen State and Tenasserim Division) into seven Districts, each of which is composed of a number of Townships.

²⁵ Burma Ethnic Research Group (BERG), *Forgotten Victims of a Hidden War*, p. 11.

The Karen have been subject to repeated displacement. For example, following the introduction of the “Four Cuts” in 1974-5, approximately forty-three villages in the Nyaunglebin District were forcibly relocated at least twice.²⁶ According to the highly respected Thailand Burma Border Consortium (TBBC), there were eighteen thousand IDPs in eastern Pegu Division in mid-2004, while a community-based organization working inside Burma reported as many as 29,807 people displaced in the same area at government-controlled sites alone. Similarly, in Papun District, a “Four Cuts” operation beginning in the mid-1970s displaced an estimated fifty thousand people.²⁷ Further *Tatmadaw* operations caused about nine thousand refugees to flee to Thailand in 1996 alone.²⁸

Although Karen nationalists have resisted Rangoon’s domination for more than fifty years, their internal divisions have been equally persistent, making it difficult to articulate a unified position on behalf of the entire nationality group. It has also been easier for the military government in Rangoon to “divide and conquer” the Karen.

Like most ethnic insurgent groups, the KNU has claimed to be fighting for democracy in Burma—especially since the great 1988 “democracy uprising.” Although the KNU retains a sometimes contested legitimacy in many Karen communities, the democratic ideal has not always been honored in practice, and the liberated zones have often been characterized by a top-down tributary political system, aspects of which recall pre-colonial forms of socio-political organization.

After a series of military setbacks, dating back to the 1970s, and with greatly diminished support from the Thai government and army, the KNU today is a greatly weakened force. The KNLA still has some five thousand-seven thousand soldiers, but it no longer represents a significant military threat to the SPDC.²⁹ However, the KNU’s longevity

²⁶ Earth Rights International (ERI) and Karen Environment and Social Action Network (KESAN), *Capitalizing on Conflict: How Logging and Mining Contribute to Environmental Destruction in Burma* (October 2003), pp. 26-34.

²⁷ Burma Ethnic Research Group (BERG), *Forgotten Victims of a Hidden War*, p. 28.

²⁸ In 1998 BERG estimated that 69 percent of the populations of Papun and Thaton Districts were IDPs. Papun District reportedly contained the largest number of IDPs in Kaw Thoo Lei: forty thousand people: Burma Ethnic Research Group (BERG), *Forgotten Victims of a Hidden War*, p. 32 & 35; see also CIDKP (December 2000), which estimated that there were 37,007 IDPs in the district, in 2000. Of these, some 16,877 people (2,890 families) were so short of food supplies that they were reduced to eating only rice soup (rather than boiled rice).

²⁹ These soldiers are deployed in seven brigades, including mobile battalions and village militia, and well over a thousand active political cadres, including youth and women’s wings. About eight hundred regular KNLA troops operate in the Third and Fifth Brigade areas. The KNLA has a uniform code of conduct for its soldiers, organizational and rank structure adapted from British army principles, visible and standard insignia, and common and clearly identifiable uniforms that easily differentiate its soldiers from the civilian population.

alone brings it considerable credibility among the wider Burmese opposition. It is also still considered a key player by elements within the SPDC.

Like other insurgent organizations in Burma, the KNU has an interest in controlling, or at least maintaining, populations in traditionally Karen lands—as a source of legitimacy, and of food, intelligence, volunteer soldiers, and porters. KNLA soldiers regularly organize village evacuations to protect villagers from *Tatmadaw* incursions.³⁰ However, cases of KNLA soldiers purposefully targeting civilians are rare. Since the provisional ceasefire in 2003 there has been virtually no displacement as a result of KNLA offensive operations.

In an incident that has undermined intra-Karen relations along the border for a decade, disaffected Buddhist Pwo-speaking KNLA soldiers who felt excluded by the dominant Christian S'ghaw-speaking KNU elite broke from the mainstream Karen insurgent group in December 1994. The establishment of the Democratic Karen Buddhist Organization (DKBO) and Army (DKBA) in December 1994, which may have taken place with encouragement from local *Tatmadaw* units, also reflected legitimate grievances among the KNU rank-and-file regarding the Christian-dominated organization's alleged discrimination against the Buddhist majority in Kaw Thoo Lei.

The emergence of the DKBA consolidated a major split in the Karen insurgent ranks. The DKBA command-and-control structure is weak, and many of these units enjoy almost complete autonomy, and/or answer to local *Tatmadaw* commanders. DKBA troop strength is difficult to gauge. Informed sources suggest that the number of active soldiers is about three thousand-four thousand. It currently fields three brigades.³¹

³⁰ This report documents human rights violations leading to internal displacement. It does not attempt to document all abuses by government forces or armed ethnic groups. It should be noted that in the past the KNLA has carried out well-documented human rights violations such as extrajudicial killings and extortion and has been involved in the illegal logging trade that affects the civilian population. There continue to be some reports of forced labor. Villagers taken as porters for the KNLA reportedly worked without payment, but sometimes received rice from other villagers. Villagers were usually required to work for a day or two. While some Karen justified such human rights abuses in the name of solidarity with the struggle against the SPDC—"They are our Karen people and protect us" is a common sentiment expressed—other Karen interviewees expressed anger at the KNLA's forced conscription of porters and soldiers.

³¹ The DKBA currently fields three brigades: 333 Brigade in Thaton District, Nyaunglebin District and Southwest Papun District; 555 Brigade in northern Pa'an District; and 999 Brigade in Pa'an District (including the 999 Special Battalion, led by Maung Chit Thu); plus the 160-man Ka Sah Wah Battalion (previously 777 Brigade) in southeast Papun district (Dweh Lo and Bu Tho townships). There are also several units directly controlled by the DKBA leadership in Myaing Gyi Ngu (central Pa'an District), including battalions in the Ye-Three Pagodas Pass area, and the Phalu-Waley area of Duplaya District. DKBA 999 Special Battalion "has been pursuing ... conscription campaign. Each village in Ta Greh township is required to provide one person each year... The DKBA have told the villagers, 'If you can't give money, you have to give people. If you can't give any of this, we

The DKBA often acts as a proxy militia army for the *Tatmadaw*, deflecting some criticism for the state's harsh policies. Like the *Tatmadaw*, it uses displacement as a means of controlling populations and resources and undermining its rivals. Between 1995-98 it instigated at least twelve major attacks on KNU-controlled refugee camps in Thailand, killing more than twenty people,³² and it has launched attacks on KNLA positions following the announcement of a provisional KNU-SPDC ceasefire. In addition, many DKBA commanders and soldiers must be considered conflict entrepreneurs who have been personally empowered and enriched as a result of the fighting.

Since the fall from power in October 2004 of General Khin Nyunt, a number of militias have come under pressure to hand over their arms to the government. Several DKBA units in particular are under pressure to surrender to the *Tatmadaw*. As result a number of Karen soldiers have returned to the KNU in 2005.³³ In late May, reports emerged that DKBA units were beginning to withdraw from parts of northern Karen State, including Nyaunglebin District, and being replaced by the *Tatmadaw*.

Ceasefires

Until 1989, the *Tatmadaw* had been fighting two interconnected civil wars: one against the ethnic nationalist insurgents, and another against the Communist Party of Burma (CPB). The CPB collapsed in early 1989 and disintegrated into four ethnic militias, which quickly agreed to ceasefires with Rangoon.

Since 1989, ceasefire arrangements have been made with some twenty-eight armed ethnic nationality groups. The nature of the ceasefire agreements are not uniform, although in all cases the ex-insurgents have retained their arms and still control sometimes extensive blocks of territory (in recognition of the military situation on the ground). The ceasefires are not peace treaties, and generally lack all but the most rudimentary accommodation of the ex-insurgents' political and developmental demands. These agreements have been dismissed by some as benefiting vested interests in the military regime and insurgent hierarchies. Civilians in these 'ceasefire areas' still experience a wide range of problems.

However, in many cases there is also something of a peace dividend from the ceasefires. Human rights abuses, displacement, and livelihood issues are considerably less acute in

will come to your village and we will force you to do whatever labor we want": Karen Human Rights Group (KHRG), March 3, 2004, #2004-U1.

³² Images Asia, *A Question of Security* (Chiang Mai 1998).

³³ Human Rights Watch interview, May 6, 2005.

ceasefire areas, so much so that the TBBC reports that the IDP population in those areas has increased, as IDPs move out of war zones and into ceasefire zones. While many violations continue, such as forced labor, land confiscation, and arbitrary taxation, in areas where ceasefires have held serious violations against the integrity of the person, such as extrajudicial killings and torture, have decreased.³⁴ This pattern is already emerging in post-armed conflict Karen areas.

The variable vulnerability to abuse is illustrated by the TBBC's October 2004 report on "Internal Displacement and Vulnerability in Eastern Burma." The report stated that "the internally displaced population in ceasefire areas has increased by between 20-30 percent during the past two years," as IDPs in hiding move to relatively more secure areas.³⁵ A range of indicators show that conditions for IDPs in ceasefire areas are significantly better than in free-fire zones or relocation sites. Reports of human rights abuses (with the exception of forced labor and local "taxes," which are extracted by ceasefire groups) are lower in ceasefire areas than in free-fire areas, partial/mixed administration areas or relocation sites.³⁶ People in ceasefire areas are reportedly less likely to be forcibly displaced (on average, 0.2 times/year) than those in free-fire areas (1.4 times), partial/mixed administration areas (0.3 times), or relocation sites (1 time), and are also less likely to become casualties of war (0.2 percent, compared to a range in other situations of between 0.3-2.2 percent).³⁷

One crucial but largely unrecognized benefit of the ceasefire process is the rise of community-based organizations (CBOs). These not only address humanitarian and developmental needs, but also make it possible to debate and articulate their communities' specific concerns. Whether the ceasefire process can be sustained, and move from the current negative peace—characterized by a significant decrease in armed conflict—into a positive, peace-building phase, will be fundamental to the success of reconstruction and national reconciliation efforts.

In this climate of risk and uncertainty, the KNU, Burma's most significant remaining insurgent group, has been attempting to negotiate a ceasefire with Rangoon. On December 10, 2003, the KNU announced a "gentlemen's agreement" to stop fighting,

³⁴ Field Notes, February 22 and 25, 2005.

³⁵ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability in Eastern Burma* (October 2004), p. 22.

³⁶ *Ibid.* p. 75.

³⁷ People in Ceasefire Areas are more likely to cultivate paddy fields (49 percent) – as opposed to less food – secure swidden cultivation – than those in Free-fire Areas (14 percent), Partial/Mixed Administration Areas (32 percent) or Relocation Sites (27 percent); they also have better access to education (but not to health) services: *ibid.* pp. 76-80.

shortly after an exploratory meeting in Rangoon between military intelligence officers and a team selected by KNU Vice-Chairman General Bo Mya. These were the first KNU-government contacts since 1995-96.

Following the announcement, both the KNU and SPDC ordered their military units to cease offensive operations. However, the *Tatmadaw* subsequently repeatedly violated the agreement. Talks continued in Rangoon in mid-January and in Moulmein in February.³⁸ These yielded a vague “agreement in principle,” with specifics to be discussed over the coming year. The KNU pressed to establish concrete mechanisms to address human rights and other ceasefire violations, and to discuss the urgent needs of IDPs and other conflict-affected civilians.

During the January 2004 talks, a military government representative for the first time admitted that the *Tatmadaw* had engaged in extensive population relocations, as part of its counter-insurgent strategy. He also accepted that, with an end to the fighting, these people might be able to go home, and receive appropriate assistance.³⁹ But the next round of talks was delayed for several months, following an incident on February 23 in which KNLA 3rd Brigade troops attacked a *Tatmadaw* camp in western Nyaunglebin District, killing several soldiers and liberating weapons and some communications equipment. Although the KNLA returned the seized material, the SPDC used this ceasefire violation as a ground to further delay talks.

In March 2004 Paulo Sergio Pinheiro, the United Nations “Special Rapporteur on the situation of human rights in Myanmar,” stated that:

Among other related positive developments, the most notable is the resumption of peace talks between the Government and the largest armed opposition group, the Karen National Union. Were human rights commitments to be built into an agreement, this process could significantly improve not only the human rights situation in ethnic minority areas, but also the political climate throughout Burma.⁴⁰

³⁸ At the January talks the KNU was represented by General Bo Mya. In February, it was represented by Joint Secretary Lt-Col Htoo Htoo Lay and foreign affairs chief David Taw.

³⁹ Human Rights Watch interviews with KNU officials in Bangkok and Mae Sot, September 9, 2004 and October 2-7, 2004.

⁴⁰ *Oral Statement by Mr. Paulo Sergio Pinheiro, Special Rapporteur on the situation of human rights in Burma*, 60th Session of the Commission on Human Rights (Geneva, March 26, 2004).

The next few months will determine whether or not a KNU-SPDC ceasefire will be achieved and deliver a substantial improvement in the human rights situation, creating the space in which local and international organizations can begin to address the urgent needs of Karen villagers.

The Monk's Story⁴¹

I was born at Hgaw Klar. My parents were 'slash and burn' farmers. Then we moved to Paw Mu Lah Hta, and stayed for three years. There was no school and no hospital. If we got sick, we had to buy medicines at nearby Mae Wai. After three years we returned to Hgaw Klar, to do irrigated paddy cultivation. My mother died, and one year later my father got married again. By that time I was five years old.

Then we moved to Pau War Der, to do 'slash and burn' cultivation again. We also got income from dock-fruits. There was a school, which went up to fourth standard.

In 1978-78, when I was twenty-one years old, *Tatmadaw* Infantry Battalion No. 30 undertook military operations in the area. While we were fleeing to Ta Kaw Khi, one man was shot and wounded. We had no western medicine, so we used traditional cures. He recovered from the wound, but later got a high fever and died. He was fifty years old. During that military operation many people were killed in the area.

In June 1997 we were captured by the *Tatmadaw*. We were taken back to Shwe Kyin town, where we were kept at Klaw Maw Kho [relocation site]. There was no school, but there was a small hospital. Two villagers from Ga Lay Der died there. After two years, I fled and came back to Ner Khi. Then, because the *Tatmadaw* attacked in 2002, I fled into Htee Kho Khi, in the jungle. After one year, I moved to Thwa Hta.

My present monastery is made of bamboo. The daka [Buddhist villagers who donate to the monks] give me food, such as paddy and rice, salt and fish paste. The monastery's main income is rice and paddy, donated together with a little money by the daka, who support our religious work.

If we have money we buy medicines, and the daka sometimes donate medicines as well. If the illness is not serious, we buy medicine and we drink it at the monastery. I got sick once and went to the hospital, where I got malaria medicines. Most sick people in the village have diarrhea and vomiting diseases, or a cough with vomited blood, which they say is tuberculosis. These kinds of diseases are common.

The village school was established by Kaw Thoo Lei [the KNU] and local a Karen NGO. I think that there are enough teachers. They carried back the school materials from the eastern part of the state – maybe from [the KNU base at] Day Bu Noh, although I don't know much about this. To begin with, when we built the school, it was only first standard; later we extended it up to third standard, and later fourth standard.

⁴¹ Human Rights Watch interview June 2003, conducted at Thwa Hta village, Papun District (comments in parenthesis added).

The main problem in our area is that the *Tatmadaw* attack people, and villagers are unable to support themselves. They face food shortages, have less money and have health care problems.

For example, Saw Pah Lay was shot and killed by the *Tatmadaw* while he was harvesting in his paddy farm. People kept watch, but the column came by another path, and shot the people who were harvesting; only Saw Pah Lay was hit. Another villager, Nay Pwe Moo Pah, trod on a landmine and was killed. Battles took place in the area more than ten times.

III. Human Rights Abuses of the Karen

*In this country, order is the law. Everybody in Burma knows that if you make just one mistake—in word or deed—you’ll end up in jail.*⁴²

Human rights and humanitarian law violations in Karen state

The consequences of the “mistake” of being perceived as an opponent of the SPDC in majority Burman areas of the country have been well documented. But until recently, less attention has focused on widespread human rights violations in ethnic nationality areas of Burma, particularly those inhabited by the Karen. This section documents ethnicity-based persecution by *Tatmadaw* military assaults on the civilian population, including killings, rape, forced labor, and repeated displacement.

International humanitarian law prohibits acts or threats of violence, the primary purpose of which is to spread terror among the civilian population.⁴³ All sides in the ongoing armed conflicts in Burma are bound by international humanitarian law (the laws of war). Under the 1949 Geneva Conventions, which Burma ratified in 1992, the conflict with the KNLA is considered a non-international (internal) armed conflict. During an internal armed conflict, government armed forces and their proxy forces and armed opposition groups must abide by Common Article III to the Geneva Conventions as well as customary international humanitarian law. Common Article III as well as international human rights law prohibits the murder, torture or other mistreatment of captured combatants and civilians. Customary international humanitarian law further prohibits attacks against individual civilians, the civilian population and civilian objects, such as homes and temples. Attacks on military targets that cause indiscriminate or disproportionate harm to the civilian population are likewise prohibited.⁴⁴

⁴²: Human Rights Watch interview with Rangoon taxi driver, September 16, 2004.

⁴³ See Geneva Conventions, Protocol II, Article 13. Most of the provisions of Protocol II, which applies during non-international armed conflicts, are considered reflective of customary international law.

⁴⁴ Geneva Conventions, Common Article 3: Convention (IV) relative to the Protection of Civilian Persons in Time of War Common, August 12, 1949. See also Jean-Marie Henckaerts and Louise Doswald-Beck, Customary

The *Tatmadaw* has committed atrocities with the apparent aim to instill fear in the civilian population for several decades. It has attempted to maintain control throughout Karen areas by brutalizing the civilian population. Echoing the logic of the “Four Cuts,” military officials defend their actions as necessary in the prosecution of a protracted war against rurally based guerillas.⁴⁵ Over the years, *Tatmadaw* forces have conducted repeated military assaults against ethnic minority villages in which there were no armed opposition forces or other apparent military target. Furthermore, upon taking control of such villages, *Tatmadaw* personnel have frequently committed abuses against the residents. These atrocities appear designed to instill terror in the civilian population and ultimately weaken opposition to the government.

Nearly all witnesses described the *Tatmadaw*'s attacks as targeting civilians at random and without an immediate military objective. H.D.'s story encompasses many of the violations experienced by the Karen. She is a sixty-seven-year-old S'ghaw Karen woman who moved to Ka Law Gaw Village on the Thai-Burma border as a settler nine years ago. Before that time she claimed that internal displacement was part of her life, and that she has moved “over one hundred times.” She has been made to participate in forced labor many times in her life. She can speak Burmese as she was once a village leader in an SPDC controlled area of Karen State.

Before when I lived in another village, I was a village head. Burmese troops treated us very bad and used men as porters and beat some men to death. One SPDC officer asked me if SPDC do good work or bad work? He wanted to know if I preferred SPDC or KNU? I said I didn't know and that the political situation is still on a journey and we will see—whichever takes us to the end is good. I was afraid when I spoke to that officer. I cannot count [how many times I have had to do forced labor]. I have many times been made to show the way. I am very afraid when I have to do this at night. Many times I have been made to carry supplies for one day.

One night I stayed in a cave. It was very uncomfortable ground. It smelled bad and we were all afraid. The next day I was crawling along

International Humanitarian Law (Cambridge: Cambridge Univ. Press, 2005) (Ed. ICRC). Under Common Article 3 to the Geneva Conventions and customary international humanitarian law, government forces and opposition armed groups must treat civilians and captured combatants humanely. Inhumane treatment includes murder, torture and other mistreatment, rape and other sexual violence, arbitrary deprivation of liberty, and forced labor.

⁴⁵ Robert Taylor, “Government Responses to Armed communist and Separatist Movements: Burma, in Chandran Jeshurun,” in *Governments and Rebellions in Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 1985).

the ground and I looked up to see a Thai soldier standing in front of me. He told me to go back to my village. I told him the SPDC was there, I cannot go back. I was afraid of this soldier. Finally he said to come in [to Thailand]. The Thai soldiers kept us in the cave for two nights, then they took us to the monastery [in Thailand] until today...I only carried my granddaughter when I ran.

Another case reported to Human Rights Watch typifies the types of abuses committed:

After I harvest the paddy they come and take it all. I have a little left. When the doo-dar [enemy] come into my house I am afraid and think they will rape me. They call me moe- moe [“mother-mother”] to show respect then take everything. A soldier came into my house and began to speak to me, but I cannot understand so I just ignored him. He became angry and threatened me with his knife then took the pot of rice I was cooking. The soldiers are always suspicious and don’t trust us. They always ask where are the Karen soldiers. The Burmese soldiers are bad people. I tremble when I see them. I cannot approach [them]. The soldiers...gave us nothing...they only took from us.⁴⁶

H.T., a twenty-eight-year-old Karen from Dooplaya District along the Thai-Burma border near Tak Province, is married with one child. He said that on January 10, 2005—Karen New Year—local SPDC and KNU commanders had worked out a local ceasefire so that the New Year celebrations would not be disrupted. When a messenger sent by the SPDC from another village arrived with an order for the village head to go to the local SPDC column base thirty minutes away, he knew that something was going to happen.

The KNU soldiers were in our village celebrating Karen New Year. The SPDC got very angry and wanted to come to the village. The village head went to negotiate with the SPDC officer five times. The last time three monks and a religious teacher also went to talk to the officer so that they would not attack. In the village a KNU officer, Ner Dah Mya, 201 Special Battalion Commanding Officer, spoke to a DKBA officer who was with the SPDC soldiers to try and stop the fighting. DKBA gave the radio to the SPDC officer but he just shut off the radio. He did not want to talk with KNU. Just attack. Twenty – thirty families stayed

⁴⁶ Human Rights Watch interview with woman at Ler Per Her IDP village, January 8, 2005.

on the Karen side on Monday night. Many of them were hiding in a cave. The others went to the Thai side. On Tuesday nearly 350 people went to the monastery inside Thailand traveling in small groups.⁴⁷

Given these civilians' geographical proximity to the Thai border, it is common for them to seek shelter from *Tatmadaw* assaults there. In some cases, the Thai military is helpful to them.

N.B., a forty-six-year-old S'ghaw Karen farmer, fled the *Tatmadaw* into Thailand two days before Human Rights Watch interviewed her in January 2005. She spent two nights on the borderline in a cave hiding from SPDC soldiers. Thai soldiers let her come into Thailand where she spent two nights in a monastery with the rest of the people who had fled the fighting. According to N.B., this was the third time in her life she had been forced to flee.

We were afraid that SPDC would come. The fighting started on Monday, Burmese soldiers came, saw two KNU soldiers and started shooting. On Wednesday [January 12, 2005], four people went back to the village and SPDC took them. We don't know what happened to them.⁴⁸

Despite the ongoing ceasefire negotiations between the KNU and the SPDC, abuses of Karen civilians have continued. In December 2003 the *Tatmadaw* launched a major offensive against the KNU in northern Lu Thaw township and against the Karenni National Progressive Party (KNPP) in southern Karenni (a short-lived SLORC-KNPP ceasefire broke down in 1995). Like most post-ceasefire military operations, this campaign specifically targeted the civilian population, displacing some 5,500 people, from nineteen villages. The Karen Human Rights Group (KHRG) documented the arrest and summary execution of at least thirty-one civilians in Nyaunglebin District during the period of the ceasefire.⁴⁹ The KHRG reported in September 2004 that "villagers have been summarily executed by SPDC columns."⁵⁰ There is considerable evidence of further abuses, including summary executions, torture, and looting.⁵¹

⁴⁷ Human Rights Watch interview, Thai-Burma border, January 14, 2005.

⁴⁸ Human Rights Watch interview, Thai-Burma border, January 14, 2005.

⁴⁹ Ibid.

⁵⁰ Karen Human Rights Group (KHRG), "Papun and Nyaunglebin Districts: Continued Oppression During the Ceasefire," September 9, 2004, KHRG #2004-U2.

⁵¹ The Free Burma Rangers (FBR) report that on February 26, 2004, Tatmadaw Battalion 264 arrested and killed 6 Krow Pu villagers (Mone Township), while they were collecting betel leaves: Saw Moo La (aged twenty-

Since mid-February 2004, occasional skirmishes have displaced at least two thousand civilians around Mawchi in Southwest Karenni State, where no ceasefire has been agreed.⁵²

In addition to attacks directed against civilians, the *Tatmadaw* also represses Karen villagers by stealing, extorting, or destroying their personal property. Customary international humanitarian law prohibits pillage, the forcible taking of private property, and looting. Attacking or destroying objects indispensable to the civilian population, such as food supplies or livestock, are also prohibited, unless such objects are being used as sustenance solely by enemy forces. Collective punishments against a civilian population violate international law.⁵³

Such abuses have been particularly acute since 1998, when *Tatmadaw* battalions were ordered to be self-reliant for food. Since then, the army has been living off the land. Such actions only augment poverty, displacement, and resentment. The KHRG has reported that during the ceasefire negotiations, “SPDC military units have also continued to demand building materials, food, and money from the villagers.

Looting by Burmese troops was a common theme in accounts by the displaced Karen. According to a forty-seven-year-old man:

In 2000 my parents went back into the mountains, to tend their betel nut trees and rice field. While they were weeding the fields, troops from Burma Army Battalion 48 came and shot them, without question. The troops took their livestock and belongings, including 90,000 Kyat in

eight), Saw Htoo Kyaw Say (aged forty-five), Saw Htoo Wee (aged thirty), Saw Tha Wah (age twenty-two), Saw Taw Nay Htoo (aged twenty-two) and Saw Kree Neh (aged twenty-three). On February 27, 2004 (the next day) the same Battalion 264 arrested and killed two Sha Kyaw villagers. On February 28, 2004 (the next day), the battalion arrested and killed two Pa Koh Koh villagers. On March 5, 2004, Battalion 30 entered T’Paw Lay Kro village (Hsaw Htee Township), and burnt down the church and other buildings. The same day, Battalion 589 (or 598) burnt down M’Kaw Htaw village. On April 29, 2004, Battalion 382 attacked Thaw Nge Der village (Kyauk Gyi Township), shooting and killing a villager, Saw Oo Aye (aged twenty-two). The Free Burma Rangers have also reported on the extensive use of torture, the destruction of villages, forced labor, and looting by the *Tatmadaw* in Nyaunglebin District in September-October 2004, (FBR Mission in Kler Lwe Htu District (Naunglybin District) at Mone Township, September 27-October 16, 2004.

⁵² On September 27, 2004, *Tatmadaw* Battalions 559 and LIB 224 attacked the KNLA No. 203 Special Battalion base at Hsaw K’daw Hta (Na Ker Praw) in Tenasserim Division (west of Chumpon, Thailand), killing three villagers, and reportedly displacing sixty-two families. Human Rights Watch interview with Karen human rights workers, October 17, 2004.

⁵³ See ICRC Customary International Humanitarian Law, Rules 49-52.

cash, and burnt their hut. The soldiers also shot and killed three men, Saw Tha Pu Loo, Saw Eh Doh Wah, Saw Poh Blay, and injured one.⁵⁴

Soon after the interview was conducted, *Tatmadaw* Battalion 264 troops arrested and killed the man's brother while he was harvesting betel.

A fifty-year-old woman, N.L., from the Nyanglebin District told Human Rights Watch how "In November 2001, *Tatmadaw* troops came into Ko Ker village and burnt down all the houses. They killed the pigs and chickens, destroyed the rice barns, and looted our possessions."⁵⁵

According to K.T., the soldiers came every week:

Sometimes the soldiers stayed for two-three days. They ate food, killed our livestock, mostly chickens, and drank alcohol. The soldiers just point at what they want then take it.

K.T. said that she "walked with my children for one full day to reach the border. I was very afraid of landmines but I came anyway." K.T. told Human Rights Watch that her two daughters died soon after she arrived at the borderline, one in Ler Per Her and the other one in a clinic at Mae La refugee camp. Her youngest son is seriously ill.

LST is a thirty-year-old S'ghaw Karen woman.⁵⁶ She is married with six children. Many of the people that had lived in Mae Ken village in Eastern Hpa-an District had filtered away in the past year to IDP settlements within Karen State or to live in another village. Stealing by SPDC soldiers was constant, and they forced villager to perform menial labor to support the nearby *Tatmadaw* base without compensation. She left the village because the soldiers had taken almost all her possessions and took away most of her small paddy crop yearly.

I dare not stay in the village. The soldiers steal everything from us. We cannot do anymore (stay in the village). We leave because of SPDC soldiers not Ka Thoo Lei soldiers (KNU). They took away all my belongings.

⁵⁴ Human Rights Watch interview with Karen man, Papun District, December 13, 2003.

⁵⁵ Human Rights Watch interview with N.L. at Hor Ker IDP settlement, Papun District, May 2003.

⁵⁶ Human Rights Watch interview with LST at Ler Per Her IDP village, Karen State, January 7, 2005

LST's story also demonstrates that such abuses are not only visited on those living in villages, but also on those already displaced. She had to leave for the border with her family in three groups, as a large group would attract the attention of the army patrols. She could also not carry many household goods because it would have alerted the army that she was fleeing.

I did not carry pots or blankets when we fled because the SPDC would know we were running away. Three times we came across SPDC soldiers. I was scared of talking to the soldiers. We could not understand [their questions] and just pointed. We tried to tell them we were just visiting [another village]. It took me nearly twelve hours to walk here with two children. The men [including her husband] came in six hours but they had no children [to bring].

Again, the KHRG notes that, "SPDC officers also continued to enrich themselves through ... extortion of money during the early part of 2004." Recent reports from Nyaunglebin District indicate that the *Tatmadaw* has continued to extort cash, goods and labor from villagers throughout the period of the 'ceasefire'. Army units in the area have reportedly been ordered to collect 100,000 Kyat per month (approximately U.S.\$100) from villagers, for a "front line military fund," of which 80,000 Kyat is reportedly transferred to the *Tatmadaw* Southeast Regional Command headquarters. In total, local KNU sources estimate that 10 million Kyat was extorted from villagers in Nyaunglebin District, in the first half of 2004.⁵⁷

Another villager described the events that led her to flee:

In 1997, the Burma Army shot my brother in the bladder. He bled to death. Later, in 2002 in Baw Gwa village, Burma Army troops twice destroyed our rice barns. The second time, they also burnt our houses while we were hiding in the forest. We were so scared. Later, when we crept back to the village, we had nothing to eat and nowhere to sleep. We were still scared, but also hungry— and angry too. Now, whenever I hear of or see the Burmese soldiers, my heart beats quickly, and I get all shaky and nervous.⁵⁸

⁵⁷ CIDKP/ KNU Nyaunglebin District documents on file at Human Rights Watch, October 2004.

⁵⁸ Human Rights Watch interview at Hor Ker IDP settlement, Papun Distric, May 2003.

In addition to direct attacks on civilians, Burmese troops often destroy the livelihood of the Karen villagers they target, as reflected in many of the accounts above.

A villager explained how she was displaced:

In 1998 Burma Army troops came to Da Baw Kee village, and asked us to move all of our rice from jungle hiding places into the centre of the village. They said that if we did not obey them, they would burn all our rice and houses. When we had finished moving the rice, they burnt down all of our houses and rice barns anyway (including the newly transported rice too). Then they told us to move to Mae Wai relocation village, or to Ko Sh'rot. Some villagers moved as instructed, but others fled to the jungle.⁵⁹

It is clear from the testimony that in many cases Burmese troops were either attempting to prevent the Karen villagers from surviving in their villages, or gathering provisions for their own needs with total disregard for the civilians.

Forced labor

Despite repeated denials by the SPDC, the *Tatmadaw* continues to conscript local villagers in Karen areas, including children, to work either as army porters or as unpaid laborers. Many villagers told Human Rights Watch that they fled as a result of these practices, thus maintaining the cycle of abuse and displacement. In addition, since January 2004, the SPDC has also expanded forcible conscription into local militias, which must be supported financially by villagers.⁶⁰

Uncompensated or abusive forced labor is prohibited under international human rights and humanitarian law. International Labor Organization (ILO) Convention No. 29, the Forced Labor Convention, defines forced or compulsory labor as “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.”⁶¹ The ILO took the unusual step of appointing a Commission of Inquiry to investigate violations of the Convention in Burma and in 1998 it issued a comprehensive report that found the government “guilty

⁵⁹ Human Rights Watch interview at Hor Ker IDP settlement, Papun Distric, May 2003.

⁶⁰ CIDKP/ KNU documents on file at Human Rights Watch, October 2003.

⁶¹ Force Labor Convention, art. 1. Burma signed the Forced Labor Convention in 1955.

of an international crime that is also, if committed in a widespread or systematic manner, a crime against humanity.”⁶²

In October 2004 the TBBC reported that “more than half [57 percent of those surveyed, but only 39 percent in Karen State] of internally displaced households have been forced to work without compensation and have been extorted cash or property within the last year.” Furthermore, 52 percent of those surveyed, but only 39 percent in Karen State, had paid illegal taxes over the past year, and 17 percent—9 percent in Karen State—had food supplies destroyed.⁶³ CBOs working inside the country also report that forced labor—including forced portering and payment of “porter fees”—is a major problem for IDPs and others across eastern Burma.⁶⁴

A young man of nineteen described his abduction and forced labor at the hands of the *Tatmadaw*:

I never saw Karen soldiers in the village; only government troops. We faced many problems from the Burma Army. We had to give them money, and build bridges and roads for them, all unpaid. One evening, in August 2003, my mother sent me to the market...on my way home, I was arrested by the Burma Army soldiers, and my arms were tied behind my back. They forced me to get into a truck, which already contained over one hundred people. That night they took us to Taungoo. In the morning they gave us some rice, and then took us to the battalion base at Kyauk Gyi [Ler Doh] town. We were put in a building surrounded by soldiers, where we spent the night. The next day we had to carry rice up the motor road to Mu Then. We eventually arrived at their Ka Pen base, where we stayed for three months.

During that time we cut and carried bamboo for the soldiers, and carried rocks to build their garrison. We were beaten regularly, and had to do lots of very heavy work. We were given very little food, and never any medicines. During those three months I saw six people die of illness. I myself had malaria, and couldn't work properly. However, the troops said that I was being lazy, and punched me on the face and nose, and beat me with a stick on the back of my legs.

⁶² International Labor Organization, “Forced labor in Myanmar (Burma),” July 2, 1998, para. 528.

⁶³ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, pp. 3-4, p. 43 & p. 75.

⁶⁴ Confidential documents on file at Human Rights Watch.

Although we had been warned not to run, I couldn't face this existence anymore, so I decided to escape. My malaria was so bad that I couldn't do the work they forced us to do, so I had to get away. I collected a little rice at night, and then asked permission to go to the lavatory. Then I ran and ran, the whole night! Then I ate my rice and drank some stream water, had a nap, and then set-off again into the jungle. I was quite sick by then, because of the malaria. Also, I had to eat the rice un-cooked, as I had no pot and dared not light a fire!⁶⁵

K.T., a thirty-year-old S'ghaw Karen woman, fled to the border at the end of 2004 because she could no longer endure forced labor and food shortages. Her village, Mae Ken, used to have forty-fifty families, but now there are just a few left. K.T. said that the fighting in the area had decreased in the past two years, but forced labor and stealing by SPDC soldiers was at the same level. According to K.T., there is a *Tatmadaw* battalion base close to the village, about two hours walk away, although the villagers can see the base on top of a hill. The villagers would be used almost every day for forced labor, which could mean carrying supplies from the auto road thirty minutes walk from the base, or for security along paths, cooking for soldiers, or repairing buildings or structures for the soldiers.⁶⁶ She said they did forced labor, and that she had been taken as a porter often when she was young:

All the time, every week. The SPDC change every six months, so we help them carry [equipment]. Every day we must cook for them and carry water.

LST's husband and fellow villagers were forced into serving as *Tatmadaw* porters:

My husband would always hide in the jungle when the SPDC came. When they caught him they made him become a porter. He could not grow crops or work...All my family has done (portering). In the last year two people from my village were taken as porters and stepped on landmines. They died. The SPDC did not inform us. We found out from other people.

⁶⁵ Human Rights Watch interview at Nyaunglebin District, December 26, 2003.

⁶⁶ Human Rights Watch interview at Ler Per Her IDP village, Karen State, January 7, 2005.

Another displaced villager cried as he was interviewed:

I was a Burma Army porter so many times that I can't count. When I was a porter, the army gave me very little to eat. We porters were often beaten. Some were beaten to death by the soldiers. They tied us porters together, so we could not escape, and made us carry heavy loads.

In December 1995, while I was in the front-line as a porter, the Burma Army came to my village, Thi P'Yaw Taw, and killed my wife and two children. They burnt down my house, and looted all of the household and livestock. When I came back to my village, I had nothing to live on. I did nothing for a few years, and then in 1997 I remarried, and had another child. I moved to another village, but still they used to come and take me as a porter. In 2002 the Burma Army again caught me, and I had to be their porter. While I was away, the army again entered my village and killed my new wife and child. I was nearly mad with my bad luck and broken heart.⁶⁷

According to some interviewees, the only way to avoid portering is to pay a bribe.⁶⁸

The Burmese military's use of forced labor and porters causes harm well beyond that suffered by those directly involved. This practice of forced labor contravenes international law and has various serious side-effects, such as a reduction in family productivity and a concomitant inability to pay taxes and other fees, leaving those involved at further risk of forced labor.

In addition, as Karen men escaped their villages to avoid forced labor, they often left their families particularly vulnerable to *Tatmadaw* abuses. The following account is typical of the experience of villagers in northern Karen state:

In 1997 we were living in Da Baw Kee village. My husband fled to the jungle when Burma Army Light Infantry Division No. 77 troops entered the village, because he did not want to be captured and taken as a porter. As I had malaria at the time, I did not flee with my husband, but stayed at home with my five-year-old daughter. The troops came into the house

⁶⁷ Human Rights Watch interview with villager from Baw Lo village, Papun District, May 2003.

⁶⁸ Various interviews, May-July 2003.

where I was lying, and looted everything; they even stepped on my head! One of the soldiers pointed his gun at my daughter, and took the packet of chilies she was holding – our only food. Later, the soldiers returned, and interrogated me about the whereabouts of my husband. The Captain stole my bracelet (which my mother had given me) ‘to give to his wife in Mandalay.’ Although we were hungry, they wouldn’t let us cook, or even go to the toilet.⁶⁹

B.E., a thirty-three-year-old S’ghaw Karen, is now in the Mae La refugee camp in Tak Province in Thailand. The region he used to live in was classified as a “brown area,” meaning it was contested by the *Tatmadaw* and KNLA. His village was a cluster of houses. Most people were farmers, and there was a small school and a clinic. B.E. had lived in the area for most of his life as a farmer, teacher, and part-time medic.

According to B.E., Burmese soldiers would use the villagers for forced labor routinely. He was forced ten times to “show the way” for *Tatmadaw* patrols. This could mean impressments for a day or several days. Often this would entail him guiding *Tatmadaw* patrols through landmine-infested jungle paths. The soldiers treated the people in his village very badly. B.E. said that two Karen women in his village were raped by Burmese army soldiers. He said he was once beaten by a Burmese soldier because he remonstrated with him for stealing a chicken. In late 1998 at a Karen festival, *Tatmadaw* soldiers came into the village.

They didn’t say any words, they just started to beat us. They killed all the livestock, beat people, then left.⁷⁰

In mid-2003, fighting intensified in their area between the *Tatmadaw*, with their DKBA allies, and the KNLA. Forced labor increased to assist the Burmese soldiers to carry their supplies. The village held a meeting after a month of the fighting to decide what to do. Most of the villagers, but not all, decided they should move to the border away from the fighting. They sent one person to contact the KNLA to let them know they would be leaving, and asking instructions on where to go. “No one wanted to leave. But if I stayed in the village I would always be afraid.”

The whole village—thirty families comprising 158 men, women and children—fled nearly a month later. The very morning they fled—September 7—the Burmese soldiers

⁶⁹ Human Rights Watch interview with N.B. and S.M. at Hor Ker IDP settlement, Papun District, May 2003.

⁷⁰ Human Rights Watch interview with B.E. at La Refugee Camp, Tak Province, Thailand, January 7, 2005.

shelled the village with mortar fire, injuring two men and one woman. It took all day to walk through landmine-infested jungle to reach the Moei River that forms the border with Thailand. At the border, they were assisted by KNLA soldiers with small amounts of food, but it was still not safe so they were moved further along the border the next day.

B.E.'s wife was heavily pregnant when they left, and he said she was very afraid of the landmines as they walked. All the people crossed over to the Thai side where they stayed in the jungle at Le Min Jaw, supported by international NGOs. "There was no work to do, we just stayed there." Most of the people arrived in Mae La refugee camp on October 8, 2003, although two families returned to their village in Karen State because family members who were with the DKBA summoned them.

B.E. is not happy to be in the camp, living in a small hut on the steep mountainside.

I don't want to be here but I can't go back. There are so many landmines. How can I go back? Now the DKBA live in the village (area). We cannot go back.

The KNLA also employs some of these tactics. Villagers taken as porters for the KNLA worked without payment, but sometimes received rice from other villagers. Villagers were usually required to work for a day or two. While some Karen justified such human rights violations in the name of solidarity with the struggle against the SPDC, saying they are the same ethnicity and the KNLA protects them,⁷¹ other Karen expressed anger at the KNLA's forced conscription of porters and soldiers.⁷²

IV. Internal Displacement

Internally displaced persons 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.⁷³

⁷¹ Human Rights Watch interviews, May-July 2003.

⁷² Human Rights Watch interview with Karen NGO staff, Rangoon, October 9, 2004.

⁷³ The U.N. Guiding Principles on Internal Displacement (U.N. Document E/CN.4/1998/53/Add.2; November 11, 1998).

The U.N. Guiding Principles on Internal Displacement, from which the above definition of an IDP is taken, provide an authoritative restatement of existing international human rights, humanitarian and refugee law as it relates to the protection of internally displaced persons. The Guiding Principles address all phases of displacement: providing protection against arbitrary displacement; ensuring protection and assistance during displacement; and, establishing guarantees for safe return, resettlement, or reintegration. By drawing heavily on existing law and standards, the Guiding Principles are intended to provide practical guidance to governments, the U.N., and other intergovernmental and nongovernmental organizations in their work with IDPs.

Crucially, the Guiding Principles make no assumptions about whether return, staying put, or resettlement in a new home is the preferable solution for the person concerned. Rather, principles 28-30 emphasize that the authorities must provide IDPs with objective, accurate information and include them in the decision-making processes that lead to their voluntary return or resettlement, or to remaining in the place where they sought refuge.

In practice there is often no clear line as to when a displaced person is no longer considered to be displaced.

Why they are displaced

Forced displacement is a military strategy that depopulates ethnic minority areas and denies insurgents a civilian support base. Forced displacement is prohibited by international humanitarian law: Protocol II to the Geneva Conventions, reflective of customary law, provides that no displacement shall be ordered for reasons related to the conflict, unless civilians must move for their own security or a clear military imperative. Should such displacements have to be carried out, all possible measures must be taken so that the civilian population obtains satisfactory conditions of shelter, hygiene, medical, safety, and nutrition.⁷⁴

In Burma the most common causes of displacement include military operations and direct attacks, human rights abuses, land and crop confiscation—often in the context of state-sponsored development projects—and the placement of landmines in otherwise usable land. Traditionally, Burma's ethnic nationality groups, most of which live in the hills, have responded to oppression by moving further up into the hills. But the strategy

⁷⁴ Geneva Conventions, Protocol II, Article 17.

of organized flight became less viable as borders became more clearly demarcated and patrolled between the 1950s and 1980s. As insurgent groups lost territory to the *Tatmadaw* in the 1990s, displaced people could no longer move further into rebel-controlled “liberated zones” behind the front lines of conflict.

All Karen IDPs interviewed by Human Rights Watch reported that there was often fighting in or near the villages they fled, mostly between the KNLA and *Tatmadaw*; sometimes between the KNLA and DKBA. Villagers fled when they heard that the *Tatmadaw* had arrived near their villages. Such evacuations were usually organized by KNLA troops. As most informants had good reason to fear the *Tatmadaw*, they considered this to be a protective service, allowing them to escape in advance of army patrols.

Sometimes people fled due to forced labor and portage, arbitrary taxation and looting, the destruction of crops and housing, and other human rights abuses experienced over an extended period of time. These cases of people fleeing when a situation became intolerable, due to a series of abuses, illustrate the impact of militarization, chronic insecurity, and counter-insurgency activity on local economies and livelihoods.

Developmental displacement is also now alarmingly common. Forced relocation commonly makes way for—and is conducted to provide forced labor on—road building and other infrastructure projects.⁷⁵ Roads bring a cash economy with them, and add value to land—thus sometimes motivating further expropriation.

Communities have also been forcibly displaced without compensation for other kinds of development projects, including the construction of mines⁷⁶, irrigation systems⁷⁷, and natural gas and oil extraction facilities. In March 1997 the *Tatmadaw* and DKBA forced villagers to move to Mae Wei relocation site, in southwest Papun District, prior to intensive logging activities.⁷⁸ The planned construction of a series of large hydroelectric dams is of similar concern in Karen State. In November 2004 Karen Rivers Watch

⁷⁵ International Labor Organization, “Developments concerning the question of the observance by the Government of Myanmar of the Forced Labor Convention,” 1930 (March 2002). For information on extensive forced labor, in Karen State and elsewhere, since the government’s November 1st 2001 order banning the practice, see Karen Human Rights Group, “Forced Labor Orders Since the Ban: A Compendium of SPDC Order Documents Demanding Forced Labor Since November 2000,” February 8, 2002, KHRG #2002-01.

⁷⁶ In 1999 there were reportedly thirty-five major mines in Burma. Roger Moody/ Canada Pacific Asia Resources Network, *Grave Diggers: A Report on Mining in Burma* (1999), p. 20.

⁷⁷ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 35.

⁷⁸ Earth Rights International (ERI) and Karen Environment and Social Action Network (KESAN), *Capitalizing on Conflict*, p. 34.

(KRW), a coalition of Karen NGOs, reported that three-quarters of the 85 villages in the vicinity of the planned dam sites had been forcibly relocated since 1995, displacing tens of thousands of civilians.⁷⁹ Similar cases can be found across the country, in which ethnic nationality villages were forcibly relocated by the military prior to major infrastructure projects. As KRW noted, “the regime is using ‘development’ to justify its subjugation and militarization of the ethnic-controlled areas...and mask the root causes of civil war in Burma.”⁸⁰

In May 1989 the SLORC initiated a new Border Areas Development Program, ostensibly aimed at improving conditions in the ethnic minority borderlands.⁸¹ Despite SPDC claims to have spent U.S.\$43 million since 1993⁸² building 7,865 kilometers of roads, 763 bridges, 767 schools, fifty-four hospitals, thirty-two rural health care centers, and eighty-one dispensaries in border areas⁸³, the program has done little to alleviate poverty⁸⁴ and primarily served to consolidate military control over the rural population. The program has facilitated the militarization of border areas, bringing remote, previously semi-autonomous regions under centralized state control.

In several cases, “development projects” have in fact induced displacement. In Kachin State, since the ceasefires the government has built roads and bridges on confiscated land, using forced labor. In December 2003 in Mon State, 1,400 houses in three wards of Moulmein were ordered to relocate so that a railway bridge could be built across the Salween River to Martaban (on completion, this will be the longest bridge in Burma). Householders were given one month’s notice to move. Some received nothing, while others received limited compensation (at 70 percent of the calculated value of their property), as well as plots of land at a new (relocation) site in Pat-kin Ward, east of the city. The authorities have forced other Moulmein residents to re-model their houses and streets, according to a standard model.⁸⁵

Forced displacement, termed as unlawful forced evictions, has been condemned under international law. The U.N. Commission on Human Rights in 1993 concluded that

⁷⁹ KRW (November 2004), p. 49

⁸⁰ *Ibid.* p. 3

⁸¹ Ministry of Border Areas and National Races Development, Government of the Union of Myanmar, *Measures Taken For Development of Border Areas and National Races (1989-1992)* (Rangoon 1992).

⁸² Ministry for Progress of Border Areas and National Races and Development Affairs, *Information Pamphlet* (Rangoon 2003).

⁸³ “Myanmar top leader stresses border areas development,” Xinhua News Agency, March 30, 2004.

⁸⁴ Karin Eberhardt, “Myanmar Country Review” (Paper for presentation at III MMSEA Conference, Centre for Biodiversity and Indigenous Knowledge, Lijiang, Yunnan: August 12-18, 2002), p. 9.

⁸⁵ *The Mon Forum*, December 2003.

“forced evictions are a gross violation of human rights.”⁸⁶ The term “forced evictions” has been defined by the U.N. Committee on Economic, Cultural, and Social Rights “as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”⁸⁷

Forced eviction, except where carried out in accordance with the law and in conformity with international due process standards, not only violates the right to adequate housing, but may also result in violations of other rights, such the rights to security of the person and to one’s home.⁸⁸ International law does allow for government exercise of eminent domain under appropriate circumstances. The Economic and Social Rights Committee urged states to ensure that, prior to any evictions, particularly those involving large groups, all feasible alternatives are explored in consultation with affected persons, with a view to avoiding, or at least minimizing, the use of force. Those facing eviction orders must have legal remedies available. And states should see to it that those evicted have a right to adequate compensation for any property affected.⁸⁹

Increasingly restricted access to land causes repeated forced migration. In a few cases, Karen IDPs moved in order to find better land for swidden rice farming. Under normal circumstances, this form of cultivation is rotational within traditionally-recognized village farmlands; not shifting or pioneering cultivation into new territory at the expense of old-growth forests. Although Karen villages do occasionally relocate to better land, this is traditionally done in a manner that many claim does not undermine environmental sustainability. However, armed conflict in these areas do undermine traditional and

⁸⁶ U.N. Commission on Human Rights, Resolution 1993/77, para. 1, See also U.N. Sub-Commission on the Protection and Promotion of Human Rights, Resolution 1998/9 on Forced Evictions, E/CN.4/SUB.2/RES/1998/9, August 20, 1998.

⁸⁷ United Nations Committee on Economic, Social, and Cultural Rights (UNCESCR), General Comment 7, *The right to adequate housing: forced evictions*, Article 11(1) of the Covenant (New York: United Nations, 1997), E/C.12/1997/4.

⁸⁸ According to the United Nations Office of the High Commissioner for Human Rights in its examination of forced evictions in an international human rights framework: “While the right to adequate housing is perhaps the most obvious human right violated by forced evictions, a number of other rights are also affected. The rights to freedom of movement and to choose one’s residence, recognized in many international laws and national constitutions, are infringed when forced evictions occur. The right to security of the person, also widely established, means little in practical terms when people are forcibly evicted with violence, bulldozers and intimidation. Direct governmental harassment, arrests or even killings of community leaders opposing forced evictions are common and violate the rights to life, to freedom of expression and to join organizations of one’s choice. In the majority of eviction cases, crucial rights to information and popular participation are also denied.” U.N. High Commissioner for Human Rights, Fact Sheet no. 25, “Forced Evictions and Human Rights,” 1996 (available at <http://www.unhchr.ch/html/menu6/2/fs25.htm>).

⁸⁹ UNCESCR, General Comment 7, para. 14.

sustainable forms of agriculture, forcing IDPs to adopt more nomadic forms of subsistence.

Moreover, CBOs working inside the country also report that *Tatmadaw* battalions encroach upon and confiscate land to construct garrisons and produce food crops for government troops. Communities may be relocated shortly before harvest time, following which soldiers seize their crops.⁹⁰ Confiscated land is also sold or leased to private agri-companies.⁹¹ Regardless of the purpose, the confiscation clearly contributes to displacement.

How displacement happens

The relocation process usually begins with a *Tatmadaw* column issuing a relocation order. Previously, this was likely to have been a written document, constituting evidence of state-sanctioned abuse. However, relocation orders are more likely to be issued verbally, often at a meeting of village headmen. Villagers are usually given between zero-seven days warning to leave their homes. Sometimes they are told to move to a designated relocation site, but villagers are not told where to go, just to vacate their homes. As Cusano notes, often “people assume a subtly defiant wait-and-see attitude...[and] ignore the first notice.”⁹² When the soldiers return, they usually enforce their orders with vigor.

Human Rights Watch has received a video, shot between February 11-14, 2004, in Nyaunglebin District that includes interviews with people in and from Neh Toh village, Nyaunglebin District (Mone Township), who were in the process of being relocated. When the video was made, some people had left Neh Toh already, while others are seen taking down parts of their houses and moving out—on foot, by bicycle and on bullock cart. Footage of the village—and its big church and good houses—is followed by testimony describing how, ten days earlier, villagers received an order from a *Tatmadaw* Light Infantry Battalion to move to a relocation site, three miles from the nearest *Tatmadaw* base. They were not told why they had to move.⁹³

The process began on October 1, 2003, when *Tatmadaw* Battalion 599, commanded by Major Win Tway, ordered the village to relocate to Ten Kwee, on the Kyauk Gyi-Mone

⁹⁰ Human Rights Watch interview, May 19, 2005.

⁹¹ Confidential documents on file at Human Rights Watch.

⁹² Chris Cusano, “Burma: Displaced Karens: ‘Like water on the Khu Leaf,’” in Mark Vincent and Brigitte Refslund Sorensen (eds), *Caught Between Borders: Response Strategies of the Internally Displaced* (Pluto Press, Norwegian Refugee Council, 2001), p. 149.

⁹³ This testimony has been independently confirmed by KHRG (September 6, 2004, KHRG #2004-U2).

road on fourteen acres of farmland confiscated from local villagers. The deadline for relocation was January 19, 2004, but no villagers moved. On February 2, 2004, the order was repeated and villagers were told to move within two days. Some people emptied their houses and rice barns and proceeded to the new site by bullock cart. The villagers had to build temporary bamboo and leaf lean-to shelters at Ten Kwee. They were not allowed to stay with relatives in nearby villages, nor allowed to forage locally for roofing or building materials.

The new site is in the rice fields, with no shelter. People are beginning to build bamboo lean-tos. Informants describe conditions and restrictions at the relocation site and the forced labor and taxes demanded by the *Tatmadaw*. Those who have moved there now suffer various health problems because they lack food and clean water and must sleep on the ground. They have no access to schools.

The *Tatmadaw* burned the empty houses at Neh Toh, leaving only the Baptist and Catholic churches standing. Adding insult to injury, the villagers also were later forced to “donate” 200,000 Kyat (over U.S.\$200) to Battalion 599.

Often, the relocation area is declared a free-fire zone. Houses, animals and crops are looted and destroyed, and people are raped or shot. Villagers in armed conflict zones are usually prepared to flee at short notice. Karen IDPs typically move as one or two families together; in other cases, whole villages move but split up to avoid *Tatmadaw* patrols. Most have bundles of possessions ready to move quickly, and have often prepared secret rice stores, hidden in the jungle, though the military often searches for and destroys these.

Previous surveys have estimated that IDP households in hiding had to move three to four times per year, although the number of displacement incidents has declined significantly since the announcement in December 2003 of a ceasefire between the KNU and SPDC.⁹⁴

When fleeing, displaced Karens reported they could only move on foot. They hid in the jungle and walked only at night, even in the rain. They carried small pots, pans and rice to cook with on the way, and sometimes some clothes. Often they were afraid of lighting a fire, fearing it would attract *Tatmadaw* attention. As a Karen woman, interviewed in 2003, said:

⁹⁴ Chris Cusano, “Burma: Displaced Karens: ‘Like water on the Khu Leaf,’” p. 4 & p. 44.

It was the rainy season, and we fled for hours to reach the hiding place in the jungle, because the SPDC and KNLA were fighting. When we got there we were so tired, but too scared to light the fire for cooking or to warm ourselves, so we went to sleep without food, under the trees. We didn't care, and weren't scared of leaches any more. If our baby cried, we put a piece of cloth in his mouth to stop him crying.⁹⁵

Some people hide in the forest for few days during the immediate displacement crisis, and then return to their village. *Tatmadaw* columns often return repeatedly to cleared areas, to ensure that they are not re-settled. In the event the military does not return, some villagers will return to re-build their burnt and looted homes and rice barns.

While some IDPs migrate and resettle elsewhere—in temporary jungle settlements, in nearby towns or villages, or as refugees in Thailand—others attempt to hide in the jungle for up to several years. Displaced villagers in hiding are targeted and subjected to human rights abuses, including extra-judicial killing, on suspicion of being rebel supporters. Their temporary shelters, often little more than bamboo lean-tos, are scattered in remote locations, to avoid *Tatmadaw* patrols. They clear small areas of jungle to grow rice, tapioca, yams, and other vegetables, forage for supplementary food, and fish in the streams.⁹⁶ When they run out of rice, they often resort to drinking the much less nutritious boiled rice soup,⁹⁷ though the communities in hiding are known for sharing resources and especially food with each other.⁹⁸ They are also at times able to communicate with family and friends in relocation sites and other government-controlled areas, which sometimes allows them to gain access to food and other items.

Patterns of forced relocation

In mid-2004 the TBBC and partner groups detected “a significant decrease in the number of villages forcibly relocated since the mid-late 1990s ... [due to the *Tatmadaw*'s] consolidating rather than expanding areas of control.”⁹⁹ In reality, consolidating control means placing IDPs in *Tatmadaw*-run relocation sites. These are found across central and southern Shan State, in Karenni, Karen and Mon States and Tenasserim Division, as well

⁹⁵ Human Rights Watch interview with Karen woman at Hor Ker IDP settlement, Papun District, May 2003.

⁹⁶ According to the CIDKP, “for a family of four to hide and survive in Tenasserim Division, they need to clear more than five acres of forest.” See “Reclaiming the Right to Rice,” Burmese Border Consortium, October 2003, p. 14.

⁹⁷ Burma Ethnic Research Group (BERG), *Forgotten Victims of a Hidden War*, p. 38.

⁹⁸ In October 2004 the TBBC reported that 64 percent of IDPs surveyed had borrowed (rice or cash) over the previous year: Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 4.

⁹⁹ *Ibid.* p. 2.

as in parts of central Burma. The TBBC recorded one hundred government-controlled relocation sites in Karen areas, and the overall site population in those areas is probably in excess of 125,000 people. For the purpose of analysis, these sites may be divided into Relocation Centers and Relocation Villages, which vary with respect to the degree of *Tatmadaw* control.

The distinction between different types of relocation sites and organic settlements in Burma is rather arbitrary, particularly in an historical context where some villages in the hills relocate periodically for socio-economic reasons, such as to gain access to new land. Furthermore, it is by no means clear when a relocated settlement stops being a relocation site. Most villages in eastern Burma have experienced displacement at some time over the past half-century, in the context of a protracted civil war and wider state-society conflict. In many cases, people have rebuilt their lives and integrated in new settlements.

Nevertheless, classic style Relocation Centers and Relocation Villages still exist in many areas. The state or *Tatmadaw* sometimes provide a few weeks or few months supply of rice to new arrivals in Relocation Centers, although this has often been taken from other villagers' granaries. In many cases, the government also provides limited education and health services, as it does in much of rural Burma. Access to schools and markets—and protection from further bouts of relocation afforded by residence in relocation sites—explains the reluctance of some residents to leave, even when conditions allow.¹⁰⁰

Relocation Centers

Relocation Centers are designated, constructed settlements rather than “natural” villages. Typically found in lowland areas near infrastructure projects and *Tatmadaw* bases,¹⁰¹ the residents of these centers usually come from a dozen or more outlying villages after they are forced to move by the *Tatmadaw*.

Relocation is usually difficult because new arrivals have no money or possessions and cannot find regular paid work. In addition, many Relocation Centers require residents to hand over their remaining rice stocks to the local authorities, which then ration these back to villagers. Even in sites where residents retain control over their own food stocks, these are likely to be insufficient for subsistence, due to regular looting by the *Tatmadaw*,

¹⁰⁰ In some cases, Karen and Karenni relocation site residents welcome the fact that they no longer have to pay taxes to, or be intimidated by, insurgent groups.

¹⁰¹ In some cases, *Tatmadaw* bases are located in the relocation centers.

restricted access to agricultural land¹⁰², and poor soil quality. Unless the new arrivals have money or relatives in the area, they often cannot acquire any land at Relocation Centers. As a result, food is often quite expensive and there appear to be high rates of chronic malnutrition in Relocation Centers.

Access to water, clinics, medicines, and other social services remain minimal or non-existent. IDPs—even though destitute—are likely to be charged for any medicines available. Large numbers of people are reported to have died of treatable illness, and suicides are apparently also common. While the Relocation Centers do afford some access to state-funded schools and buildings, teachers and books are often in short supply. In addition, school fees are typically charged, and, as is the case in the rest of government-controlled Burma, ethnic nationality children may not study their own languages in school.

People living in Relocation Centers are liable to various—official and unofficial—taxes, and are also often subject to extensive bouts of forced labor on state-sponsored projects, such as roads. Such depredations leave families with little time and human resources to devote to their own survival. In some cases, the amount of labor demanded is so great as to occupy entire families full-time. The only alternative is to pay others to go on their behalf, which most cannot afford.

Relocation Center residents would obviously rather not be displaced again, and therefore many opt to stay in the centers, even after departure becomes an option. Some stay because there are greater market and work opportunities than in their original isolated villages.¹⁰³ Conditions at some sites—typically those that have been established for longer periods of time—are better than others. In some cases, there are schools, some paid work, and communities are able to reestablish their lives. In such cases, residence is often no longer, or not entirely, a product of coercion, and it is debatable whether such new villages should still be considered relocation sites.

However, the lack of food and extremely difficult conditions eventually drive large numbers of residents to flee. In many cases, as in Karenni State in 1999-2002, authorities turn a blind eye to these departures and IDPs are able to return to—and attempt to

¹⁰² Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 46.

¹⁰³ Until late 2003 – when a new round of forced relocation began in the Mawchi area of southern Karenni State – many of those remaining in the half-dozen relocation sites in Karenni State did so because health and education services, markets and jobs were more readily available than in the chronically under-developed and war-torn hills. In contrast however, large numbers of Karen and other villagers continue to reside in relocation sites against their will, in Tenasserim Division and elsewhere.

rebuild—their old villages. In others, such as Tenasserim Division in the same period, departing Relocation Center residents cannot go back to their villages and they join the IDP population hiding in the jungle, among whom are likely to be fellow-villagers who fled following the original relocation orders and chose to take their chances in the hills. Many of these people are subject to further rounds of forcible relocation. A few make it to the uncertain refuge of neighboring Thailand.

Relocation Villages

In addition to Relocation Centers, the SPDC has also used pre-existing settlements as “Relocation Villages.” These are found across large swaths of rural Burma, and in some areas, such as the Tenasserim Division, they are the only villages remaining. The occupants of these villages usually include people who have not been displaced from the area, people moved from nearby hamlets, and IDPs from other previously relocated villages.

Relocation Villages are smaller than Relocation Centers, and more difficult to document and map. They may be situated in areas firmly controlled by government forces, with *Tatmadaw* bases nearby, but are sometimes also found in brown areas, where insurgent forces have some operational capacity. Residents are in general subject to less strict control than those of the big Relocation Centers. While the *Tatmadaw* controls entry and exit, and residents are often forced into labor, they do usually have some opportunity to tend their farms due to greater geographical proximity to their former homes. Some Relocation Villages have schools, though most do not. In some areas, Relocation Villages are allowed to remain in situ—households are moved from the periphery to the centre of the relocation village—if they pledge not to have contact with insurgent forces. The *Tatmadaw* frequently warns such villages that, if any fighting should occur in the area, they will be forced to move.

However, Relocation Village inhabitants suffer the same problems with respect to land confiscation, overcrowding, and disease. A forty-seven-year-old farmer described conditions at one such site:

We had a bamboo house at Plaw Lah Hay Relocation Site, but it was difficult to get enough good bamboo, because we were not allowed out of the Relocation Site. The Burma Army soldiers gave us two pots for cooking, but the rest of our household goods we had to find for ourselves. We had to sell our rice and betel nut crops, which was very difficult. Our family struggled to support ourselves. All the time, the

Burma Army took porters and watchmen, and stole our few possessions.¹⁰⁴

Consequences of displacement

The forty-six Karen interviewed by Human Rights Watch had experienced an average of approximately thirty displacement episodes per person. Following recent major displacement crises in northern Karen State—in 1995, 1997 and 2000—they had moved on average over three times a year.¹⁰⁵

The consequences of repeated displacement are grim and will not be easily remedied in the short term. According to the TBBC, “1 percent of the internally displaced population had been killed or wounded by military assault during the past two years alone.”¹⁰⁶ And not only does displacement—even into Relocation Centers or Villages—often fail to mean an end to human rights violations for IDPs, but it is also extremely difficult for them to achieve security with respect to food, land, and livelihood. The displacement also leaves large tracts of the countryside unable to resist predatory development projects and greater state control.

Displaced parents often leave their children in the care of churches or monasteries in larger villages or towns. Although such circumstances allow for education and greater security, it also leads to family break-ups. The practice is generally discouraged by development agencies’ best practice guidelines unless the families can remain in contact. However, in the context of protracted armed conflict and repeated displacement in

¹⁰⁴ Human Rights Watch interview with displaced Karen farmer, Papun District, June 2003.

¹⁰⁵ Informants from Nyaunglebin District (90 percent) were more likely to have fled direct fighting than those from Papun (76 percent). Papun District IDPs were more likely to have fled due to generalized human rights abuses (8 percent – against 3 percent) or to get better land (13 percent). These results are to be expected, as the Nyaunglebin District informants had fled the boundaries of their home district, and were therefore more likely to be selected for interview as obvious IDPs. The fact that interviews were conducted in Papun District means that a greater range of causes were likely to be mentioned by people from this area, nearly 10 percent of whose displacement episodes were related to traditional agricultural practices. These observations indicate limitations in the project methodology: the data cannot be extrapolated to cover the entire population, even of the displaced population, of northern Karen State. It does seem probable, however, that the results for Papun District more accurately reflect general migration and displacement trends in this area (88 percent of displacement episodes related to armed conflict). Incidents in Nyanglebin District include the March 3, 2004 meeting between Tatmadaw commanders and village headmen from Kyauk Gyi (Ler Doh) Township. The following villages were ordered to relocate, by July 3, 2004: Pay Tu and Sa Leh villages to the Kyauk Gyi-Shwe Kyin motor road; Pa T’la Village Tract to Ain Kyin Kun Relocation Site; Weh La Hta village to Ain Kyin Kun and Ya Myo Aung Relocation Sites; No Graw, Peh Thraw and Shwe Thaw villages to Htee Hta Relocation Site; Thoo K’bee and Nyaw Hta villages to Ain Kyin Kun and Ya Myo Aung Relocation Sites; Way Daw Ko village to Kyaw S’yit Relocation Site; and K’moh Eh and Wei Byin villages to Ain Neh Relocation Site.

¹⁰⁶ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 45.

Karen State, such responses may be the only way of providing children with some security, and minimal access to education.

Areas to which IDPs flee are not necessarily safer. KST is a fifty-three-year-old Pwo Karen woman from Ka Law Gaw Village, Dooplaya District, near the Thai-Burma border (Tak Province). KST told Human Rights Watch she “cannot remember” exactly how many times she has been either forcibly relocated, chose to flee the fighting, or moved because of forced labor duties, but said she has been displaced “over one hundred times” in her life. Human Rights Watch interviewed her days after she fled SPDC attacks on her village with her husband and two young children she cares for. She stayed along the border for two nights, sleeping in the open, before coming into Thailand the following day. The interview was cut short due to a loud explosion nearby, which Karen authorities said was SPDC artillery in the vicinity of Ka Law Gaw village.

Tatmadaw restrictions on movement, ranging from denial of access to farms to mining of farmland¹⁰⁷, undermine food security. Swidden farmers return to their former fallow fields too soon, before the soil has regained its fertility, or have no choice but to clear entirely near swaths of forest. Villagers are essentially forced into harvesting forest products “at unsustainable rates in order to earn enough money to purchase food and other necessities. These factors have contributed to large scale clear-cutting in many areas and a range of environmental problems.”¹⁰⁸

Sustainable livelihoods in these areas are particularly vulnerable to conflict, militarization, and displacement. Among other problems, these factors make it difficult for villagers to tend their fields, and guard against pests such as rats and wild pigs—all factors that further undermine food security. According to the CIDKP, upland farmers in hiding are generally able to harvest only 40 to 50 percent of their crop for the year.¹⁰⁹

In addition, the conflict cuts the long-established links between lowland traders, and Karen and other hill peoples, denying both communities markets for their respective goods. *Tatmadaw* and DKBA blockades in these areas also cause prices for rice and other goods to sharply rise as market access is curtailed. Rice prices in Nyaunglebin District reportedly rose by 25 percent in 2003, to 5,000 Kyat per tine (U.S.\$5 per kg.).¹¹⁰ In many

¹⁰⁷ See Landmine Monitor (September 2003).

¹⁰⁸ Earth Rights International (ERI) and Karen Environment and Social Action Network (KESAN), *Capitalizing on Conflict*, p. 61.

¹⁰⁹ [Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 30.

¹¹⁰ *Ibid.* p. 21.

conflict-affected areas “it is only possible for villagers in hiding to access traders if they can send a message to the towns and KNU can arrange a temporary and unofficial ‘jungle market.’”¹¹¹ As a result, three-quarters of IDPs surveyed by TBBC and partner groups in 2004 had suffered food shortages for at least one month in the previous year, while 20 percent had access to sufficient food for less than three months.¹¹²

IDPs also have virtually no access to health care. The IDP population tends to be disproportionately made up of children, elderly people, widows, orphans, and the disabled¹¹³—in other words, particularly vulnerable groups with already-low life expectancies.¹¹⁴ Child mortality and malnutrition rates among IDPs are “double Burma’s national baseline data and comparable to those recorded amongst internally displaced populations in the Horn of Africa.”¹¹⁵ IDPs interviewed by Human Rights Watch reported their most common ailments as malaria and fever, chicken pox, and serious gastrointestinal problems like diarrhea and dysentery. None of the interviewees had heard of HIV/AIDS.

Access to education is limited for IDPs, particularly beyond the primary level.¹¹⁶ The SPDC claims a national literacy rate of 90 percent, but researchers in Karen State estimated the rate at about 72 percent.¹¹⁷ In most villages where Human Rights Watch interviewees had lived – whether temporary or established settlements – there were no schools. However, many informants reported sending their children to schools in nearby towns and villages, and sometimes to the refugee camps in Thailand, where there are fifty-seven schools for about thirty-six thousand students. A network of some 720 community schools exists across Karen areas of Burma, including six high schools in KNU liberated zones.¹¹⁸ But many of these schools consist of little more than a few bamboo benches under the trees, lack books, pencils, and paper, and are frequently displaced or destroyed. In partnership with local teachers and self-help organizations, the KNU Education Department (KED) attempts to standardize the curriculum and

¹¹¹ Ibid.

¹¹² Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 50.

¹¹³ Ibid. p. 75.

¹¹⁴ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 40.

¹¹⁵ Ibid. pp. 3-5. The actual reported child mortality rate is 2.4 deaths per 10,000 children under five per day, and 16 percent of all children are malnourished, a figure typically considered “acute.”

¹¹⁶ Confidential documents in possession of Human Rights Watch.

¹¹⁷ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 79.

¹¹⁸ Karen Education Department, *School Statistics for Academic Year 2004-05*; Human Rights Watch interviews with Karen educators, Thailand border, October 13-18, 2004.

examinations within this massively under-funded system, which still enjoys close links with schools in the refugee camps.¹¹⁹

When these circumstances threaten IDPs' ability to survive, many attempt to flee to neighboring countries. Most Karen refugees (and many of the more than one million Burmese migrant workers) in Thailand have previously spent several months or years as IDPs in Burma. Since the mid-late 1990s, the journey to Thailand has become increasingly difficult and dangerous, due to the prevalence of landmines, and because the *Tatmadaw* (and Thai military) has sealed the border.

V. Lessons from Ceasefires in Kachin and Mon States

In 1994 and 1995 Kachin and Mon armed groups signed ceasefires with the government. Research conducted by the TBBC in eastern Burma in 2004 and field work conducted by Human Rights Watch in eastern and northern Burma between 2002-2005 demonstrates that living conditions for IDPs in these ceasefire and adjacent government-controlled areas are generally better than in conflict zones or relocation sites. There are, however, ongoing problems with displacement and human rights violations. An analysis of how residents of the affected areas have fared offers an idea of the kinds of issues that need to be addressed so that IDPs benefit as much as possible from any ceasefire that may take place between the KNU and SPDC. Examining the consequences of the 1994 Kachin Independence Organization (KIO) and 1995 New Mon State Party (NMSP) ceasefire agreements may also inform potential domestic and international assistance programs.

Kachin state

Following a ceasefire agreed with the government in 1994, the KIO organized the return of ten thousand refugees from China and helped to resettle about sixty thousand IDPs within Kachin State. Although the KIO and local Kachin NGO resettlement and reconstruction activities generally exhibited poor strategic and site planning due to limited human and financial resources, an impressive range of infrastructure and community development projects was nevertheless implemented.

¹¹⁹ The KED runs one middle school and one high school in Papun District. All other schools in the district are primary level (kindergarten and first standard, sometimes through to fourth standard). The KNLA also runs a few schools in Papun District, and there are also some slightly better equipped mission schools (SDA and Baptist), with links to the churches inside Burma and on the border. A few monasteries also run school classes. Several schools are linked to the state system – and may sometimes be classified as both KNU and SPDC schools.

There has been a limited peace dividend in Kachin State. Most encouraging is the post-ceasefire re-emergence of civil-society networks, although the KIO remains ambivalent regarding the role of civil society groups. Today in Kachin areas there are many more CBOs and local NGOs than before the ceasefire. Such local associations grew out of a war-ravaged population and have provided services to resettled IDPs and others, while slowly building local capacity.

However, the post-ceasefire situation in Kachin State presents a mixed picture. The government's attitude towards the Kachin and other ceasefire areas has been one of neglect—or active obstruction. Kachin leaders claim that the SPDC wants to keep their area underdeveloped and attempts to undermine the KIO's standing within Kachin communities. International donors could have done more to directly support the local population following the ceasefire.

Several other negative developments present worrying precedents. The main cause of post-ceasefire displacement in Kachin State is land rights. Although counter-insurgency motivated forced relocations have stopped, communities continue to still lose their land, due to:

- Post-ceasefire militarization, and farmland confiscated by the *Tatmadaw*. Before the ceasefire, there were four battalions in Bhamo District, southern Kachin State; by 2004, there were eleven, each of which had reportedly confiscated three hundred-four hundred acres of land.
- Up to four thousand people have been displaced by large-scale jade mining around Hpakhant in western Kachin State. Increased post-ceasefire logging and gold mining activities have also brought environmental damage to several areas, as well as charges of corruption against officials of different ceasefire groups.
- Large-scale agriculture projects have also often involved unlawful land confiscation, as has development-induced displacement, such as road, bridge, and airport construction in the state capital of Myitkyina, all of which have been carried out without regard for international standards on forced eviction.

All of these factors have been causes of continued forced displacement since the ceasefire—people are still being displaced, although the reasons have changed. In many cases, the abuses outlined above—particularly land loss, plus the prevalence of forced labor—have undermined villagers' livelihoods so severely that they have had little choice but to migrate either within Burma, or to a neighboring country. Indeed, food insecurity,

loss of livelihood, and lack of access to basic services (such as education and health) are probably the most widespread and chronic causes of forced displacement in Burma.

Mon state

The Mon situation illustrates similar themes. Between 1993-96—and especially after the 1995 New Mon State Party (NMSP) ceasefire—about ten thousand Mon refugees were forced up to and across the border by the Thai authorities. The Mon refugees were repatriated to NMSP-controlled ceasefire zones, with help from international NGOs.

Some refugees returned home, but most remained in limbo, in camp-like conditions just over the border, with only limited access to agricultural land. Although now largely invisible to Thailand and the international community, most of the Mon returnees have still not returned home and continue to face chronic livelihood and food security problems. Most remain partially dependant on decreasing amounts of humanitarian aid. Meanwhile, as a consequence of ongoing human rights abuses and renewed outbreaks of insurgency in Mon State, newly displaced villagers continue to seek refuge in the Mon ceasefire zones.

As in Kachin State, the most serious post-ceasefire problems in Mon State relate to land rights. Since 1998, more than eleven thousand acres of farmland have been confiscated without compensation by the *Tatmadaw*, mostly in order to build new garrisons. Adding insult to injury, farmers have sometimes been forced to work on the confiscated land, building barracks and farming on behalf of the army. Examples of development-induced displacement include the government's practice of building roads and bridges on confiscated land, using forced labor.

Nevertheless, there have also been some positive developments in Mon State over the past decade. An end to the armed conflict has generally improved basic protection of the civilian population, at least in the ceasefire zones.¹²⁰ As in Kachin State, the ceasefires have brought new opportunities to develop agriculture and opportunities for travel and local trade, which is particularly important to villagers. In many villages, livelihoods have improved considerably over the past decade.

Since the ceasefire, the Mon Women's Organization (MWO) has extended its community development and adult literacy activities beyond the NMSP-controlled zones to Mon communities across lower Burma. Also, despite some serious setbacks, in 2004-

¹²⁰ Human Rights Watch interview with ex-KNU ceasefire group officer, May 6, 2005.

05 the NMSP Education Department and Mon CBOs provided Mon language teaching to over one hundred thousand students, approximately 70 percent of whom live in government-controlled areas, an achievement which would have been impossible before the ceasefire.

Lessons learned

There is a lack of impartial, comparative accounts of post-ceasefire developments in Burma. Given the possibility of a KNU-SPDC ceasefire, it is important that all interested parties—the SPDC, ethnic nationality groups, affected populations, CBOs, and international aid and lobbying organizations—have access to accurate information about such relevant past experience. This can help pave the way for sound judgments regarding possible solutions to problems in Karen (and Karreni and Shan) areas, particularly for IDPs.

Recent research conducted in eastern Burma by the TBBC and its local partner groups is encouraging, as indicators show that conditions for IDPs and presumably others are significantly better in ceasefire areas than in government-controlled or war zones.¹²¹ Civilians in ceasefire zones also have better access to education services.¹²² Educational opportunities should continue to be expanded. The involvement of CBOs has been a positive step.

Maintaining the peace while creating sustainable livelihood opportunities will go a long way towards improving the situation of residents. Greater attention should be paid to the limited peace dividends in Kachin and Mon ceasefire areas and the often important role of local groups in successful resettlement and reconstruction. Today in Kachin State, and even more so in Mon State, there are many more CBOs and local NGOs than before the ceasefires. As noted above, such local associations have been able to provide services and capacity-building assistance to many resettled IDPs and other residents.

However, there have also been significant post-ceasefire disappointments which must be avoided or ameliorated considerably, if any of the limited gains are to be consolidated. These include limited assistance to IDPs, ongoing fighting and post-ceasefire militarization, environmentally damaging natural resource extraction and development projects, forced labor, and land confiscation.

¹²¹ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 76.

¹²² *Ibid.* p. 80.

Human rights abuses, including land confiscation, must stop and be appropriately prosecuted. All parties to ceasefires need to commit to ensuring that the fundamental rights of the population are respected, including the right of access to humanitarian assistance. The Burmese government needs to address the abuses inevitably associated with the *Tatmadaw's* self-support policy. Those affected by the confiscation of land and other property have a right to a remedy, and should be offered restitution, and/or other forms of compensation. Finally, given the long-term nature of this conflict and the legitimacy conferred on ethnic nationality groups by their people, international organizations should reconsider providing aid only to “state actors.”

The past decade has been one of mostly missed opportunities to move from an environment of “peace making” to “peace building” in ceasefire areas. If these mistakes can be avoided, if Karen (and Karenni and Shan) and SPDC representatives can agree on mechanisms to address ceasefire violations, and if donors can be persuaded to support rehabilitation efforts in partnership with appropriate local civil society groups, then the rights and well-being of affected individuals will be better protected.

VI. Humanitarian Responses

Humanitarian agencies in Burma

In June 2001 the heads of mission of eight U.N. agencies in Rangoon publicly expressed their support for “strengthening human capital, developing leadership capacity, and encouraging a more dynamic civil society will contribute to laying the foundations for democratic processes.”¹²³

However, the topic of external assistance to IDPs, whether in relocation sites, ceasefire areas or in hiding, is very sensitive. Although the role of foreign aid is limited, it can contribute towards the creation of an enabling environment, strengthening local efforts to achieve peace and development. It is vital that donors and international agencies entering Burma, via refugee communities, across the border, or through Rangoon, realize that they are not operating in a void. Impressive local initiatives exist, and are worthy of support. The challenge is how to foster the growth of civil society, without overwhelming its limited absorption capacities. Donors should not just concentrate on a narrow set of professional, western-style NGOs. In fostering the development of local NGOs, a nexus between development and democracy may gradually emerge.

¹²³ U.N. Office of the Resident Coordinator (May 30, 2001).

Effective humanitarian assistance is often a function of access to affected communities, awareness of the particular issues at stake—including protection needs—and the magnitude of assistance offered. In this case, one of the key issues will be whether international or local agencies take the lead in assisting IDPs, and how they will provide that assistance. The SPDC has asked UNHCR to assist IDPs in areas of refugee return, while the KNU Foreign Affairs spokesman, David Taw, has indicated a preference for partnerships with local NGOs and CBOs.¹²⁴ These developments may open the possibility of increased humanitarian and development assistance to Karen (and potentially other) IDPs. One of the key issues will be which organizations gain access to IDP communities, and how.

Although many services to IDPs can and should be delivered by CBOs and local NGOs, they still need the political and technical support of international agencies. Only international agencies are able to offer the monitoring and protection that the long-suffering civilian population urgently requires. Collaboration with appropriate partners is critical.

Aid from inside Burma

Although some Rangoon-based international agencies such as the ICRC and UNICEF are able to assist displaced people in Burma, they do not target IDPs as such. In cases where international agencies do provide assistance to displaced populations, this is usually done inadvertently, as often the agency concerned is not aware that its clients or beneficiaries have at some time in the past been displaced. It is therefore important for aid agencies to be aware that relocated communities should not necessarily be targeted separately from other vulnerable populations.

The Burmese government does not permit international agencies access to the more tightly controlled Relocation Centers. Most humanitarian and other assistance reaching relocation sites comes from the affected communities themselves. This may take the form of self-help initiatives undertaken by extended family and ethnic nationality networks, often organized and mediated by local religious leaders. A more systematic approach has been adopted by some CBOs and local NGOs, which have established low-profile aid programs in a number of relocation sites in eastern Burma.

In such cases, access to displaced populations must be negotiated with local *Tatmadaw* commanders and state officials, usually by local or national religious leaders. Groups

¹²⁴ *The Irrawaddy*, February 18, 2004.

involved in such activities may be accused of abetting the state's draconian forced relocation program. However, in providing relief in partnership with relocated populations, local NGOs help to build community networks and develop capacities. Such humanitarian efforts strengthen local civil society and human capital, in ways which contribute towards peace-making and conflict-transformation capacities, and indirectly support processes of political transition. Over the past two years in particular, local networks inside Burma have enhanced their capacities for assessing needs, and delivering assistance to IDPs in government-controlled areas.

Cross-border assistance

International agencies working inside the country do not have access to the zones of ongoing armed conflict in eastern Burma where protection and other humanitarian vulnerabilities are particularly acute. While some local NGOs and CBOs, especially church and Buddhist networks, do have some access to these areas, coverage is quite limited, and will remain so, until such time as ceasefires in these areas are consolidated.

Some aid does reach IDPs in hiding from across the Thailand border. As noted by BERG, "the Thai authorities do not allow any registered NGOs ... officially to develop programs of assistance across the border, although there is endorsement of temporary cross-border assistance in certain instances."¹²⁵

Since the early 1990s, Karen—and later Chin, Shan, Karenni and Mon—teams have provided humanitarian relief and undertaken some community development and educational work among displaced communities in zones of ongoing armed conflict in eastern Burma. In October 2004 the TBBC reported that 30 percent of IDP households surveyed had accessed aid over the past year (17 percent in relocation sites, 35 percent in hiding sites, and 49 percent in ceasefire areas).¹²⁶

Thailand border-based groups' strategic planning and research capacities are generally more developed than those working on displacement issues from inside Burma. In recent years, local and international agencies providing cross-border assistance to IDPs in eastern Burma have begun to develop sophisticated data collection and analysis tools.

¹²⁵ Burma Ethnic Research Group (BERG), *Forgotten Victims of a Hidden War*, p. 5.

¹²⁶ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability*, p. 4 & p. 77. Of course, the respondents to this survey were a self-selecting sample.

Beneficiaries of cross-border aid are usually a self-selecting sub-group of IDPs in hiding, having put their trust in the KNU, KNPP, and the NMSP. The main cross-border assistance groups strive for impartiality by providing assistance to all in need.¹²⁷ However, they are not impartial, as they act in solidarity with armed opposition groups. For these reasons, donors have insisted that their programs be carefully monitored.

The United Nations High Commissioner for Refugees (UNHCR)

Since February 2004, UNHCR has conducted several assessment missions to Karen State and Tenasserim Division. In March 2004 the agency announced that it had negotiated access to refugee return areas in eastern Burma.¹²⁸ With funding of about U.S.\$800,000-1 million for the year 2004, it will support projects in community health education and de-mining. Under its arrangement with the government, UNHCR has gained access to most of the eleven townships in Burma (Tenasserim Division, Mon State and Karen State) from which the majority of refugees in Thailand have fled. For the first time it has gained access to Thai border areas from inside Burma via Rangoon. The agency has also been requested by the government to assist with IDP reintegration in areas of refugee return, though not elsewhere.¹²⁹

In mid-late 2004, UNHCR began to implement micro-projects in these townships, upgrading local infrastructure in areas of possible refugee return or in places where displaced persons may want to go. Despite some optimism within UNHCR about these developments, grave concerns remain over the extent of U.N. access in these border areas. As of October 2004, international staff had only been allowed to visit areas under government control. The Burmese authorities are likely to try to convince U.N. staff with modest knowledge of Burma that conditions in a few model villages are representative of the situation in more remote areas.¹³⁰ However, UNHCR has made efforts to make it clear to the SPDC that it does not consider current conditions as being conducive to the return of refugees and that a settlement between the government and insurgent groups is an essential prerequisite for refugee return. UNHCR's regular monitoring trips to parts of eastern Burma must be seen as only the first stage in establishing a genuinely protective field presence, in which it is able to advocate and intervene with the authorities on behalf of vulnerable populations in border areas.

¹²⁷ Principles of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes (1994).

¹²⁸ "UNHCR gets permission to visit eastern Myanmar," Associated Press, March 11, 2004.

¹²⁹ Human Rights Watch interview with UNHCR Myanmar staff, September 6, 2004.

¹³⁰ Analysis based on confidential U.N. documents, made available to Human Rights Watch, and Human Rights Watch interviews with local community leaders, May 17, 2005.

In a worrying development, UNHCR reportedly plans to implement health and education programs in areas of refugee return through the Myanmar Red Cross (MRC), though it has dropped plans to work with the Myanmar Maternal and Child Welfare Association (MMCWA). The MMCWA was formerly led by General Khin Nyunt's wife. Both groups are widely considered to be fronts for the Burmese military. The agency already works with these organizations in its programs with repatriated Rohingya refugees in Arakan (Rakhine) State, where the U.N. has struggled to protect returned refugees from further rounds of abuse.¹³¹

A better alternative would be for international agencies to form partnerships with local civil society groups, which are already working on the ground in many areas. These include CBOs active in government-controlled areas, including some relocations sites, and those working cross-border from Thailand, with IDPs in hiding, and in some ceasefire zones. Aid agencies must not be prevented by the government or ethnic armed groups from independently providing assistance to populations at risk; they should resist efforts by authorities to interfere with the impartial delivery of assistance or manipulate it for other purposes, such as to extend military control. Wherever possible, external support should empower local communities and civil society groups, many of which are operational in areas inaccessible to international agencies. It would undermine assistance efforts, for example, if U.N. agencies could only gain access to armed conflict-affected areas, including ceasefire zones, in the company of the *Tatmadam*, or state-penetrated NGOs.

Other U.N. agencies

Since 1993, UNDP activities in Burma have been restricted to “programmes having grass-roots-level impact in a sustainable manner.” This mandate, which is highly unusual for the U.N., is designed to limit the agency’s engagement with the government. The UNDP Human Development Initiative works “particularly in the areas of primary health care, the environment, HIV/AIDS, training and education, and food security.”¹³²

Unlike most U.N. agencies, the U.N. Office for Drugs and Crime (UNODC) engages directly with ceasefire groups. In partnership with the government and the (ex-CPB) United Wa State Army (UWSA) ceasefire group, the UNODC and its international NGO implementing partners have built schools, dams and other facilities in the Wa sub-state (northern Shan State). They reportedly have also had some success in reducing

¹³¹ Human Rights Watch interview with UNHCR Myanmar staff, September 6, 2004.

¹³² UNDP Governing Council decision no. 92/21 (June 1993).

opium cultivation in Kokang and UWSA-controlled areas.¹³³ However, according to one assessment, proposed “community development concepts ... sometimes conflicted with the top-down (Wa) Authority approach. When efforts were made to involve the villagers ... the Authority felt threatened.”¹³⁴

Although the UNODC has responded to UWSA calls for more infrastructure and agricultural assistance, efforts to promote community development and the emergence of CBOs have been largely unsuccessful. The U.N. has recently negotiated an agreement with the UWSA, under which community-based development methods will be allowed by the Wa authorities.¹³⁵ However, members of the leadership of the UWSA were indicted on drug charges in a U.S. court in January 2005 and one faction of the UWSA (UWSA 171 Division) has in 2005 attacked the outskirts of the SSA base of Loi Taileng, which protects a few thousand IDPs, calling into question the good faith of the UWSA in these efforts.¹³⁶

A further important consideration is the UWSA’s forced relocation since 1999 of up to 125,000 villagers from northern Shan State as part of its effort to eradicate opium production in the Wa hills and extend the boundaries of Wa State. These IDPs were moved to non-state controlled relocation sites in the southern part of the main UWSA ceasefire zone and to the UWSA’s Southern Command area on the Thailand border, where several thousand Shan and other local inhabitants have been displaced to make way for the newcomers.

Another area where the U.N. may address humanitarian needs, while developing the roles and capacities of local civil society, is with HIV/AIDS programming. International agencies in Burma have access to a U.S.\$35 million fund, as part of a coordinated

¹³³ It should be noted that members of the leadership of the UWSA were indicted on drug charges in a U.S. court in January 2005 and that one faction (UWSA 171 Division) is currently attacking the outskirts of the SSA base of Loi Taileng which protects a few thousand IDPs.

¹³⁴ *Joint Kokang-Wa Humanitarian Needs Assessment Team* (mss 2003).

¹³⁵ A conference on Drugs and Conflict in Burma, held in Amsterdam in December 2003, called for the “simultaneous easing of drug control deadline pressures (to avoid the starvation of opium-producing farmers) and increased international humanitarian aid efforts. ... [Strategic planning should] include the voices of the opium farmers themselves.... Local communities in drug growing areas, or their representatives, have not been able to participate in any of the decision-making processes of anti-drugs strategies that have such a tremendous impact on their livelihoods”: *Drugs and Conflict in Burma* (TNI & BCN 14/15-12-2003). Since March 2004, the U.N. World Food Program has been providing rice to 180,000 ex-poppy farmers and their families in Kokang, Wa and neighboring areas, for a period of one year (at a cost of U.S.\$3.7 million).

¹³⁶ See “Justice Department Charges Eight in Burma with Drug Trafficking,” United States Justice Department, January 8, 2005 [online], <http://www.usconsulate.org.hk/ushk/others/2005/012401.htm> (retrieved May 21, 2005); Nandar Chann, UWSA Claims Wanted Drugs Suspects are Innocent,” *The Irrawaddy*, January 28, 2005 [online], <http://www.irrawaddy.org/aviewer.asp?a=4340&z=153> (retrieved May 21, 2005).

HIV/AIDS campaign. Donors view this initiative as a test case for whether the U.N. system in Burma can carve out a sphere of greater independence, and exert a greater influence over government policy. Another key issue is whether the U.N. and international NGOs can establish mechanisms for building local NGO aid absorption capacity in this sector.

The need for more and better data

Until fairly recently, little attention was paid to the situation of IDPs in Burma. The increased concern with internal displacement in the east of the country since the late-1990s reflects a growing awareness of the plight of IDPs world-wide, and a realization that most refugees in Thailand had previously spent extensive periods as IDPs before crossing the border.

As a series of insurgent strongholds fell to the *Tatmadaw* during the 1990s, there was no longer any relative sanctuary behind the front-lines of armed conflict to which people displaced by fighting could spontaneously relocate and establish new villages. The IDP problem was therefore pushed up against the Thailand border at the same time that the Thai government's asylum policy hardened. Fewer refugees were allowed into Thailand.

Most publicly available data on displacement in rural Burma, and Karen State in particular, therefore comes from humanitarian, human rights, and activist groups working in Burma across the border from Thailand. The quality of such reports is generally very high. However, they tend to focus almost exclusively on IDPs in hiding in the war zones—the most needy, but not the only category of IDP in Burma. Much less is known about displaced people in government-controlled areas, including relocation site residents, and those who spontaneously relocate to existing towns and villages.

Only by undertaking comprehensive, participatory surveys will local or international agencies be able to gauge what IDPs in different situations actually want and need—that is, what kind of remedy to their particular situation is appropriate. In some cases, the desired outcome will be local integration, in others relocation to another area, while in yet others it will be to return home, even if that home is long in the past. As in refugee repatriation, the principle of an informed and voluntary choice should be central to any decisions addressing displacement situations in Burma. Representatives from displaced communities, for example, should be given opportunities to investigate the situation in possible return areas before deciding whether to return or to seek some other durable solution.

The research findings presented above caution against assuming that all IDPs necessarily want to return “home.” Many will wish to do so, but others will want to stay put and therefore need assistance in securing livelihoods and protection where they are currently settled. In such cases, limiting aid to IDPs may not be appropriate, especially if displaced people are living alongside the non-displaced or those not recently displaced. The focus instead should be on the whole community, from a perspective of the protection of economic and social rights, as well as civil and political rights.

Policy options

Since 2004 some IDPs have begun to return from hiding places in the jungle and from relocation sites to begin the task of rebuilding their lives and their communities.¹³⁷ However, the *Tatmadaw's* continued use of forced labor, confiscation of farmland, and arbitrary taxation remains a severe constraint on any post-conflict rehabilitation.

IDP return is a delicate process. The needs and wishes of IDPs in Burma are not well known. Fully understanding the needs of IDPs requires comprehensive, participatory surveys. An admittedly limited Human Rights Watch survey asked informants what they felt it would take “to change in their current situation, in order to be able to lead the kind of life they have reason to value.” Only half wanted to return their “original” home and/ or land, if conditions allowed. As previously noted, returning home is a problematic concept, given that most people had moved numerous times and it was not usually clear to which of various previous settlements informants wished to return—although they often appeared to want to return to their place of birth. Most people said that they would like to remain where they are, if conditions improved. Nearly half the Karen IDPs told Human Rights Watch that they were most interested in opportunities to breed livestock and farm properly and to improve their income and food security. A third of interviewees wanted better access to education, health services, and proper sanitation and water.

As in refugee repatriation, the principle of informed voluntariness should prevail above all other considerations. Any attempts to assist displaced Karen villagers or refugees must take account of the ongoing problems experienced by conflict-affected populations in other parts of Burma. The protection of civilians must be a priority. At a minimum, landmine clearance should precede any major return initiative.¹³⁸

¹³⁷ Human Rights Watch interview with ex-KNU ceasefire group officer, May 6, 2005.

¹³⁸ “The reality is that thousands, if not hundreds of thousands of IDPs are going to return to their home areas... Many lands are now ownership free due to a long armed conflict. People will rush to these areas in order to obtain the best lands at the soonest time possible. This is one of the reasons some people have chosen to remain as internally displaced rather than go into refuge in a neighboring country. Although they may know

VII. Recommendations

To the Burmese government, the “State Development and Peace Council:”

- Publicly and officially order the *Tatmadaw* and other state security agencies to end all human rights abuses and humanitarian law violations against civilians, including extrajudicial executions, torture, sexual violence, land confiscation, and forced labor.
- Create a credible legal process to provide redress and to hold perpetrators, regardless of rank, accountable for human rights and humanitarian law violations. Make this process transparent so as to create public and international confidence that a new policy has been devised and is being implemented.
- Invite the Special Rapporteur of the U.N. Commission on Human Rights on the situation of human rights and the U.N. Secretary-General's Representative on the Human Rights of Internally Displaced Persons to visit Burma and provide unfettered access to areas of conflict and displacement, including Relocation Centers and Villages, to assess the situation on the ground and to make recommendations to assist IDPs.
- Allow impartial international humanitarian agencies to provide assistance and protection to IDPs.
- Recognize the legitimate and necessary role of independent NGOs and CBOs in providing assistance to IDPs, in receiving funds to provide such assistance, in working with local communities and individuals to ascertain their needs, and to advocate on behalf of IDPs.

To the KNU and KNLA:

- Publicly and officially order the KNLA and any other armed groups operating in Karen State to end all human rights abuses and humanitarian law violations

where the mines are nearby their current place, they will leave that place, and leave no mark of where the mines are.... There will be massive casualties, and they will swiftly overwhelm the paltry health services currently available. It will be a tragedy of massive proportion, and as the catastrophe takes place, word of it will probably halt any movement by persons in refuge in Thailand.... Relentless insistence that all areas be marked ...must begin now. This will have both a preventative and an awareness raising effect." Burma/Myanmar Report 2004, *Landmine Monitor*, October 2004, p. 1. Burma is not one of the 149 signatories to the 1997 Landmines Treaty, officially titled the "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti Personnel Mines and on Their Destruction."

against civilians, including forced labor. Take appropriate action against persons responsible for human rights abuses and humanitarian law violations.

To the SPDC and KNU:

- Publicly pledge to respect the U.N. Guiding Principles on Internal Displacement.
- Ensure that any ceasefire agreement includes specific commitments on human rights protections, including full access to local and international monitors, including from the United Nations and the International Committee of the Red Cross.
- Ensure that any ceasefire agreement includes provisions for regular meetings at the field-level that include *Tatmadaw* officers and government officials, KNLA officers and KNU officials, villagers' representatives, and human rights monitors to monitor the situation on the ground and address the inevitable post-ceasefire rights violations.
- Offer ordinary villagers a greater role in political negotiations and in identifying community needs and directing and delivering aid.

To the United Nations, international aid agencies, and other donors:

- Work together to create a strategy to address the SPDC, KNU, and other armed groups and with civil society to provide greater human rights protection, to better monitor the human rights and humanitarian situation, to provide necessary humanitarian assistance, and to engage in joint advocacy efforts on behalf of IDPs.
- Engage in policy discussions with local and national government, and ceasefire and non-ceasefire groups, regarding health, education, food, livelihoods, land and property rights, landmines, agriculture, HIV/AIDS, gender, children, and basic needs.
- Ensure that the delivery of humanitarian assistance is carried out independently without unnecessary interference from government or military officials and opposition armed groups. Resist efforts by authorities to interfere with the impartial delivery of assistance or manipulate it for other purposes, such as to extend military control.
- Provide assistance to develop civil society among a wide array of nongovernmental and community based organizations.
- Ensure that international aid efforts also have a capacity building objective that attempts to identify and support local NGOs, CBOs, and individuals, especially

among under-represented groups (such as non-Christians, minorities within States, women), to build their capacity to deliver assistance and to act as advocates for IDPs. For example:

- Define a conscious goal of empowering local communities and civil society groups. Donors should reach out to and work with all communities, not just elites and narrow groups of “westernized” NGOs.
 - Work with CBOs and local NGOs to develop mechanisms for ensuring accountability to donors and beneficiaries, and to promote impartiality, inclusiveness and participation, protection, conflict resolution and gender awareness.
 - Avoid donor-driven initiatives by encouraging genuine partnership and joint ownership of projects with civil society actors.
 - Coordinate donor reporting and evaluation requirements.
 - Be flexible in relations with civil society groups, especially regarding monitoring in remote areas. If local NGOs demonstrate accountability, it is not always necessary for expatriate staff to visit all project sites.
 - Be prepared to respond to small-scale project proposals, in order to nurture the development of fledgling CBOs. Consider providing core funding to local NGOs.
 - Provide strategic planning and organizational development advice to local NGOs and CBOs.
 - Initiate regular international-local NGO forums at the State level.
- Work with national and local government, including ceasefire and non-ceasefire groups, to build schools and train teachers, provide in-service training and teaching materials, promote local language enhancement policies, and provide non-formal, vocational and skills training and materials; to build clinics, train medics, and provide medicine; to establish micro-credit programs; to support natural resource management and environmental protection; and to work with community social and business leaders to develop sustainable commercial activities, such as community forestry and agriculture projects.
 - Donors should also work with non-ceasefire groups to provide humanitarian assistance to IDPs, as such groups often protect IDPs. Efforts should be made to create a dialogue to better map highly vulnerable IDP movements and to provide assistance. This should be done in the spirit of independent and impartial humanitarian assistance and the protection of civilians.
 - Provide high quality security and protection training to all field staff.

- Incorporate “Peace and Conflict Impact Assessments” (PCIA) into the planning and evaluation phase of all projects. Needs and vulnerability assessments should mainstream protection issues.
- Fund studies and surveys on health, education, food, livelihoods, land and property rights, landmines, agriculture, HIV/AIDS, gender, children, and other basic needs in conflict and ceasefire areas in order to draw lessons about how to operate in each area and to identify the benefits of ceasefires for IDPs and others. Develop participatory research programs to identify specific information gaps and humanitarian protection needs.
- Identify affected communities’ local protection and self-help strategies and capacities and the impact of local and international assistance and protection interventions. Conduct research in partnership with and provide appropriate training to local populations, CBOs, and appropriate government officials, such as those working in health, education, or agriculture.
- Ensure that advocacy recommendations and action plans are drafted in close consultation with affected communities, with special attention to the participation of women. Aim for concrete proposals regarding the types of changes required and how these might be implemented. Opposition and activist groups must demonstrate that their recommendations reflect the needs and aspirations of affected populations.

To the Government of the Royal Kingdom of Thailand:

- Extend asylum to all those fleeing ongoing conflict and human rights abuses in Burma, protecting Burmese refugees from *refoulement* and allowing new asylum seekers access to Thai territory. Ensure that conditions for return to Burma in safety and dignity to be genuinely and durably established prior to commencing any organized return or repatriation from Thailand.
- Give clear guarantees to humanitarian agencies that they may work without interference and without fear of closure by the Thai authorities if they advocate for either the rights of IDPs in Burma or asylum seekers and refugees in Thailand.

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