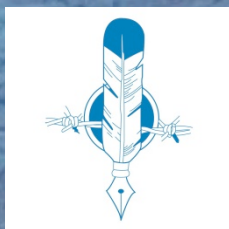


Stable and Secure?

*An Assessment on the Current Context of Human Rights
for Chin People in Burma/Myanmar*

Chin Human Rights Organization, 2018



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Acronyms

| | |
|---------|--|
| AA | Arakan Army |
| ARC | Asylum Research Consultancy |
| ALA | Arakan Liberation Army |
| BEHS | Basic Education High School |
| CTFMR | Country Task Force for Monitoring and Reporting |
| CSI | Child Soldiers International |
| CSO | Civil Society Organization |
| CNF | Chin National Front |
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| CRC | Convention on the Rights of the Child |
| CHRO | Chin Human Rights Organization |
| EAO | Ethnic Armed Organizations |
| EBO | Euro Burma Office |
| EPI | Engineering & Project India Pvt. Ltd. |
| FPIC | Free, Prior and Informed Consent |
| GAD | General Administrative Department |
| IDP | Internally Displaced Person |
| IHL | International Humanitarian Law |
| INGO | International Non-Governmental Organization |
| ILO | International Labour Organization |
| KIA | Kachin Independence Army |
| Kaladan | Kaladan Multi-Modal Transit Transport Project |
| LIB | Light Infantry Battalion |
| LEP | Look East Policy |
| LUCs | Land Use Certificates |
| MONREC | Ministry of Natural Resources and Environmental Conservation |

| | |
|-----------|--|
| MNDA | Myanmar Democratic Alliance Army |
| MWO | Mara Women's Organization |
| MPF | Myanmar Police Force |
| MoAI | Ministry of Agriculture and Irrigation |
| MPM | Myanmar Peace Monitoring |
| MoHA | Ministry of Home Affairs |
| Ma Ba Tha | Patriotic Association of Myanmar |
| NGO | Non-Governmental Organization |
| NLD | National League for Democracy |
| NRC | National Registration Card |
| Na Ta La | Burmese acronym for Progress of the Border Areas and National Races Development Affairs. |
| ND Burma | Network for Human Rights Documentation-Burma |
| NCA | Nationwide Ceasefire Agreement |
| NLUP | National Land Use Policy |
| PFE | Permanent Forest Estate |
| SLORC | State Law and Order Restoration Council |
| SLRD | Settlement Land and Records Department |
| SPDC | State Peace and Development Council |
| Tatmadaw | Burmese Army |
| TNLA | Ta'ang National Liberation Army |
| UN | United Nations |
| UNDRIP | United Nations Declaration on the Rights of Indigenous People |
| USDP | Union Solidarity and Development Party |
| UNHCR | United Nations High Commissioner for Refugees |
| USCIRF | United States Commission on International Religious Freedom |
| VFV | Vacant, Fallow and Virgin |

Cover Photo: Processions carrying the coffin of a Christian man

Executive Summary and Key Findings

Background

The Chin Human Rights Organization (CHRO) would like to, at the outset, thank the United Nations High Commissioner for Refugees (UNHCR) for the support provided to Chin communities who have resided predominantly in India and Malaysia, owing to persecution in their country of origin. It is the purpose of this document to throw light on how those conditions continue to be present in the current political, legal and cultural climate in Myanmar. It is CHRO's contention that the evidence of ongoing human rights violations presented here calls into question the conclusion reached by UNHCR that Chin State is a special case within the otherwise deteriorating human rights situation within Myanmar. CHRO, therefore, requests an urgent review of this decision, taking into account the ongoing serious human rights violations outlined in this document.¹

While CHRO recognises that the democratically held elections in 2015 represented a significant step forward in terms of Myanmar's transition, the on-going presence of the Military, responsible for systematic and persistent violations of human rights, still maintain Constitutional control over key Ministries which continues to enable them, both in policy and practice to violate human rights with complete impunity. Due to this, CHRO contests that the present in-country situation represents a "fundamental change" for the purposes of art 1C (5) and (6) of the Convention Relating to the Status of Refugees.²

CHRO also acknowledges that the signing of the National Ceasefire Agreement (NCA) by some ethnic armed organizations (EAO) represented a milestone in Myanmar's on-going transition. However, we would like to contest that this in itself does not, at present, meet the threshold for "enduring nature of change" for the purposes of art 1C (5) and (6).³ This is evidenced by continued Tatmadaw operations and re-militarization⁴ in ceasefire areas.⁵ This is also evidenced by a non-reformist negotiating policy by Tatmadaw representatives within the stagnating, Panglong Peace dialogues.⁶ Moreover, due to continued attacks on civilians, which include gross human rights violations in Rakhine, Kachin, Karen and Chin States,⁷ we contend that the "restoration of national protection" conditions for the purposes of art 1C (5) and (6) not currently evident in Myanmar, and in fact have deteriorated in the last several years.⁸ Due to these circumstances, CHRO contests the view that the recent human rights situation in Myanmar can be interpreted to mean that the fear of persecution has ceased to exist for the Chin, as well as the assertion that and on return, repatriated refugees could expect an acceptable level of national protection.

CHRO acknowledges the two separate visits by UNHCR Head of Missions from India and Malaysia Offices to Chin State and the work of the Asylum Research Consultancy (ARC), who prepared a briefing paper on Chin

¹ United Nations High Commissioner for Refugees, "Community Messaging on Chin Cessation Process", June 2018.

² UNHCR, 'Note on the Cessation Clauses', UN doc. EC/47/SC/CRP.30, 30 May 1997

³ Ibid

⁴ See for example, Karen Human Rights Group, "On-going Militarization in Southeast Myanmar" October 2016

⁵ Burma News International, "Peace Process Survey Shows Increased Conflicts in Ethnic Areas after Peace Conference" February 2017.

⁶ Keenan, P "Realising Peace in Myanmar: Background Paper" Euro Burma Office, Oct 2017.
https://paulkeenan.files.wordpress.com/2017/10/ebo-bp-4_17.pdf

⁷ These are well documented in the context of crimes against humanity toward Rohingya, continued and escalating war in Kachin State in 2018, conflict in Karen State in 2018 and continued fighting and operations in Chin State (documented below).

⁸ Supra note 2

State for which CHRO submitted a written response, highlighting elements of on-going human rights abuses in Chin State. This information is also included here, together with an updated list of human rights abuses documented by CHRO. This evidence demonstrates that rather than Chin State representing a separate instance within Myanmar, it is still heavily linked to a largely unchanged and in many ways deteriorating situation, very much part of the wider country context.

A large proportion of the current Chin refugee population in India and Malaysia began fleeing Burma after the 1988 student uprisings, owing to fear of persecution in their country of origin. The vast majority sought protection in India and Malaysia. Over 80 000 Chins fled Myanmar. Chin people began fleeing their country of origin largely owing to fear of repercussions for engaging in Christian activities, fear of forced conversion to Buddhism, fear of Burmese military human rights abuses, fear of repercussions for perceived support for the Chin National Front and fear of repercussions for supporting Aung San Su Kyi and the National League for Democracy.

In 2012, the ethnic armed group the Chin National Front (CNF) and its armed wing, the Chin National Army (CNA), and the government signed a comprehensive, bilateral ceasefire agreement. Within the bilateral ceasefire agreement, Chin people are guaranteed protection from human rights abuses by both CNF and Tatmadaw, freedom of religion and the ability to own land for religious purposes, to build churches and freely proselytize, to be freely consulted in development activities for land and natural resources with full observance of environmental impact assessments and equality and self-determination. These core principles which are a representation of the Chin populations' key concerns after public consultations were undertaken are, unfortunately, still not being realized.

Current Context

The present political situation within Myanmar continues to create an unpredictable and unstable country where Chin identity continues to be threatened. The cases described in this brief demonstrate why the required thresholds for the cessation clauses to be invoked are not yet at the point whereby the well-founded fear of persecution has ceased to exist for Chin refugees currently residing in Malaysia and India. The documentation within summarizes, how the Chin population, residing in Chin State and state border areas, still suffer from systematic human rights abuses. The restrictions on religious freedom, ongoing human rights abuses associated with conflict in ceasefire areas by state and non-state actors, and the lack of observance on safeguards for local communities in development activities for land and resources are all contrary to what, otherwise, could be an objective appreciation of the fundamental nature of change within the State in question.

A profound change in circumstances is not the same as an improvement in conditions in the country of origin. For the purposes of Chin refugees from Myanmar, the election of the National League for Democracy as a political change has not given rise to a stable power structure that differs from the original well-founded fear of being persecuted; due to constitutional barriers, it has merely restructured and, unfortunately, acted to further legitimize the actions of the old one. Moreover, the peace dialogues, now in their third session have failed to bring the majority of ethnic armed organizations into the fold. The fact that the CNF is still a political entity at all indicates the ongoing instability and necessity of its existence. The CNF-Government Ceasefire Agreement confirms that the armed outfit continues to be an illegal entity

within the laws of the country whereby its designation should be done away with *“once a sufficient level of confidence has been built toward lasting peace”*⁹

Attempts to restructure the 2008 Constitution have resulted in the largely uninvestigated murder of U Ko Ni, the Chief Legal Advisor to the NLD. Furthermore, laws, which in their practical application will further restrict religious freedom, have been developed under a reform process. Due to this, not only have the elected government failed to dismantle the former security services, they have grown in power and continue to act with impunity in human rights violations, ignore ceasefire regulations, hamper on-going peace dialogues and committed some of the worst atrocities in recent human history.¹⁰ It is wholly evident that the changed situation is still volatile both across the country and in Chin State, and therefore, by definition not durable in nature. This is not only evidenced by credible reports by independent observers within the Asylum Research Report of July 2017 and this note, but also the lack of voluntary repatriation. Moreover, many key aspects of the systematic, repressive actions of successive military governments are still in place and at present, immovable.

Via Art 20(b) Republic of the Union of Myanmar 2008 Constitution, (hereafter 2008 Constitution) the Tatmadaw remains an unreformed, independently administered institution with no oversight from civilian government, legislature or judiciary. Articles 109(b) and 141(b) allocate to the Tatmadaw 25 percent of seats in each of the two houses of the national legislature. These members of parliament are nominated by the Commander-in-Chief as per article 14 of the Constitution, and they are answerable to the Commander-in-Chief, as clarified in article 33 of both the 2010 Amyotha Hluttaw Election Law and the 2010 Pyithu Hluttaw Election Law.

Via Art 232(Bii) and art 232 (Jii) of the 2008 Constitution, the Tatmadaw’s Commander in Chief is empowered to appoint serving military personnel and their deputies as Union Level Ministers for the Ministry of Border Affairs, Ministry of Defence, and Ministry of Home Affairs. The Ministry of Home Affairs has four departments which include the Myanmar Police Force (MPF) and the General Administrative Department (GAD). The MPF is therefore deferential to the Tatmadaw and the GAD administrates sub-national governance under a militarized bureaucracy to all 14 States and Regions. These governance arrangements are incompatible with the principle of separation of powers, and incompatible with the rule of law principle that security forces must be accountable to civilian authorities.

Constitutional reform is necessary to align Myanmar’s legal and institutional arrangements with rule of law principles. The Tatmadaw continue to strongly resist reforms of the 2008 Constitution, and via clause 436, which requires more than 75 percent of the legislature to approve amendments prior to a constitutional referendum, are able to veto any such attempts.

The first six months of 2018 has seen escalations of fighting in almost all corners of the country. Since January 2018, there have been 17 distinct instances of armed offensives and confrontations, excluding instances in Northern Rakhine State. According to figures calculated by the Myanmar Peace Monitor (MPC), if individual clashes within a broader conflict cycle are to be counted, then an aggregate of 87 incidents of violence/fighting between January up until today. The number continues to rise as July ends. Besides

⁹ CNF-Government Ceasefire, 7th May 2012 , Point of Agreement 12
<http://www.mmpeacemonitor.org/images/pdf/CNF-Government-Ceasefire-Agreement.pdf>

¹⁰ In context of crimes against humanity and the Rohingya population.

escalation of conflict in Kachin State, there has been an upscale in operations and ceasefire regulation breaking in Shan State, Chin State, Rakhine State, Karen State and Tanintharyi region.¹¹

These escalations have had a negative impact on ethnic and indigenous populations in the concerned areas. To date, the fighting has displaced more than 22,000 civilians in a span of six months and approximately 7000 in May itself. Fatality numbers are still unknown due to Tatmadaw policy of limiting access to independent organisations and humanitarian service providers. In Kachin State particularly, the Tatmadaw has followed its widely understood “four cuts” policy and is evidently deliberately constructing situations whereby, IDP’s are caught in the cross-fire, trapped between conflict zones, or forced to return home to villages which are in conflict zones.¹² On April 5th a local Karen community worker, Saw Oh Moo, who had campaigned for land rights for indigenous people, was shot dead by Tatmadaw. The Tatmadaw later claimed he was a rebel disguised as a civilian.¹³

As the fighting continues, after four postponements, the third installment of the Panglong Peace Accord (Previously held in August 2016 and May 2017) continued on in “great difficulty” on the 11th June 2018.¹⁴ Over 700 delegates attended, including the majority ethnic armed organisations who are non-signatories to the National Ceasefire Agreement which represents 80% of all troops of Ethnic Armed Groups in Myanmar. 14 principles were approved, seven involved social matters, four on political arrangements, two related to land and environment and one on economic matters.

Summary of Violations

The human rights violations described in this note cover instances which have taken place in Chin State and also three Regions bordering Chin State, Rakhine State, Sagaing Region and Magway Region. Within Chin State itself, there are cases of human rights violations covering Paletwa Township, Mindat Township, Matupi Township, Falam Township, Teddim Township and Hakha Township.

In Paletwa Township, human rights abuses documented contain instances relating to civilians being caught in the crossfire between sporadic but sustained and drawn out conflict between the Arakan Army (AA) and the Burmese Army (Tatmadaw) including; killings, forced labour, human shields, indiscriminate laying of landmines, forced displacement, cruel inhuman and degrading treatment, attacks on livelihoods and threats and intimidation. Both the AA and the Tatmadaw continue to bring civilian populations into their activities.

Human rights abuses in Chin State linked to Tatmadaw activity are not limited to the conflict in Paletwa Township. The rest of Chin State, particularly Matupi Township, remains heavily militarised. In Matupi Township Chin civilians have been subjected to cruel, inhuman and degrading treatment by army personnel living in camps close to villages and towns, child soldier recruitment and the issuing of shoot-on-sight orders for attempting to practice traditional forms of livelihoods.

¹¹ Myanmar Peace Monitor Dashboard <http://www.mmpeacemonitor.org/mpm/211> accessed, 26/7/2018

¹² The Burmese army’s “Four Cuts” policy was developed in the 1970s during the former regime of the Burmese Socialist Programme Party with the intention of undermining ethnic militias by cutting off access to food, funds, information and recruitment, resulting in humanitarian crises for affected communities.

¹³ Tribute to Saw Oh Moo, Karen Human Right Group, <http://khr.org/2018/05/khr-tribute-saw-oh-moo>

¹⁴ Radio Free Asia, ‘Aung San Suu Kyi Calls For New Strategy, Patience in Myanmar Peace Talks,’ 16th July 2018 <https://www.rfa.org/english/news/myanmar/assk-talks-07162018164840.html>

Chin people living in present-day Myanmar continue to face institutionalized barriers to religious freedom. These usually are related to local authorities blocking the ownership of land for Christian worship. Due to this, Christians, particularly in areas where they represent a minority such as in the states and regions bordering Chin State, are forced to illegally undertake house worship. Christians have also faced threats, intimidation and mob-violence by local communities, often supported and even organized by local authorities and Buddhist-monks. Communities, in some circumstances, hold meetings in order to plan anti-Christian strategy, this includes the raising of rental accommodation, barring of sale or rent of land or property for Christian tenants, blocking of religious activity such as Sunday schools or funeral processions and, in some circumstances organizing collective violence. In the cases provided, the police have failed to investigate, or hold perpetrators to account and inferred that doing so would be the wrong course of action.

Due to the prevailing poor socio-economic status of Chin State, particularly in rural areas and lack of infrastructure, there remain significant barriers to accessing education for children. This is evident in pass rates at matriculation, based on a nationwide curriculum structure and standard, where the prevailing disparity between tests results of examinees from big cities where Burmese is the mother tongue language and those from rural areas is evident. This disparity disproportionately affects children from Chin State, who continually perform lowest with a year by year pass rate at less than 20 % for over two decades, well below national averages. The lack of access to education due to prevailing poor socio-economic conditions also creates conditions where communities become vulnerable to human rights abuses which include human trafficking, and induced or coerced conversion by a state-sponsored assimilation programme, “Na Ta La”.

The report also details on-going human rights abuses associated with land and natural resources. Within the report are cases related to detention and threats associated with attempts to gain restitution for historic land confiscation, and a lack of free prior and informed consent and compensation for loss of land in relation to mega- projects on ancestral/community land.

Recommendations to UNHCR

- Urgently review the decision to begin individual cessation for Chin refugees in light of evidence of ongoing human rights violations against Chin in Myanmar.
- As a matter of priority, hold meaningful public consultations in New Delhi, India and Malaysia with affected refugee communities as per 2002 operational procedures, given the trauma associated with the cessation announcement.
- Make public all relevant information collected from Chin State in their appraisal for conditions relating to a safe return.

Methodology

This briefing is drawn from eyewitness accounts, collected by CHRO fieldworkers over the span of 3 years. Where appropriate, in order to support or contextualize the documentation, credible secondary sources have been used. Chin State is a very remote and isolated part of western Burma/Myanmar. The basic infrastructure there still remains very poor, particularly in rural areas where no fully paved roads make access very difficult. Due to this, human rights documentation remains extremely challenging, whereby, human rights violations may very often go undocumented, or reported weeks later, if at all. In addition, Chin State remains heavily militarized. At the time of writing, there remain at least 54 Burma Army camps in the area, 20 of them in Paletwa Township.

Security issues for CHRO's small team of fieldworkers therefore persist, as they are at risk of arrest and detention by the authorities during the course of their work to document human rights violations in Chin State. Information is collected by CHRO's fieldworkers in accordance with documentation guidelines produced by the Network for Human Rights Documentation – Burma, of which CHRO is a member.¹⁵ Due to on-going security concerns associated with reprisals, where necessary, interlocutors' names, names of army personnel connected to allegations of human rights abuses and village names have been modified or censored with due diligence.

1. Conflict in Paletwa Township, Chin State

Within the wider context of armed conflict in Myanmar's ethnic states, Chin State's southern Township of Paletwa remains a war zone, where both Tatmadaw and the Arakan Army (AA) continue to involve civilians in their military activities, ignoring obligations under customary international humanitarian law (IHL).¹⁶ Paul Keenan, an expert on the peace process and lead researcher at the Euro Burma Office (EBO) has surmised that this situation will be one of the major barriers to the peace process moving forward.¹⁷ Although not covered in the media as much as other conflict related circumstances in Myanmar, the now banned Special Rapporteur on human rights in Myanmar, Yanghee Lee, raised this as part of her Situation of Human Rights in Myanmar report to the UN Human Rights Council in March 2018 as a particular area of concern, in what she described as "escalating violence" in the same context of war in Kachin State, both of which have deteriorated since then.¹⁸

Since 2016, the AA has drastically up scaled military activities after establishing ties to other Ethnic Armed Organizations under the Brotherhood of the Northern Alliance together with the Kachin Independence Army, Ta'ang National Liberation Army and the Myanmar National Democratic Alliance Army.¹⁹ In the longer term, the AA has developed a strong political aim, ousting the Arakan Liberation Army (ALA)²⁰ from strategic bases and has a firm nationalistic ideology which goes beyond Rakhine State.

The AA claims that both the Southern Township of Paletwa in Chin State and areas of the Chittagong Hill Tract region of Bangladesh is part of Arakan, despite the vast majority of people in Paletwa self-identifying as belonging to various sub-groups of Chin. In February 2017 the Chin National Front (CNF) issued a demand

¹⁵ See <http://www.nd-burma.org/documentation/resources.html>

¹⁶ Article 3 common to four Geneva Conventions of 1949 (known as Common Article 3), to which all states are parties, including Burma/Myanmar. Common Article 3 states, "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions..." The rules are set out by the International Committee of the Red Cross (ICRC) in Henckaerts & Doswald-Beck, eds., *Customary International Humanitarian Law, Volume I: Rules* (Cambridge: Cambridge Univ. Press 2005).

¹⁷ Irrawaddy, "Arakan Army will be Flashpoint for Peace Process" 12th December, 2017
<https://www.irrawaddy.com/in-person/arakan-army-will-flashpoint-peace-process-researcher.html>

¹⁸ UNDOC, A/HRC/37/70 at para 31

¹⁹ The AA, together with other members of the Northern Alliance were invited to be "observers" at the 3rd Panglong Peace Accord held in July, 2018.

²⁰ The Irrawaddy, "Arakan Army Seizes Ceasefire Signatory Outpost", 23rd August 2017
<https://www.irrawaddy.com/news/burma/arakan-army-seizes-ceasefire-signatorys-outpost.html>

for AA forces to pull out of Paletwa Township.²¹ During intense fighting between AA and Tatmadaw forces in Paletwa throughout November, U Khine Thu Kha, the Chief spokesperson for the AA's Western Chapter stated in an interview that the AA were "defending their territory" against aggressive Tatmadaw incursions.²²

In May 2017, U Khine Thu Kha, claimed that the AA is peaceful in Paletwa and not in any conflict with Tatmadaw forces. In defending the AA as 300 Chin civilians fled into India and others scattered to nearby villages (described below) he claimed that the AA was a victim of a defamatory agenda and not acting in any way which would cause concern to civilians. Though he was unclear on who could be behind this alleged defamatory agenda, earlier comments that had been made on the AA's official Facebook page suggested that in other similar circumstances, it was the work of the Arakan Liberation Army (ALA).²³ According to him, the ALA had approached local chin civilians and had made demands, dressed as AA soldiers.

This trend continued in the wake of the fighting in November 2017 as fighting intensified between Tatmadaw and AA forces near the Indian border. The same spokesperson suggested that it was Tatmadaw personnel, dressed up as AA soldiers who were responsible for looting villages. Although he admitted that on occasions the AA had had to resort to killing local community members' livestock for food, AA policy was to pay twice the market rate in compensation. In the same November 2017 interview, he also claimed that an incident which resulted in the death of a civilian in a boat which was open fired upon was Tatmadaw propaganda, claiming the boat was an army vessel, being driven by the wife of a Tatmadaw officer.²⁴

Since the report "*Armed Conflict in Paletwa, southern Chin State*"²⁵ in 2015, CHRO has witnessed both an increase and expansion of AA military activities in Paletwa which has negatively affected a wider proportion of civilians who continue to be caught in the crossfire of skirmishes with Tatmadaw forces and AA military activities. As a result of AA and Tatmadaw actions, CHRO has documented, killings, cruel, inhuman and degrading treatment, looting and theft, indiscriminate laying of landmines, forced labour, human shields, attacks on livelihoods, movement restrictions and arbitrary demands. These violations of human rights have led to a present situation of approximately 6000 Chin community members internally displaced or fleeing into the Mizoram area of neighboring India as refugees. While AA activities are largely confined to the Paletwa Township of Southern Chin State and the Chittagong Hill Tract region of Bangladesh, Tatmadaw human rights abuses are still ongoing in other areas, as Chin State, particularly Matupi Township, remains heavily militarized, documented later in the report.

²¹ Myanmar Times, "CNF Wants Arakan Groups out of Chin State" 3rd Feb, 2017 <https://www.mmtimes.com/national-news/24807-cnf-wants-arakan-groups-out-of-chin-state.html>

²² The Irrawaddy, "AA Disputes Tatmadaw's Account of Deadly Chin State Ambush" 14th Nov, 2017. <https://www.burmalink.org/aa-disputes-tatmadaws-account-deadly-chin-state-ambush/>

²³ On May 4, 2017 the AA issued a "warning letter" in the Arakanese language on its Facebook page in late April stating that 30 soldiers from the Arakan Liberation Army (ALA) pretended to be AA soldiers and extorted money from locals near the Bangladesh border, "Arakan Army Denies Forcing Chin Refugees into India" 24th May 2017 <https://reliefweb.int/report/myanmar/arakan-army-denies-forcing-chin-refugees-india>

²⁴ The Irrawaddy, "AA Disputes Tatmadaw's Account of Deadly Chin State Ambush" 14th Nov, 2017. <https://www.burmalink.org/aa-disputes-tatmadaws-account-deadly-chin-state-ambush/>

²⁵ Chin Human Rights Organization, "*Thematic Briefing: Armed Conflict in southern Chin State*", March 2015, http://www.chro.ca/images/stories/files/PDF/ArmedConflict_Paletwa_eng.pdf



Figure 1 IDPs close to Shin Let Wa in Paletwa Township, Southern Chin State

I. Forced Displacement as a Result of Ongoing Conflict

There are at least four instances²⁶ where Mara and Khumi Chin have been forced into India's Mizoram State during 2017 as a result of clashes between Tatmadaw and AA forces. At the time of writing, there are over 6000 IDPs from 20 villages in the Pikhyang area, close to the Bangladesh border.

On 18th May 2017, arbitrary demands for food provisions and forced labor demands issued by AA forces coupled with the collective perception of escalating risk of conflict between AA and Tatmadaw in the area, forced 300 Mara, Chin to flee to India as refugees and over 200 into neighboring villages as IDPs.²⁷ It was reported that an AA force numbering at least 60 soldiers gathered around the area close to Shin Let Wa Village on 17th May 2017. They demanded 50 sacks of rice from the villagers in the nearby village of Yon Let Wa. As the village did not have the stocks to provide this, they were ordered by AA soldiers to go and buy more from the nearby village of Shin Let Wa. Due to the presence of Tatmadaw in this area, the villagers were concerned about the risk posed to them if perceived to be supporting AA activities. Rather than risk arrest by being caught at a checkpoint carrying loads for the AA, the villagers decided to flee.

According to sources community members from four villages in the area fled, fearing the troop escalation and possible Tatmadaw response. 261 villagers from Yar Yi Taung fled over the border to Lungpuk in

²⁶ The Hindu Newspaper quoted an official from Mizoram's Lawngtlai district, found in Frontier Magazine, "1,300 Chin State Villagers flee to India to escape Tatmadaw, Arakan Army Clashes" Nov 29, 2017.

<https://frontiermyanmar.net/en/1300-chin-state-villagers-flee-to-india-to-escape-tatmadaw-arakan-army-clashes>

²⁷ Ibid.

Mizoram, while 64 people sheltered in Khingkhong, also in the Mizoram region of India. A Lungpuk Villager described the situation:

“NGOs from our village MWO [Mara Women’s Organization] cook the rice and curries at one place and feed them at another place. They have to go to separate houses, family by family to sleep. Our village is currently taking care of their livelihood. There is no aid from the government yet. Now we heard that the AA forces have gone. We will go today and inquire, and if we see that they have actually gone away from that area, the villagers will also go back to their village.”

On the 20th May 2017, a further 200 Chin community members fled from the area; 36 villagers from Taluwa village, 71 villagers from Laltel village and 136 villagers from Shwe Let Wa village fled to Sin Ooh Wa village, all internally displaced in Paletwa. While the treatment by relevant authorities in India had been reported to be good, conditions were not safe for those that were escorted back into Myanmar by the Assam Rifles from India as hundreds remained internally displaced.²⁸



Figure 2 IDPs in Paletwa, Chin State.

Fighting between AA and Tatmadaw intensified in November 2017 as the Tatmadaw went on the offensive with 30 battalions and attacked using helicopter gunships along the Paletwa-Bangladesh and Paletwa-Indian border.²⁹ On 18th November 2017, continued fighting between AA and Tatmadaw forces, forced approximately 1,300 villagers to flee Paletwa Township to India’s Mizoram State. A Police Chief from Lang Sang Lura, Lawngtlai District, India, confirmed that the refugees would not be pushed back as long as fighting continued on ‘humanitarian grounds.’³⁰ As of July 2018, over 6000 IDPs from 20 villages in the Pikhyang area, close to the Bangladesh border have

been blockaded by Tatmadaw forces. There are also 362 refugees sheltering in Hmawngbuchhuah Village, Mizoram, India - on 26th July 2018, it was reported that an outbreak of malaria had taken place.³¹ IDPs in Paletwa, are at the time of writing, spread out in at least 20 villages with approximately 100 households from Kha Way Village Tract, 40 from Yat Kyaung Village Tract, 56 from Phat Kyaung Village Tract, 50 from Bebung Village, 50 from Kandiwa, 40 from Yetakhun village, 45 from Latpanpya village, 48 from Kying Kyuang, 45 from Nyaung Kyuang village, and at least 20 households from other villages.

According to sources, on 12th July 2018 IDPs from Kha Way village, under the command of the Tatmadaw Western Regional Command of Rakhine State, had been imposed with limits on how much rice villagers can purchase as a family or individual, 12 Pyi (24 kg) per individual per month. The present concentration of the

²⁸ Chin Human Rights Organization “CHRO: Concerns of Forced Displacement as a Result of Arakan Army Activities” May 26th 2017. <http://www.chro.ca/index.php/resources/chro-in-the-news/563-chro-concerns-of-forced-displacement-of-chin-civilians-as-a-result-of-arakan-army-activities>

²⁹ The Irrawaddy, “AA, Myanmar Army Clashes likely to intensify: Arakan Army Spokesman.” 30th Nov, 2017 <https://www.irrawaddy.com/news/burma/aa-myanmar-army-clashes-likely-intensify-arakan-army-spokesman.html>

³⁰ Myanmar Times, “Villager Killed by Landmine in Paletwa, Refugees flee to India” <https://www.mmtimes.com/news/villager-killed-landmine-paletwa-refugees-flee-india.html>

³¹ Khonumtung News, “IDPs face malaria, diarrhea outbreak in Mizoram”, 26th July 2018

IDPs from the Pikhyang area need to travel approximately 90 miles by waterway with a small boat to get rice for daily survival in Kyauktaw, Rakhine State:

"We have to buy the rice from a very far place in Kyauktaw, [Rakhine State] and the transportation cost is very high. It is sometimes higher than the price of rice that we can afford to buy. For instance, a family of four has to spend a night to get to Kyauktaw in order to buy 48 Pyi (48 kg) of rice for a month. Some families who do not have any means of transportation need to hire a small boat for two days and need to pay at least 40,000 kyats (approx. 27 USD) and 25,000 kyats for 5 gallons of petrol. They need to spend at least 65,000 kyats for transportation costs and 40,000 kyats for 48 Pyi (96 kg) of rice. Hence, the rice price is higher than that of the transportation cost with the limited amount that they can buy".

II. Forced Labour and the Use of Human Shields by the Tatmadaw

On 16th November 2016 a Chin community member based in Pikhyang, a village close to the Bangladesh border in the North-West of Paletwa Township Chin State was killed after stepping on a landmine. He was portering for the Tatmadaw who were on patrol in the area. The Tatmadaw were using the villager as a human shield. The Tatmadaw, knowing AA were present and in close vicinity to where the border-village is situated and aware of the risks posed by landmines, had forced the man to carry food items and walk ahead of the patrol. The man died before being able to reach a medical facility. As the village is situated on the border between Chin State and Bangladesh, the AA use it to store medical supplies, and gather food stuffs if needed as they camp in the surrounding jungle and over the border in Bangladesh.

Between the 17th – 19th March 2016, as skirmishes between Tatmadaw and AA forces broke out in the area of Pikhyang Village along the Bangladesh border, Tatmadaw forces began issuing forced labour demands to Chin civilians to help support the reinforcement of positions between Pikhyang, Laymyo Chaung, Upae and Kawae Villages located close to the Bangladesh border. Chin community members from the area were forcibly conscripted into becoming guides and baggage carriers, and locally owned motor boats were commandeered by the military. Kawae villagers were made to carry 2 bags of rice each from Kawae village to Upae village.

Soldiers from Light Infantry Battalion 538 which had marched from Paletwa Town assembled the village elders and demanded 10 locals to carry army baggage. The elders protested that they had already provided 7 people that morning and could not supply anymore as most were now tending to hill-side cultivation plots. On hearing this, the soldiers threatened the villagers, making it clear that one way or another they wanted rice delivered to Upae Village within the next day or they would attack the village with heavy weaponry. Before the soldiers left, one stated *"this threat is real, this threat is not an empty one."*

On 18th March 2016, 9 villagers were forced to carry rice left behind by Tatmadaw, Light Infantry Battalion 539 based in Kan Souk Village, Kyauktaw Township, Rakhine State and a further 3 villagers the day after. As no roads or water routes are available in upper Pikhyang, due to its remoteness and dense jungle, the locals are often made to carry both military equipment and other provisions. Villagers reported that in some instances, 5000ks per day as wages had been promised:³²

³² Under the 1930 ILO Convention forced labor is defined 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" article 2(1)

"The military often came to our village and conscripted. We have to consent as there is no choice. They sometimes pay about 5000ks as wages. We are made to carry massive loads with no freedom while doing it, unlimited working time. Sometimes we don't even get what they promise us."

III. Indiscriminate Laying of Landmines by the AA

The laying of landmines by AA forces has resulted in two deaths and one man losing the use of his legs during the documentation period.³³ On 7th January 2017, a community member stepped on a landmine while he was working together with some friends on *jhum*³⁴ cultivation in a nearby forest close to Pikhayang Village. He suffered serious injuries to both of his legs, requiring surgery and a blood transfusion. He was taken to hospital over the border in Bangladesh and released almost three months later after recovering from an operation on both his legs. The man can no longer walk.

On 17th November 2017, it was reported that the State Social Welfare Department had confirmed a Chin villager from Paletwa died as a result of injuries suffered after stepping on a landmine, close to Ngashar Ahtat Village, while walking in the forest in search of food.³⁵ Unlike the cases above, CHRO has not been able to verify whether this was laid by AA or Tatmadaw forces who were involved in the ongoing skirmishes during this time.

The indiscriminate laying of landmines by the AA presents significant risks, not only to the personal safety of Chin civilians but in their ability to practice traditional livelihoods. Community members also reported to CHRO that many domestic animals step on landmines in grazing areas around certain villages. The dangers posed by landmines not only make *jhum* cultivation a potentially life and death decision for villagers but constitute a direct attack on livelihoods.

IV. Killings and Enforced Movement Restrictions by the AA

The AA continues to impose movement restrictions on civilians coming and going from villages on both sides of the Bangladesh border. As small and sporadic skirmishes break out between AA and Tatmadaw forces, in some circumstances male villagers who have fled these areas are subsequently accused of being spies and in league with Tatmadaw. The AA has issued threats against civilians they believe to have been operating as spies, making it too dangerous to return to their families. The imposition of movement restrictions impacts both the ability to continue livelihood activities and ignores obligations under IHL rules in relation to the respect of family life.³⁶

On 8th November 2017 one civilian was killed and three injured as AA open fired on a boat carrying civilians along the Kaladan River in Paletwa. According to an aid worker based in the area, the AA mistook boat passengers on the Kaladan River for Tatmadaw soldiers, there were five people on board, one male was killed and three female passengers were injured who were subsequently taken to Paletwa hospital for treatment. The AA spokesman U Khine Thu kha, while not denying the AA was responsible for the death of

³³ One case is described above *Forced Labour and the Use of Human Shields by the Tatmadaw* as the death from landmine explosion took place while acting as a human shield for Tatmadaw forces.

³⁴ This a local term used for Shifting Cultivation.

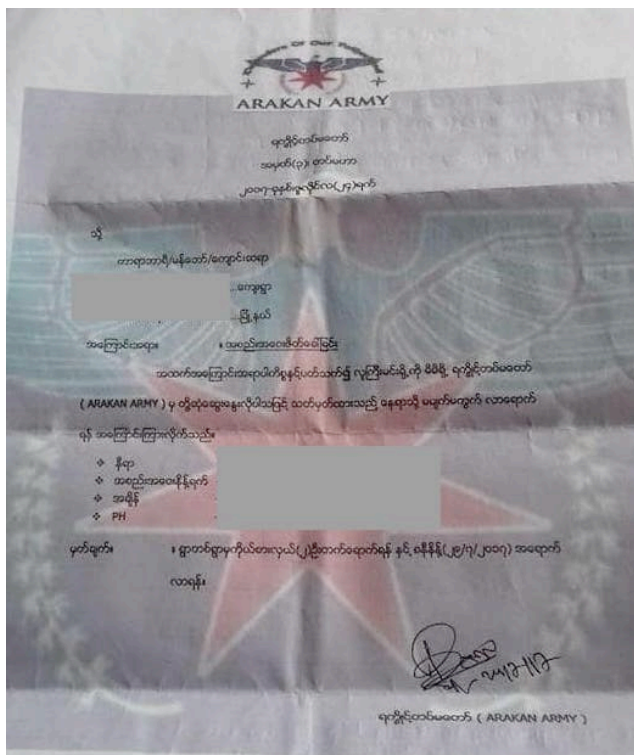
³⁵ Myanmar Times, "Villager Killed By Landmine in Paletwa, refugees flee to India" Nov 30th, 2017 <https://www.mmtimes.com/news/villager-killed-landmine-paletwa-refugees-flee-india.html>

³⁶ International Committee of the Red Cross ICRC Rule 105: Respect for Family Life; Article 26 Geneva Convention.

the civilian, stated that they had informed villagers not to travel along a stretch of the river, very close to Paletwa Town.³⁷

V. Destruction of property / Looting by the AA

On 18th June 2016 3 houses in the village of Kin Ta La, 30 miles North of Paletwa Town, were deliberately set ablaze during skirmishes between Tatmadaw and AA forces. The owners of the houses lost all possessions inside. The Tatmadaw had sought shelter in the village households while on patrol in the area:



“They didn’t just shoot, they also burnt some houses. There were no casualties as all villagers fled in fear all assets from the houses were lost, however. They were destroyed by the fire. 3 households whose houses were burnt are now straying in nearby houses, temporarily.”

Sources in the village confirmed there were injuries sustained to both the AA and Tatmadaw during the skirmishes but did not know detailed information. Afterward villagers complained that they were frustrated because of tight security measures in the area as a consequence of the conflict.

Villagers from Pikyang Village, while reporting the death caused by landmines case described above, informed CHRO that AA soldiers had very often deliberately killed the livestock of Chin civilians in Pikyang and other villages, constituting a direct attack on livelihoods in communities that rely solely on farming and animal husbandry.³⁸

Figure 3 AA notification letter request for village people to attend meeting in Paletwa Area

In May 2018, CHRO has received reports of theft and beatings carried out by the AA along the

Bangladesh, Myanmar border areas. According to anonymous sources, AA members entered the village of Tawoepwee in the Shinmadein Village Tract of Paletwa Township on 17th May 2018. Villagers were accused of informing the Tatmadaw about AA troop movements. During a village interrogation, six male villagers were beaten. The AA also took many of the villagers’ mobile phones, 10 chickens, 2 pairs of gold earrings, and 51 lakhs (5.1 million kyats worth approximately 3500 USD) of village development money. During the village raid, the AA demanded no Burmese be spoken and shouted, “*Rakhine language only*”. Fearing another AA troop raid, villagers have now fled to several other villagers.³⁹

³⁷ Democratic Voice Burma, “Arakan Army Mistakenly Shoots Boat Passengers” 9th November, 2017. <http://www.dvb.no/news/arakan-army-mistakenly-shoots-boat-passengers/78297>

³⁸ ICRC, Practice Relating to Rule 54. Attacks against Objects Indispensable to the Survival of the Civilian Population

³⁹ CHRO is continuing investigations into the case.

2. Human Rights Abuses Perpetrated by the Tatmadaw in other areas of Chin State

State perpetrated human rights abuses are not limited to Paletwa, as the rest of Chin State, particularly Matupi Township, remains heavily militarised. In Matupi Township Chin civilians have been subjected to cruel inhuman and degrading treatment by army personnel living in camps close to villages and towns, child soldier recruitment and the issuing of shoot-on-sight orders for attempting to practice traditional forms of livelihoods by the Tatmadaw.

1. Recruitment of Child Soldiers by the Tatmadaw

In 2017, the U.S. Department of State reported in the “*Trafficking in Persons Report*” covering mid-2016 to mid-2017 that:

“The government continued to require troops to source their own labor and supplies from local communities, thereby increasing the prevalence of forced labor; failed to sufficiently penalize military officials who engaged in child soldier recruitment; and prevented the UN from playing a constructive role in bringing to an end the recruitment and use of children by ethnic armed groups”⁴⁰

Child Soldiers International also notes that despite improvements in this area, children continue to be unlawfully recruited into the Tatmadaw and highlighted that 210 cases of “*suspected minors*” were reported by the Country Task Force for Monitoring and Reporting (CTFMR) for age verification in 2015. They went on to identify that a ‘recruitment economy’ has contributed to the creation of a network of informal recruitment agents or “civilian brokers”, who receive payments for delivering new recruits to the Tatmadaw.⁴¹ In their submission to the Asylum Research Consultancy report on Chin State July 2017, they described a range of methods currently being used to recruit children into the Tatmadaw ranks:

“Information gathered by Child Soldiers International shows that military officers and civilian brokers continue to use deliberate misrepresentation, intimidation, coercion, and enticement to obtain new recruits, including children. Civilian brokers have frequently recruited boys under false pretences, often offering them a different job, such as a driver”.⁴²

On 19th March 2017 Sergeant U Kyaw, from Light Infantry Battalion LIB XXX, began the process of coercing a 16-year-old boy, Ko Mang from Matupi Township, Chin State into the ranks of the Tatmadaw. Ko Mang was born on 15th June 2001. The boy’s grandfather, Salai Tun was approached in the village of See Law, Matupi, and was asked by the Commander whether his grandson would join. Salai Tun said he would return to his home village and see, the Commander said: “*please bring him to me as soon as possible*”. On his return to the village, his grandchild had already left. Ko Mang later recounted that:

“In March, 2017, Corporal U Thet from LIB XXX called out to me to join the army. He said he already got permission from my relatives, so I followed him. I arrived in Shwe Bo [Magway Region] at the end of March 2017 and started training in April. I completed the training in September and was given the ID number (T/894361). I attended the upgrading course again in Monywa [Sagaing Region]. I returned to Matupi in

⁴⁰ U.S. Department of State, “*Trafficking in Persons Report: Burma: Tier 2 Watch List*”, June, 2017

⁴¹ Child Soldiers International, “*Ongoing Underage Recruitment and Use by the Myanmar Military and Non-State Armed Groups: Briefing for the UN Secretary General’s Annual Report on Children and Armed Conflict – March 2016*” 21 March 2016, *Summary of concerns, pages 1-2*

⁴² *Ibid*

October, 2017. I arrived at LIB 304 in Ye Zwar, Matupi Township next week. Again I attended the upgrading course in Kalay for 2 months and continued to go to Nay Pyi Taw and joined the training course for officers. After that, I returned to Matupi in May, 2018.”

During his time being trained with the Tatmadaw, Ko Mang received a new National Registration Card (NRC):⁴³

“Major General from XXXXX U Sein Win Ma made the national identity card for me. He also did all the formalities for my joining up. He also instructed me to say that I am 18 when I join. So I followed his instruction, and they told me to sign 5-year-contract. When I said I would attend school again, learn driving and handicraft after 5 years, they also agreed.”

On arriving back to Matupi in May 2018, Ko Mang approached his grandfather for help, *“Grandpa, I don’t want to live in the Army. I want to go back to school. Please go and ask the Strategic Commander. Let me resign from the Army”*. Ko Mang’s grandfather then went to visit LIB XXX where his grandchild had been assigned and met with both the Battalion Commander and the Strategic Commander. During the meeting, the Strategic Commander requested Salai Tun to *“Let the boy himself come. He is currently at the xxx xxxx base. When he comes back, I will ask him in front of you. If he really wants to continue schooling, he can go to the Army’s school. If he wants to resign from the Army, we will also let him do as he wishes”*. After hearing nothing from the army battalion, Salai Tun made a second journey to LIB XXX, on 25th June 2018. On arrival he met Ko Mang and found out that his grandson had already been there one week:



Figure 4 Military Camps in Matupi Township, Southern Chin State

“We then discussed resigning from the Army. I don’t know whether because of the Battalion Commander and Strategic Commander’s threat or persuasion, Ko Mang said that he did not want to resign anymore and wanted to continue living in the army camp. Afterwards, the Strategic Commander made me sign a pledge that I won’t disturb them again.”

⁴³ The National Registration Card is the main identity recognition in Myanmar.

Salai Tun protested to the Strategic Commander, stating that his grandson was still a child, and inquired as to what would happen should his grandson flee the army:

“I said that my grandson is underage. He is just a child soldier. If he ran away later, he will be accused of desertion. Then, we his relatives will also become implicated. I don’t like it. I asked him [strategic commander] ‘if he ran away, can you guarantee that he won’t be accused of desertion?’ and Strategic Commander replied that he had no idea. He said that my grandson doesn’t have to go to the front line as he is underage. The Strategic Commander continued, ‘for this year, it is late for him to go to school. I will make him attend the school next year’”

Another source interviewed in relation to this case, Pu Twam, a clerk from the XXXX Administration Office confirmed that on 19th March 2018 Corporal U Thet came to XXXX (A) village together with administrator Pu Twam of XXXX village tract who lives in XXXXX (B) Village:

“While taking a rest at my house, Corporal U Thet asked me if there would be any children who want to join the army and I replied that Ko Mang would probably be interested. And so, the corporal went and asked the grandfather of Ko Mang.”

In a separate instance, it was reported to CHRO by Salai Thawng from Matupi Township on 2nd July, 2018 that he and some of his friends, while playing *Cung Lin*⁴⁴ in their village, had been approached by a stranger wearing no uniform who had asked them “*are there any young people who want to join a military army? If there is anyone, I will make NRC for them and they will be paid a salary*”. According to Salai Thawng, the man had the “demeanor” of a military man.⁴⁵

II. Physical Assaults and Inhuman and Degrading Treatment by Tatmadaw in Matupi

On 30th December 2017, approximately 20 soldiers from LIB XXX which were deployed near XXXX village, Matupi, Chin State beat three local youths from the village, leaving one badly injured:

“At 9.30 pm on 30th Dec 2017, local youths Ko Mang Te and Salai David went to Sergeant U Thwee Win’s pub who is selling alcohol without a licence. Owner, Sergeant U Win replied that there was no alcohol anymore. Then the children saw some soldiers drinking alcohol in the pub and asked, ‘You sold alcohol to soldiers then why don’t you sell to us?’ and asked for alcohol several times. Then they quarreled and the two youths exited the pub, pushing the owner’s bamboo house wall accidentally, and that’s when the conflict started”.

The Sergeant set off after the two youths on motorcycles, together with seven other soldiers who were at his premises. Riding on three motorcycles concurrently, one of the contingents collided with a separate bike which was being ridden by a local man named Lian Kui, not connected to the previous incident. As the motorcycle handlebars hit each other, Lian Kui fell to the ground. As he rose, one soldier asked him why he had hit their superior and pushed him to the ground. The soldiers began to beat him, some using their fists and some with canes.

According to witnesses, as the soldiers beat him, the man was heard apologizing continuously. As they continued to beat him, his hands were tied behind his back using a nylon rope. The man was bleeding from his nose, later he was found to have suffered severe bruising to his back and suffered a wound to his ear. A nearby military truck was summoned which they the bundled him into. As the truck left, eyewitnesses saw the soldiers continuing to beat the man inside the truck as it drove off in the direction of battalion No.XXX.

⁴⁴ Popular game played in Myanmar.

⁴⁵ CHRO is currently investigating the case.

The pub owner, Sergeant Win and seven soldiers then continued to search for Ko Mang Te and Salai David with whom they had quarreled with at the pub, found them at the main junction, close to the centre of town. Five of the soldiers began beating Ko Mang Te. At around 10.30 pm, one military truck, four motorcycles and more than 20 soldiers came again to the village, two eyewitnesses who spoke to CHRO described the events:

“They came in a truck, they carried one gun and some had canes, within the truck we could see Lian Kui, whom they captured earlier, still bound. On their way to the village, they were heard shouting, ‘We will turn XXXX village to ashes! We will slaughter Chin people!’ Then, the soldiers turned to the village administrator, asking him to delete video clips he had taken, and said that they would set Lian Kui free only after that happened. They set the youth free only after all photos in the phone were deleted”

According to other sources, as soldiers are selling alcohol and building houses to reside in the village, there have been four or five times that Tatmadaw has used violence against local villagers. Sergeant Win who sells alcohol has also acquired the public land to build a house in the village and sold alcohol since 2013. Community members stated that, if possible, it would be the safer if armed forces did not live together with civilians and lived separately.

III. Shoot-on-Sight order Declared by the Tatmadaw

On 20th February 2017, a senior officer of the Tatmadaw ordered Military base XXXX, based in Matupi Township, to prohibit the cutting of trees for hillside cultivation. The resulting order issued by the strategic commander to stop such actions prevented 68 families from XXXX Quarter and XXXX Quarter and XXXX Village of Matupi Township from this crucial livelihood activity, leaving them without the ability to grow food. According to the Ward Administrator, San Baung, the issue was ordered after the Tatmadaw officer saw a patch of cultivated land from a helicopter, during an official visit to the base. After a local farmer had reported this to CHRO, Pu Sein Tun Win, an administrator for XXXXX Village, also stated that an order had been put out by the Strategic Commander to kill those that attempted to continue in traditional shifting cultivation practices on the land. Although the families were allocated another area to cultivate, the growing season was over by the time this was arranged which meant a year would go by without the ability to grow food.⁴⁶

⁴⁶ Chin Villagers usually clear plots around March/April time before the monsoon starts.

3. Freedom of Religion and Belief

Myanmar is still recognized as a tier 1 country of particular concern by the United States Commission on International Religious Freedom (USCIRF).⁴⁷ Religious tensions and discrimination have continued toward Chin Christians and Chin people still faces systematic attempts to ‘Burmanize’ the population, where state-sponsored religious programmes violate the right to religious freedom. The vast majority of Chin are practicing Christians. Christianity is seen as a foreign religion by the majority Bama population who are largely Buddhist. Not only does Myanmar law and policy fail to offer protection for religious minorities but in some cases actively discriminates against non-Buddhist religions. Compounding the problem further are the discriminatory institutional barriers which in large part prevent Chin people from registering property or land for religious purposes.

The 2008 Constitution fails to provide adequate protection of freedom of religion or belief. Article 34 of the 2008 Constitution appears to guarantee freedom of religion or belief for all, but a list of qualifying conditions based on whether the religion does not undermine ‘public order’, ‘morality’, ‘health’ or ‘other provisions of this constitution’ makes it highly restrictive. Ultimately the result is that a vaguely defined idea of ‘public welfare’ trumps freedom of religion or belief in the 2008 Constitution. Moreover, the vague constitutional provision is subsequently contradicted by Article 361 which states ‘The Union recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union’. In applying a ‘special status’ toward Buddhism into the 2008 constitution, policies which discriminate against religious minorities in the name of the protection of Buddhism are legitimated.

The Religious Conversion Law, one of the package of bills for the “protection of race and religion,” originally drafted by the extreme religious group, Ma Ba Tha, and subsequently signed into law by President Thein Sein in 2015, was opposed by Christian denominations.⁴⁸ Each of the four discriminatory laws have been widely criticized by civil society for not according to Myanmar’s State obligations as party to the UN Convention on the Elimination of all Forms of Discrimination against Women and the UN Convention on the Rights of the Child are designed to regulate monogamy, marriage, birth spacing, and religious conversion.⁴⁹ In 2016 a USCIRF report warned that the Religious Conversion Law, which would look to restrict the right to freely choose a religion, interfere with or criminalize proselytization, was already having an indirect impact on religious freedom:

“Some Buddhists want to convert, they tell us they want to be Christian, but they are afraid of this law, afraid of choosing their own religion. We tell our missionaries that they have to be careful. They are fearful about explaining their own faith. If they are reported to the authorities, they may face problems.”⁵⁰

Although in 2018, an implementing By-Law has still not been developed, the indirect consequences raised by USCIRF are evident. Chin Christians have faced attacks and violence by the local population, local police force and resident monks who have been catalysts for violence. This has manifested more violently in areas

⁴⁷ United States Commission on International Religious Freedom, “*Burma Tier 1 Country of Particular Concern*” 2017 <https://www.uscifr.gov/sites/default/files/Burma.2017.pdf>

⁴⁹ For a full legal analysis on the package of laws see, Amnesty International, “*Myanmar: Scrap ‘race and religion laws’ That Could Fuel Discrimination and Violence*” 3rd March 2015. <https://www.amnesty.org/en/latest/news/2015/03/myanmar-race-and-religion-laws/>

⁵⁰ United States Commission on International Religious Freedom, “*Hidden Plight: Christian Minorities in Burma*” Dec 2017 <https://www.uscifr.gov/sites/default/files/Hidden%20Plight.%20Christian%20Minorities%20in%20Burma.pdf>

where Buddhists and Christians live in close proximity such as Kalay Myo in Sagaing Region, parts of Magway Region and Rakhine State.

I. Religious Intolerance, Violence, Threats and Intimidation

On 7th July 2017, a mob attacked Christian congregants leaving four people injured and houses belonging to



Figure 5 Two women who were injured during mob violence on Christian congregants in Teetaw village, Sagaing Region, Myanmar



Figure 6 Victims of the violence sheltered in Httiyait, Assembly of God Church, Sagaing Region, Myanmar

local Christian families destroyed, as four Christian converts refused to re-convert to Buddhism, In Teetaw Village, Sagaing Region.⁵¹ The attacks, which lasted approximately 4 hours from 8 pm to 12 am left four people injured, two motorcycles and bicycles damaged and two houses and all the furniture within destroyed. Twelve people fled the village and sought shelter at Httiyait, Assembly of God Church. Police at

the Httiyait Myoma Police Station were alerted and Chief Ye Htut Aung and 10 police personnel arrived at the scene but failed in their attempts to disperse the mob. According to sources, the mob began to disperse when they overheard the police radioing through to the Sagaing Region Police Chief and requesting permission to use ‘deadly force’ to break up the mob:

“Had the police not arrived in time, the attackers were ready to burn down the house and kill the occupants. Some of the attackers were yelling ‘burn them down,’ while others tried to stop them for fear that the fire could spread to other houses nearby,”

On the 6th of July 2017, the four converts had been summoned by the monk abbot of Teetaw Village Monastery, Sayadaw Batta Namone Neinda, and the GAD

administrative officer, U Kyaw Maung to the village monastery. During the meeting pressure was applied to re-convert under threat that they would be asked to leave the village entirely should they not do so. On refusal, the monk and the GAD submitted a complaint letter to the Chair of Httiyait Township, Sangha Mahana Committee and the Township General Administrative Officer, asking for the banishment of the new Christian converts on allegations that they had, *“insulted the village monk abbot and other Buddhists, defied*

⁵¹Chin Land Guardian, “Buddhist Mob Attacks on Christian Congregants Left Four Injured, Houses Destroyed in Sagaing Region” 12th July 2017. <http://www.chinlandguardian.com/index.php/chin-news/item/2546-buddhist-mob-attacks-on-christian-congregants-left-four-injured-houses-destroyed-in-sagaing-region>

orders not to celebrate Christian festivities and that the predominant Buddhist villagers do not want to live side by side with those worshipping 'Kalar'⁵² God."

According to sources, the Township Sangha Mahana Committee Chair declared that no actions were needed to be taken as *"freedom of religion is assured in Myanmar"*. The Monk Abbot and Village Administrative Officers from Teetaw Village Tract then organized five vehicles of people to pelt rocks at a house where the religious service was being held.



Figure 7 The photo shows the destruction left after the mob had been dispersed. Motorbikes and bikes can be seen destroyed.

According to Ma Khin Ma, the daughter one of the Christian converts who was attacked, but had fled the scene before the attack took place, harassment toward her family had already begun on the same day as the conversion had taken place. On 27th January 2018 during house worship, they were interrupted by the Teetaw Village Administrator, Kyaw Mung, the Village Administration Clerk and U That Naing Oo, the Ten Houses

Representative.⁵³ The 8 worshippers were taken to the Ministry of Religious

Affairs Office in Httiyait at 8 pm. She also reported that about 50 villagers, some armed with sticks and knives had also approached the house at the same time. The Village Administrator informed the Religious Affairs Officer once they had arrived, *"without informing us, they have worship service in a house, that's why I brought them here"*. The religious affairs officer responded by saying, *"Every religion has now freedom, but if you want to have religious activity, you have to seek our permission first"*. They left the meeting at approximately 9 pm.

⁵² The term "Kalar" is traditionally used as a word for foreign people who are not from Burma.

⁵³ An Elected Person from Ten and Hundred Households is a member of the Ward/Village Tract-level Development Support Committee, part of the framework of the General Administrative Department. They have 7 key functions: 1. Supporting, suggestion and cooperation with ward or village tract administrator according to the law of ward or village tract administration 2) Cooperation of village development 3) Submission of the cases which cannot be handled by the village level to the township administrative committee 4) Cooperation of rural area development and poverty reduction 5) Suggestion of environmental conversation and village wood plantation according to the forestry department to the township administrative committee 6) Implementation activities including people's education, educational development and human resources capacity development 7) Mobilizing and participation of understanding laws, rules and regulations. See Generally, Asia Foundation, *"Administering the State in Myanmar An Overview of the General Administrative Department"* Oct 2014, <https://asiafoundation.org/wp-content/uploads/2014/10/Administering-the-State-in-Myanmar.pdf>

Later, in March, 2017 while Ma Khin Ma was away attending Christ's Discipleship Training in Yangon, the same Village Administrator summoned her husband to his office and asked, *"Have you converted to be Christian? If so, just tell me frankly and I will cut off the cash aid that the village monk loans, [600.000 Kyats every six months] and any other loan"*. Her husband denied that they had converted. The loan was subsequently cut.

On her return, in June, 2017 Ma Khin Ma visited the Ten-House representative, U That Naing, and asked why they were no longer granted the loan; he responded by saying, *"you are changing to that religion [Christianity] that's why you are not given [the loan]. Buddhist is totally unrelated to Christian, so you are not given any assistance that the village receives."* As he continued to remonstrate, explaining that their loan book was to be confiscated, Ma Khin Ma contested, *"As there is freedom to believe, I freely and soundly believe,"* the Administrator then shouted, *"Christianity is just Kalar's Religion, you are singing Kalar's song, that's why I can't take responsibility for you, you will be requested somewhere in some day and then when I will just tell you all the details"*

In early July, Ma Khin Ma heard that a meeting had been called where all villagers had been asked to attend. She became worried for her family at this point and fled to Httiyait Village before the attack documented above took place. Her house was one of the properties destroyed by the mob. She has remained in Httikyait village and is still currently in fear for her and family members, located in other villages:

"We just narrowly escaped, but we lost all our property. Even though we, at the present time, stay here [Httikyait] we still don't have life-security as we are still on edge with anxiety because the villagers can come at any time and kill us. They spread the hoax news that we are the one who disrespect Buddhism and even threatened my brother U Kyaw Swe, and family in Tharya Gone Village that he may be shot with a gun. Tharya Gone Village is 10 miles from Teetaw village, and they have already pelted stone at his family."

Since word has spread amongst other villagers that her family has disrespected Buddhist monks and the Buddhist faith, Ma Khin Ma has faced difficulty in finding a house for rent in Httikyait as landlords have begun demanding higher rental fees. She is also afraid to farm on the land where she used to, close to Teetaw Village.

Pu Hram Ceu - an ex-policeman and current Assembly of God Missionary, based in Httikyait Town, where the worshippers fled to – called the police once he heard what was happening on the night of July 6th 2017. He informed CHRO that one of the policemen said, *"I now know, the problem is that Christian missionaries made some villagers betrayed Buddha. As we are responsible, we shall go there but we will not do anything without order"*. After the police had managed to disperse the mob, Pu Hram Ceu remained with the injured people and the police as they went to the hospital together with the Township Administrator and the Ministry of Religious Affairs Officer. At the hospital the policeman said to him, *"If you want, you can prosecute them, but if we can't find the perpetrator, then you could fall in trouble with this case. You also know it, you are ex-police."* Pu Hram Ceu did not respond.

II. Mob Attacks Two Chin Nursery School Teachers in Rakhine State

On 10th July 2018, two Chin nursery school teachers from Pade Kyaw Village, Ann District, Rakhine State were attacked by a mob of local men, including Buddhist monks. Mai Mar Mar Win and Sayama Hla Yi, were having cold drinks at U Tin Phe's residence, a local pastor, when a mob, led by the Monk Abbot and around

200 local people and 4 Buddhist monks, pulled the women out of the house and began beating them. Mai Mar Mar Win stated:

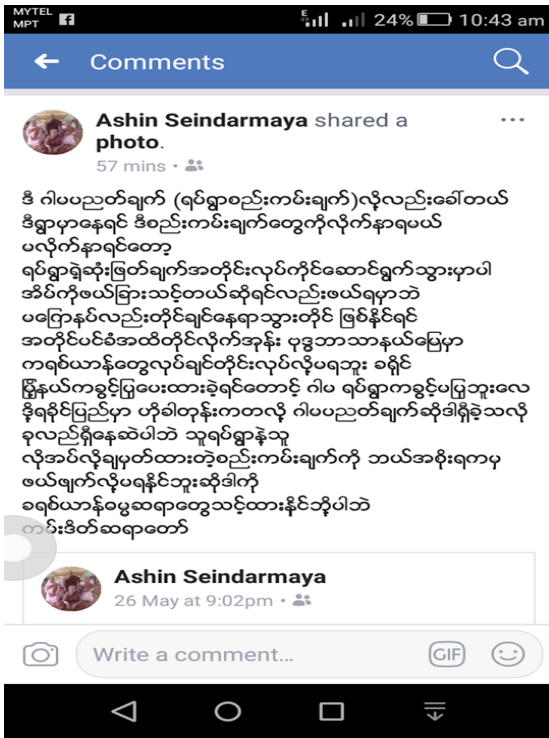


Figure 8 Facebook post shared by a monk from Rakhine State which states that Buddhism is the state religion and even if the District Religious Affairs Department gives permission for Christian Missionary agendas, the local communities will not accept this.

“A group of men appeared suddenly while we were having cold drinks. We immediately went into U Tin Phe’s bedroom out of fear and concern for our lives. Though the owner asked the men not to enter the bedroom, we were forcibly pulled out of the room and hit ruthlessly outside the house. I was so much in fear. We were verbally abused and asked by the monks ‘who sent you to this village, from where did you gain permission to stay here?’ We were told to move out of the village”

During the assault, Mai Mar Mar Win suffered an injury to her left ear and was treated at a medical center in the village. It is alleged that the attack was in response to the fact a proposed nursery that she and Sayama Hla Yi were in the process of opening in the village. Although the Head Representative of Hundred Households,⁵⁴ U Kyaw Tin Aung initially authorized the project and an opening ceremony was planned on 2nd July 2018, he later blocked the ceremony at the last minute:

“On Monday night, a meeting was called by the village monks with a penalization of 50,000 Kyats for any household who failed to send a person per house. It was agreed in the meeting and the attendees were asked by the monks to sign to disturb the Christians during church services. The next meeting was held on Saturday [7th July 2018] again to discuss on the same issue.”

As they were too afraid to hold a worship service on Sunday having heard about this meeting, they stayed at home. It was at noon that they went to visit U Thin Phe’s house which was when the attack happened. U Tin Phe’s residence was also pelted with stones by the villagers later that night and again on Monday night resulting in a damaged roof and fence. U Tin Phe’s wife and U Tin Phe are now seeking legal action:

“This is not the first time this kind of attack has happened, but this is actually the third time my house was stoned by the villagers. My house is in a mess now and I will not ignore the case this time. I am planning to sue them at the central [Union] level if needed”

Mai Mar Mar Win also described how there had been a history of religious based discrimination and a lack of due process by local authorities to address the situation:

“Incidents of this kind, the Christians being disturbed and intimidated by majority Buddhist groups, is seen frequently. Actions have never been taken so far though as the cases were often reported to the respective police station but Christians were told to leave the village if they had a concern for their lives. The cases relating to religion were widely neglected by the heads [local authorities]. Pade Kyaw village, where many Asho Chin reside, is a village where there are more than 200 households with merely 9 families being Christian. Christians in this village are being subjected to many kinds of abuses and intimidation from majority Buddhist groups.”

⁵⁴ As above, supra note 35.



Figure 9 Pastor Tin Shwe, Pastor of Good News Church in Rakhine, who was attacked by Pade Kyaw villagers in Hinywet Village, Ann Township, Rakhine

In a separate instance from the same area, on 12th August 2018, the Rev. Tin Shwe was attacked and hospitalized after receiving lacerations to his head and face, his phone was also stolen during the assault. U Tin Shwe, from Ann Town is the Church Pastor of Good News Church, based in Ann Town, he is also the Rakhine Mission field Director for Thukha Myanmar Mission, based in Yangon.

The mob arrived at 11 am while the pastor was eating lunch, having arrived at Hinywet Village, Anne Township, Rakhine State for Sunday worship at Good News Church. According to David Khaihmo, the president of Thukha Myanmar Mission, he was set upon by a mob of approximately 30 people who attacked with sticks and fists until the pastor was rendered unconscious. After receiving four stitches for his

head wounds at Anne Hospital, his condition deteriorated at home where the pastor continued to suffer from dizziness and nausea. After returning to Anne Hospital at 8 pm he was advised to visit Yangon and so, as it was an emergency, the family decided to travel by plane to receive further treatment.

According to sources, locals from Pade Kyaw, where the two nursery school teachers were attacked in July, have been targeting Pastor Tin Shwe regularly. After the attack took place three policeman from Ta Line Taung Village located 8 miles away from Hinywet arrived on the scene and took the pastor to Ann Hospital. Villagers from Hinywet, while the pastor was receiving treatment attacked the Good News Church in Hinywet, destroying possessions within. While being interviewed, the Police refused to accept that possessions had been stolen during the attack on the pastor. To date, No investigation has been concluded.

III. Village Authorities Expel Christian Converts

On 15th January, 2018, the missionary pastor for Min Yua Village Tract, Gangaw Township, Magway Region reported that the Village Tract Administrator together with Buddhist monks planned to expel a family who converted to Christianity out of the nearby Po Lay Village. According to the pastor, six monks, the Village Tract Administrator and two policemen came to Po Lay Village and called Pu Va Dawng, a recent convert to Christianity, to a meeting. During the meeting, he was informed that he will be expelled from the village with all the communities consent because of his decision to convert.

According to Pu Van Dawng, the main reason for forcing him out of the village was due to the fact that Buddhist monks in the villages of Maw A Che, Kyat Ni Yaung, Min Ywa and Lay Ywa had held a meeting to make all of the four villages Buddhist only. Amongst five key resolutions that were developed during the meeting, one of them was that a person from any other religion should not be sold, rented or lent any house or any other property. The village administrator told the local pastor who had enquired about the situation:

“We worked with these decisions and took action concerning him accordingly. The meeting attendees were made to sign the meeting’s resolution in full agreement. Pu Van Dawng, who converted from Buddhist to Christianity himself, signed the decisions. We did everything in accordance with his agreement.”

Pu Va Dawng informed CHRO that he settled in the village in 2000 and bought a 5-acre plot of paddy field, having moved from Yaung Nat Village, Gantgaw Township. In 2001 he was forced to convert to Buddhism in order so that he would be allowed to stay in the village. Previously, on 6th June 2015 the Administrator, together with a local contingent of Buddhist Monks had organized a race and religious related meeting with local villagers. All of the villagers agreed to prohibit any kind of business or allow non-Buddhists in the village as Po Lay Village is inhabited by a Buddhist majority. According to Pu Va Dawng he was forced to sign the meeting decisions as he felt he had no other alternative.

IV. Discriminatory Barriers to Owning Land for Religious Purposes

Land ownership for religious purposes remains as discriminatory under the National League for Democracy NLD as it did during the SPDC military rule in the 1990s. In order to gain permission for the construction of religious buildings, applicants must apply through the GAD, and the Ministry of Religious Affairs and Culture. The GAD is run under the Ministry of Home Affairs. The Ministry of Home Affairs is one of three

ministries that under the 2008 Constitution must be led by an active, top-ranking military official, appointed by the Commander and Chief of the Armed Forces.⁵⁵ The GAD, due to its central role in state functionality as a militarized bureaucracy has remained an unreformed central tenet of military control for all 14 States and Regions of Myanmar.

As a result of this, applications usually disappear into a ‘black hole’⁵⁶ in which permission for owning land for religious purposes rarely, if ever materialize. Chin Christians wishing to have a place of worship are generally forced to circumvent such restrictions by buying private land and paying bribes in order to undertake house worship services. In 2014, all the churches in Hakha, the capital of Chin State applied to have the ownership changed from private ownership to registered church land, but to date, none have received a response.

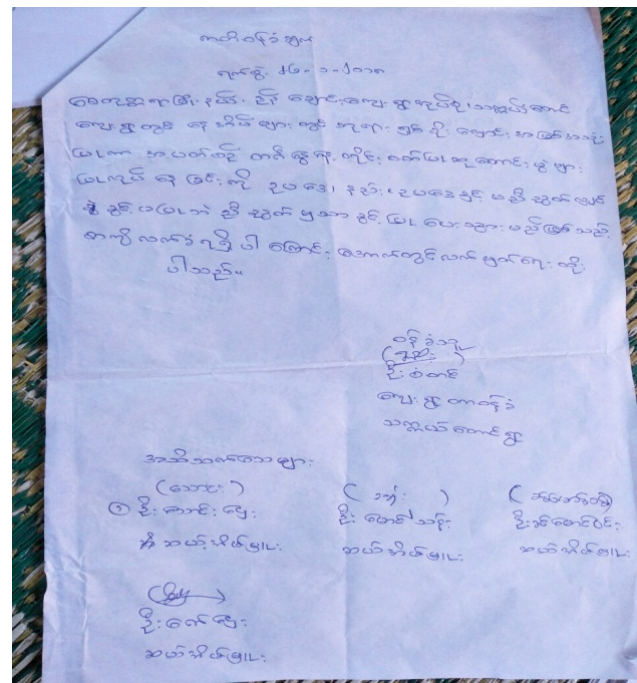


Figure 10 An agreement letter not to let Christians use home as Church and not to allow to conduct Sunday Service if it deviates from laws and guidelines (signed by four households heads, a village in Charge) in Thet Kal Taung Village, Setottaya

On 28th January 2018 in Tatke Village, Done Chaung Village Tract, Setuttaya Township, Magwe Region, the Township Administrator banned Christians from building a house for the local pastor from the Lairawn Baptist Association and also from worshipping in a residential house. According to Saya Thawng Lian Mang,

⁵⁵ Constitution Of the Republic of the Union of Myanmar, 2008, art 232.
⁵⁶ USCIRF, page 14.

a missionary from the village, a letter from the Settutaya Township General Administration Office dated January 21st, 2018 was sent to the Done Chaung Village Tract Administrator and Tetke Taung village leaders which read:

“TetkeTaung Christian-villagers are to be punished upon using U Po Lay’s House as a Christian Temple [church] and having worship services every Sunday and as the villagers stated, Christians will be punished in accordance with the law if they still have worship in a residential house.”

Saya Thawng Lian Mang had previously applied to build the house at the Immigration Office on 22nd November 2017. On 17th December 2017, the Immigration Head, U Than Hla Aung visited them and requested that if U Po Lay and Saya Thawng Lian Mang, the village head and Sayama New New Aung, all local members of the mission, signed an order to stop using U Po Lay’s house as a place of worship, the house building might become easier. As they did not sign, problems began.

Subsequently, the land where the proposed house was to be built was confiscated. The Township Office issued a notice on 28th January 2018 that the site was part of the Permanent Forest Estate by the Ministry of Natural Resources and Environmental Conservation (MONREC) who govern the forested land. According to Saya Thawng Lian Mang, the land which is approximately 0.13 acres is owned by a man named U Ngwe, who had been using it to grow coffee before deciding to donate it to the pastor.

As local Buddhist monks continually reported to authorities about the weekly worship that was taking place in U Po Lay’s house without permission from the Township Administrative Office, Saya Thawng Mang approached the Regional GAD office in order to apply officially. Taking the advice from the Township Officer, on 12th March 2018 Pu Thawng Lian Mang visited the Regional GAD Office with a letter applying to use U Pu Lay’s house as a church. The staff member, after reading the letter in front of him, rejected the application. He was informed that he must send the letter via the postal service:

“After they have told me to send via the Post Office, I asked them why they made me do this and one staff member informed me, ‘this is an official complaint letter.’ I replied ‘this is not a complaint letter but this is just an application’ but they stopped responding, and just told me to send via the Post Office and I unavoidably sent the letter via the Post Office in accordance with their instruction. When I sent in the Express Mail Service via Magway Post Office, the staff told me that the letter would arrive within one day, however today has already been approximately one month, but there is no response from the Regional General Administration Office so far and we also don’t inquire further about it.”

According to a local reverend, since 1996, various Township Administrators had banned other sites purchased by the missionary as well as other religious-based activities in Ngaphe Township, Sagaing Region.

“The Lairawn Baptist Association, based in Kalay Myo in Sagaing Region started sending missionaries to Ngaphe Township, Minbu District in Magwe Region in 1996, and now the Christian missionary activities have expanded to Setuttaya Township. The local authorities and local monkhood have responded negatively to this by barring religious ownership of land for Christians and attempting to block worship in houses”.

Institutional barriers such as these are not limited to areas where Chin State borders regions with a Bama/Buddhist majority. Within Chin State itself, there are also barriers to worship freely. In 2017, USCIRF noted that the Ministry of Home Affairs had reportedly issued orders to the GAD to monitor Christian and Muslim religious activities, such as how they are funded and with whom religious leaders are meeting.⁵⁷ In

⁵⁷ USCIRF, Hidden Plight, p.13

March 2018, Pu Salong, Administrator for Nga La Ward in Matupi Township, reported that the Administrator from the Township General Administration Office, Matupi, Southern Chin State, said that in seeking permission for any meetings or training, the State's permission is also required for both religious organizations and other types of organizations:

“In the meeting of Respective Department Heads and Village Tract Administrators on March 30, 2018, Matupi Township Administrator U Tu Tu Htwun told us that in seeking permission for meetings and training, religious organizations, NGOs, and other CSOs need to apply two weeks prior and then only if State permission was acquired, they would be allowed.”

According to Pu Salong, the Township General Administrator said that State Government instructed to include the date, venue, reasons, purpose, and number of people at the meetings and training to be held, in the application form and the form has to be submitted to Township General Administration Office and only then the Township Administrator would submit the form to District and State to seek permission.

V. Funeral Procession Blocked from Using Public Space

On 29th August 2018, a funeral procession was banned from crossing the downtown area and bridge over a river in Thiri Ward, Saw Township, Magway Region. In order to reach the cemetery which is located on the opposite riverbank from where the village is located, the procession was forced to cross the river with the body in order to perform the burial. Having received the necessary recommendations from the Ward Officer and hospital to bury the deceased, the Thiri Ward administrator, U Nyi Nyi Nyunt restricted the procession:

“For the burying process, firstly, we need to get the recommendation letter of the ward officer, then a recommendation letter from the hospital and, lastly from the Township Municipal Administrative Office. We were told to cremate the deceased body. If we agreed with this, they [Thiri Ward Administrator] said they would help us since there is no more space to bury bodies in this ward. If we still wanted the body to be buried, a Municipal official told us that there is free space in a cemetery on the other side of the river, but we were not allowed to carry the coffin in the town or cross the bridges since it is against Buddhist's belief.”



Figure 11 Funeral Procession, carrying the coffin across the river **Figure 12 Processions carrying the coffin of a Christian man**

The villagers, after deciding taking the body up to Kanpetlet Town, Chin State to be buried was too impractical, crossed the river with the coffin:

“We, therefore, with no way of entering town, carried the coffin across Saw river with great difficulty and bury the body in Myoma cemetery after 5pm” If we walked across downtown, it is only about a mile far to reach Myoma cemetery. However, since we were ordered to avoid town, we had to cross the river and also a wood with no streets and it took us to walk about two miles, since it’s rainy season, the flow of the water was a bit rough and we had to be very careful in carrying the coffin to the cemetery.”

VI. Forced Labour Ordered by the Local Authorities

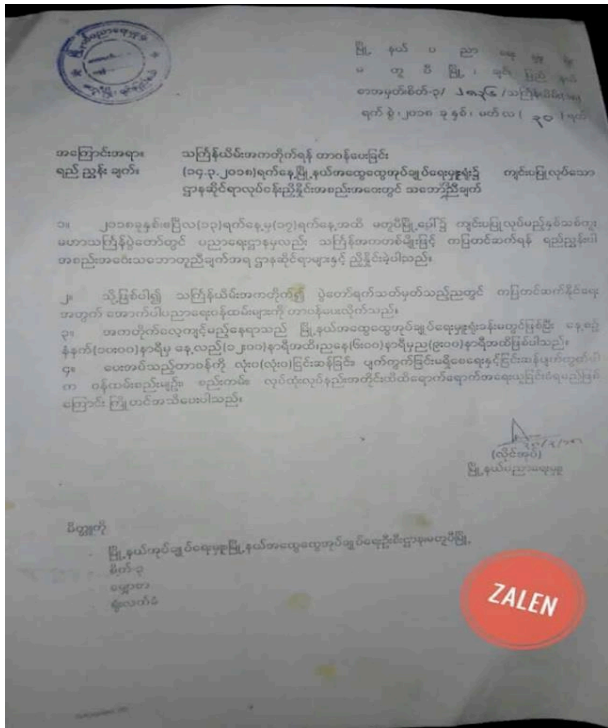


Figure 13 Matupi Township Education Administrator Order to practice Thingyan Dance without fail, according to the meeting decision at the GAD office.

While instances of forced labor are usually linked to military activities in Chin State, they also manifest in departmental demands to push a Buddhist/Bama agenda.

During the Thingyan (New Year) festival, April 2018, the GAD in Matupi Township issued a notice to the educational department that local Chin teachers were to perform dances throughout the festival from 13th to 17th April 2018 from 10 am to 12 pm and from 6 pm to 9 pm at night, for the duration of the festival.

The notification stated in clause four:

“The assigned task must not be refused or failed to be carried out at all and it is informed in advance that if there is any refusal or failure, severe actions will be taken according to staff procedures and regulations”⁵⁸

The International Labour Organisation (ILO) lodged a complaint with the GAD after CHRO had documented the case.

⁵⁸ Under the 1930 ILO Convention “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” article 2(1)

4. Right to Education

Due to the prevailing poor socio-economic status of rural Chin State and lack of infrastructure, there remain significant barriers to accessing education for children. All schools in Myanmar, whether they are government, comprehensive, or private boarding schools, require matriculation exams proctored at the end of a student's upper secondary school career. The results of the matriculation will in large-part determine a child's ability to study certain courses and attend certain universities, making it a critical juncture in a child's formative process. Approximately 700,000 candidates sat the matriculation examination in 2017.⁵⁹ Given that the matriculation is based on a nationwide curriculum structure and standard, there exists a substantial disparity between test results of examinees from big cities where Burmese is the mother tongue language and those from rural areas. This disparity disproportionately affects children from Chin State, who continually perform lowest with a year by year pass rate at less than 20 % for over two decades, well below national averages.

Chin State's matriculation pass rate for 2015/2016 was the lowest in the country at 14.36%. This was 3% lower than the previous academic year.⁶⁰ Although Chin State's matriculation results rose to 19% in 2017, it still fell well below the national average of 33.89%. The socio-economic link is evident, as the two poorest States in Myanmar, Rakhine, and Chin have matriculation pass rates well below the national average, at 19% and 17% respectively for 2017. An additional reason for this is the multiple mother tongue dialects spoken in Chin State and the challenges of learning in Burmese, a second or even third language for Chin children.⁶¹ Due to this, the mainstream education sector does not benefit Chin people.

The lack of access to education due to prevailing poor socio-economic conditions also creates conditions for a range of human rights abuses to take place. Children will very often migrate from poor, rural areas of Chin State where discrimination toward minorities is still high. Communities are also left vulnerable to human trafficking where families are unable to grant their children a satisfactory education and are offered false alternatives by outside agents. Furthermore, on-going state-sponsored assimilation programmes which are designed to utilize lack of access to education and the prevailing poor socio-economic conditions in Chin State are still in operation under the Na Ta La schooling programme.

1. Border Areas National Races Youth Development Training Programme, "Na Ta La"

Government programmes aimed at forced assimilation or *Burmanizing* the Chin and other ethnic, upland communities have been targeted at Chin communities. Operating outside of the Ministry of Education, the Na Ta La residential boarding school system is run under the military controlled Ministry of Border Affairs and acts as a state-sponsored, religious and cultural assimilation programme.⁶² Still in operation today, children are forced to convert to Buddhism during their education. Na Ta La schools masquerade as legitimate boarding schools where all costs associated with a full-time education are covered. At the school, the children are prevented from practicing Christianity by barring church attendance and enforcing

⁵⁹ Myanmar Times, "Lessons to Learn from Matriculation Review" 19th June 2017

⁶⁰ Ibid

⁶¹ During successive military governments mother tongue education was banned. Only recently has the government allowed primary level mother tongue classes to be taught.

⁶² Please see, Chin Human Rights Organization "Threats to Our Existence: Persecution of Chin Christians in Burma" Sept 2012 for previous documentation on this schooling system.

http://www.chro.ca/images/stories/files/PDF/Threats_to_Our_Existence.pdf

compulsory Buddhist worship and from speaking mother tongue ethnic dialects. Non-Buddhist children are effectively required to convert to Buddhism. Buddhist literature and culture are taught on Saturdays, and many children are forced to be initiated into the monkhood for a period of each year.⁶³

The Ministry of Border Affairs also incentivizes the conversion of Na Ta La graduates by guaranteeing prestigious jobs on finishing their studies for those who have officially converted to Buddhism. In one case a university level Na Ta La graduate was fast-tracked to an important position in the Hakha local government ahead of Christian workers who had served for decades.⁶⁴ In 2017, a senior Naga church leader told a USCIRF researcher that the schools were the military's *'strategy to convert people to Buddhism. Children become Buddhist and later on they get government positions. It's a systematic process and it must be exposed.'*⁶⁵

II. Human Trafficking

The lack of access to education also leaves communities vulnerable to human trafficking. On the 27th and 28th July 2016, CHRO conducted 5 interviews with 7 individuals to gather testimony associated with reports of human trafficking in Mindat Township, southern Chin State. Respondents reported to CHRO the situation regarding two separate visits of an abbot named Sayada U Thuzana and his sister Daw Ma Bo Ma to villages in Mindat Township to offer *"a free full time education"*. According to oral testimony gathered by CHRO, these visits, in 2010 and 2011, resulted in a confirmed 23 children leaving with Abbot U Thuzana and Daw Ma Bo Ma. Abbot U Thuzana and Daw Ma Bo Ma tricked communities into believing that their sons and daughters would be given a full-time education up to matriculation standard at the Border Areas and National Races Youth Development Charity Monastic School in Zayathiri Township, Nay Pyi Taw. All costs associated with a full-time education would be covered, including school fees, clothes, food and lodging. It was also agreed that if their children did not pass the matriculation then an option of pursuing a vocational mechanical course would be provided as an alternative.

On arrival at the school, the reality was very different. The children were primarily engaged in forced labour with minimal educational activities and in some cases, non-Buddhist children were forced to convert. Two or three times per week they were taken to a local government school for morning classes. The rest of the time they were forced to work; in the morning collecting "alms" (food and other gifts) and during the day, school maintenance and gardening, cooking, cleaning and looking after orphaned children who were at the monastery. While at the Thuzana-Gari Charity School the children were subjected to human rights violations. This abuse was usually in the form of canings and beatings at the behest of Daw Ma Bo Ma, but went as far as torture and other forms of ill-treatment, including sexual violence and rape.⁶⁶

The cases were submitted to the Human Trafficking Working Group,⁶⁷ and subsequently, the United Nations Children's Fund UNICEF, re-documented the cases under a joint assessment with the support of CHRO and another local NGO. The school remains open despite the complaints made to the Anti-Trafficking in

⁶³ USCIRF, Hidden Plight, p.20

⁶⁴ USCIRF, Hidden Plight, p.20

⁶⁵ USCIRF, Hidden Plight, p.21

⁶⁷ A cluster of International Organisations Jointly tasked with ending human trafficking in Myanmar. The Task force is made up of UN-ACT, Save the Children, UNICEF and the ILO.

Persons Division and two investigations, one by the Central Investigation Unit and another by the Department of Social Welfare.⁶⁸

III. Discrimination as Minorities in the Mainstream Education Sector

Very often, owing to the difficulty in accessing education, Chin children will migrate to larger cities or towns where relatives or friends' relatives live in order to seek out education. There also exists discrimination in the mainstream education system, however. In June 2017, four Chin Students were denied admission to Myo Ma High School in Gangaw, Magway Division by the Headmaster of the School. The four Chin boys from Lungring, Lotaw, and Lungngo villages in Matupi Township, submitted their application transcripts on 28th June, 2017 only to be told by Headmaster, U Khin Maung Thein, *"you Chin are so disorganized, I don't accept you Chin for this year, even if you have your transcripts"* and were dismissed. As the boys protested, the headmaster stood firm, continually rejecting the boys' appeals:

"Then the headmaster shouted, 'Chin is an undeveloped nation, lack of education, migrated workers in overseas, poor without food and stupid in learning, that's why I won't accept you. If you are discontented with this then go and report me wherever you want, I don't care,' to us in front of teachers and other students, he went on, 'you Chin people, I am ashamed of you, if you are not sons or daughters of government staff, you can't be accepted."

The day before the applicants were refused entry to the school, a student informed CHRO that the headmaster had demanded, during the school assembly, that all Chin students raise their hands, as requested, approximately 30/40 pupils did so. After Assembly, those who had raised their hands were then forced to stand up in the following classes, the headmaster told one class, *'all you Chin students go home. If you are too scared and shy to go now, then go home later when no one can see you. And if you are still shamed, then go at lunch!'* According to one student:

"When the Chin students were forced to raise their hands in student assembly, there are approximately 30/40 Chin students. We six in grade nine classes all went home; there are many other students who went home from other classes, too. That headmaster indeed discriminates against us Chin, when I said I want to take Economics he replied me that we [Chin] don't deserve that and told me to take an Arts based subjects instead. What rather offended me is when he made us raise hands in assembly, all the other students stared at us, I felt extremely upset, hurt and embarrassed."

Three of the students wrote complaint letters to the Regional Education Department which were sent on 6th July 2017. The three boys were interviewed twice by the Township Educational Department in the month of August. After the official investigation had come to an end, the headmaster visited some of the houses where the students were staying and asked them to come back to his school.

After they were denied entry to the school, the two applicants who were grade seven standard students have remained out of the school system, after returning to their respective villages. The other two students, one of grade nine and another from grade eight, joined a Basic Education High School in Kyaung Teik, Gangaw, Magway Region and have remained there despite being asked to reapply at the school in question by the same headmaster.

⁶⁸ These took place separately in late 2016.

5. Right to Land and Livelihoods

Land rights violations in Myanmar are well documented and almost all rights and development-based CSO/NGO and INGO have, collectively, produced a wealth of information relating to violations of the rights to land and natural resources. The bulk of the literature relates to land confiscation by state and private actors, as part of aggressive policy reform with the aim of shifting Myanmar toward a market-based, privatized approach to land and natural resources. The land policies adopted in 2012 not only failed to safeguard rural communities who rely on the customary land systems for food security and livelihoods but were also largely used in a predatory fashion by extractive industries and big business connected to powerful political and economic elites.⁶⁹

Under the 2012 Farmland Law, plots of land can be legally bought and sold with land use certificates (LUCs) thereby initiating a private form of ownership not suited to customary land use, which is communally owned and farmed. Under the provisions of the law, land is not allowed to be left fallow. This means that traditional shifting cultivation practices common in upland communities are not protected under the law:

“Under this new law, farmers who have been growing on hereditary land for their livelihoods can only possess land by means of official registration. As the registration process is not easily accessible for rural people, these land policies put them at risk. In most cases, they are helpless”.⁷⁰

Under the 2012 Vacant, Fallow, and Virgin (VFV) Land Law, land that is not in use, owned or being used in certain ways is deemed a ‘wasted asset’.⁷¹ In practice this means that upland shifting cultivation land, fallow land and lowlands which are not formally titled can be re-designated as VFV under the law and continue to be reallocated to domestic or foreign investors. Despite the formation of the National Land Use Council in early 2018, which will seek to implement the guiding principles of the National Land Use Policy (NLUP), this policy is yet to be developed into a harmonized land law. The formation of this policy was a key movement toward land reform undertaken by the Thein Sein Administration. The 6th and final draft of the policy, which was adopted by parliament in early 2016, includes a chapter on “*Land Use Rights of Ethnic Nationalities*” and refers to customary land tenure and land use mapping.⁷² Customary land tenure protections are not limited to agricultural land but also include shifting cultivation practices in forest land as well as the recognition of communal land tenure systems such as swidden farming. The document also mentions Free, Prior and Informed Consent (FPIC) (a right enshrined in the 2007 UN Declaration on the Rights of Indigenous Peoples) as a means of addressing “*land monopolization and speculation*”.⁷³

It is worth noting that this landmark policy came under scrutiny by the Commission for the Assessment of Legal Affairs and Special Issues, headed by former Union Solidarity and Development (USDP) Chairman, Thura Shwe Mann, who recommended that key elements of it needed revision - including the protection of

⁶⁹ Transnational Institute, ‘*The Meaning of Land: A Primer*’ 28th Jan 2016. <https://www.tni.org/en/publication/the-meaning-of-land-in-myanmar>

⁷⁰ Transnational Institute, ‘*Access Denied: Land Rights and Ethnic Conflict*’ 2013 <https://www.tni.org/files/download/accesdenied-briefing11.pdf>

⁷¹ Franco, J, ‘*The Meaning of Land*’ 2016 Supra note 57

⁷² Part VII para 68, paras 23 and 71 of National Land Use Policy, 2016.

⁷³ Art 33 (f) National Land Use Policy 2016.

ethnic land rights, women's rights to land and the formation of a separate land use council.⁷⁴ Due to this, the overlapping land and forest laws - coupled with a lack of harmonization and, in some cases, competing interests of land-related Ministries - represent a maze a community must navigate in order to gain security of tenure over ancestral land.

This is particularly problematic in Chin State. The Permanent Forest Estate (PFE) for example, is comprised of reserved forests, protected public forests and protected areas and comes under the administration of the Ministry of Natural Resources and Environmental Conservation (MONREC). Reserve Forests are managed for timber, the protected public forest is allocated for subsistence use, and protected areas are strictly aimed at conservation. Outside of the designated PFE are other wooded lands which cover an area of 20.1 million hectares and are legally classified as vacant, fallow, and virgin land regulated by the General Administrative Department and Settlement and Lands Records Department.⁷⁵

Large proportions of these wooded lands will be managed under customary systems and collectively owned by local communities who practice traditional forms of land management such as shifting cultivation which forms the basis of livelihoods and food security for approximately 40% of Myanmar's population.⁷⁶ As these systems will not be formally recognized, the land will either be wrongly classified as Vacant, Fallow and Virgin Land, or Permanent Forest Estate and therefore Chin communities will lack formal ownership over ancestral land. Compounding matters are the gradual outlawing of the main source of food security and livelihoods for the vast majority of Chin people, shifting cultivation or *Shwe Paung Taung Ya*.⁷⁷

I. Threats and Intimidation – Seeking Restitution in Historic Land Confiscation Cases

While the NLD has attempted to address past grievances of land confiscation, the various Commissions that have been set up in order to provide the platform for on-going land reforms have not been supported by the Tatmadaw. The Central Committee for Re-scrutinizing Confiscated Farmlands and Other Lands has continued its attempts to resolve the 3,980 complaint letters submitted in relation to military imposed land confiscation from across the country. The Committee, headed by Vice-President Henry Van Thio reported that 212 cases had been concluded.⁷⁸ In one case involving land confiscation in Rakhine State, Deputy Defence Minister Maj-Gen Myint Nwi, contested that the Burma Army saves more than 75 billion Kyats annually from the State budget by farming on confiscated land and had no intention of returning it. In a

⁷⁴ Global Witness Press Release, "Myanmar Government Backtracking on Land Law Threatens to Worsen Land Conflicts" July 2017. <https://www.globalwitness.org/en/press-releases/myanmar-government-backtracking-land-law-threatens-worsen-land-conflicts/>

⁷⁵ UN-REDD Programme, "Background Report for Identifying the Drivers of Deforestation and Forest Degradation in Myanmar", Feb, 2017

⁷⁶ Springate-B. "Food Security, Tenure Security, and Community Forestry in Burma" February, 2012 Available at www.tropicalforestsox.ac.uk/events/183

⁷⁷ Please see analysis on land laws above, Virgin Vacant Fallow Land Law and Farmland Law 2012. It is also in the NLD's manifesto to eradicate the practice.

⁷⁸ Republic of the Union President Office, "VP U Henry Van Thio Attends Meeting on Committee on Confiscated Farmlands" <http://www.president-office.gov.mm/en/?q=briefing-room/news/2017/04/01/id-7452>

case from March 2018, the Tatmadaw also refused to return 200 acres of land confiscated in the 1990s to farmers in Kyethi Township, Shan State.⁷⁹

A large proportion of land disputes in Chin State are ongoing from the State Law and Order Restoration Council (SLORC) years. During this period, certain areas of Chin State were designated as having specific functions, such as growing jatropha or tea, or for rearing livestock and land was confiscated in order to achieve those aims. Villagers pursuing restitution in relation to land have faced prison terms, threats, and intimidation.

On 21st January 2016, a man was detained for 15 days under Section 447 of the Criminal Justice Act for attempting to cultivate land that had previously been confiscated by SLORC. In 1992, 21 acres of ancestral land in Khaikam Village, Tedim Township, Chin State was confiscated by SLORC in order to turn the land into an area for rearing livestock. Section 447 relates to trespassing on government-owned land. Local villagers issued complaints to have the land returned to both Chin State and Union Level Government for redress or compensation, but have so far been unsuccessful.

In 2002 the SLORC administration offered a lease agreement in order for three villages in Kantayun, Kanpetlet Township to grow tea. No money was ever paid to these villages for any subsequent tea that was grown on the land. The land in question has subsequently been sold by the Village Ward Council, without the collective permission of the villagers. It is claimed this has been initiated by SLORC members within the council. At present, there are no figures as to how much the land was sold for or what the intended use of it will be. The original agreement however made it clear that if the land was to cease to be used for tea production, it would be returned to the three villages in order for them to continue their traditional collective farming practices.

In 2013, the USDP [Union Solidarity and Development Party] party confiscated the land of two villagers in Kantayun, Kanpetlet Township, Chin State. Although unsure as to how the land will be developed, it is believed that the government intends to turn it into a hotel zone area. The villagers were threatened with imprisonment by township level administrators and were forced off the land. The dispute is ongoing.

In Chin State, a large proportion of land is managed according to collective customary land use arrangements, which are held under verbal understandings as per traditional practice. A large amount of mapping schemes at the grassroots level is therefore taking place, very often with the help of locally based NGOs and CSOs in an effort to contribute to the development of the NLUP and a harmonized land law which, it is hoped, will provide security of tenure for land held under customary systems.

However, in March 2018, villagers from Laizo, Falam Township, were threatened with arrest by the General Administrator of Falam after asking to see a map of their ancestral land, according to Pu Zathang, Chairman of the Laizo Land Conservation Committee. The villagers requested the map from the Settlement Land and Records Department (SLRD) under the Ministry of Agriculture and Irrigation (MoAI). The villagers requested the land map because 4,000 acres of land considered to be ancestrally owned by six villages from Laizo Village Tract, Falam were included in an urbanization project of Falam Town without the consent of the villagers.

⁷⁹ The Irrawaddy, "Tatmadaw Refuses to Hand Back Land in Shan State" 13th March 2018
<https://www.irrawaddy.com/news/burma/tatmadaw-refuses-hand-back-land-shans-kyethi-township.html>

II. Rights Violations in the context of Mega-Development Projects

Chin State also struggles with competing land interests, characterized by a lack of free, prior and informed consent, inadequate compensation for relocation and a lack of transparent, judicial remedies. Compounding the problem further, there are 17 different departments not including ethnic armed administrations⁸⁰ relating to land governance, meaning indigenous lands and territories continue to be vulnerable to state-sponsored cronyism, which is as prevalent as ever.⁸¹ Governance issues and the inability of relevant departments to adhere to social and environmental safeguards resulted in the World Bank ceasing the funding of the 60 million dollar, Hakha–Kalay Highway rehabilitation project in Chin State in 2017. Citing a lack of environmental and social impact observance on the part of the Ministry of Construction, the project funds - designated to the recovery of Chin State after Cyclone Mora- were withheld due to issues which included uncompensated destruction of houses and poor working conditions.⁸²

The Kaladan Multi-modal project, which encompasses a joint initiative between India and Myanmar funded as part of India's "Look East Policy" has now begun phase II, a large transport link that will connect Chin State and India via a 109 km long road, built to transport heavy good vehicles travelling from North East India to Calcutta. CHRO documented a range of human rights violations such as land confiscation and discriminatory labour practices associated with phase I of the project in 2013.⁸³ Phase II has been contracted to C&C Company and EPI Company from India who will take responsibility for building the road linking Paletwa to Mizoram in India. Currently, trees are being felled and houses and hostels are also being built for laborers to live in. The company has also built 5 offices in and around Paletwa Town.

As Phase II begins CHRO is already receiving reports of lack of compensation for loss of land and livelihoods, and poor working conditions for those involved with the project. In addition, no environmental or social impact assessments have been conducted for Phase II of the project.⁸⁴ Reports received by CHRO indicate that during the consultations which took place prior to the beginning of the project, local villagers were informed that India was to fund a road that would be built for their benefit. On 23rd May 2018, a local Khumi Chin community member reported to CHRO that agreed on compensation for lost orchard and farmland to make way for the Kaladan Multi-Modal project's phase II road had not been honored. The government gave compensation to affected landowners around Paletwa Township at an agreed rate of 15 lakhs per acre for paddy field and 6 lakhs for fruit orchards, in August 2017. However, more than 20 landowners from 4 villages of Yee Lar Wa Village Tract still haven't got any compensation for lost land:

⁸⁰ International Alert, "Forest Law Enforcement Governance and Trade in Myanmar: A conflict sensitivity Analysis" 2017.

⁸¹ See Chin Human Rights Organization. "The Indigenous World: Myanmar" International Working Group on Indigenous Affairs, 2018. <https://www.iwgia.org/images/documents/indigenous-world/indigenous-world-2018.pdf>

⁸² Mizzima, "Project Conditions Failure sees World Bank Block Road Rebuild" Wednesday 1st November <http://www.mizzima.com/development-news/project-conditions-failure-sees-world-bank-block-road-rebuild-chin-state>

⁸³ The Kaladan Movement "One Cannot Step Into the Same River Twice" June 2013 According to The Burma Environmental Working Group (BEWG), bilateral ceasefires with ethnic armed groups in resource rich ethnic areas have released "rampant natural resource exploitation [and] have expanded Naypyitaw's political, economic and military domination". The group called for a nationwide moratorium on large-scale, natural resource projects until the Union Peace Accord provides the platform for federal constitutions.

⁸⁴ This is against bi-lateral ceasefire regulations.

“Paletwa officials for collecting land records came to their area in January and calculated the amount of land loss. Although no compensation has been given yet for the occupied lands, their orchards and lands are being cleared to build the road and some houses are being built in two places within Yee Lar Wa village tract for the road builders to live. Then, construction companies hire local people at the rate of 7000ks per day but they only pay once a month or once every two months. Therefore, it is inconvenient for the locals and some people resigned from the site. So, the companies bring Bengali [Rohingya]⁸⁵ workers from Buthetaung and Maungdaw regions of Rakhine State to replace them.”

Landowners sent a letter requesting compensations funds, to the GAD on 12th May 2018. At the time of writing, there has been no response.

Sources working on the building site between Kekuwa and Tuikin Aalawng villages, situated on the east bank of the Kaladan River, informed CHRO that when they had approached the company regarding lack of regular payment, they had been given various reasons, such as not receiving funds from head office in India and that the company assumed work had ceased due to the monsoon season. Presently the construction has stopped as the project manager has returned to India.



Figure 14 Port on the Kaladan River, opposite Paletwa Town, Paletwa Township, Chin State

⁸⁵ Bengali is still a term used by a large proportion of the population of Myanmar to describe ethnic Rohingya. As the interviewee clearly stated that the laborers are from Buthethuang and Maungdaw CHRO has clarified the terminology for ethical reasons.

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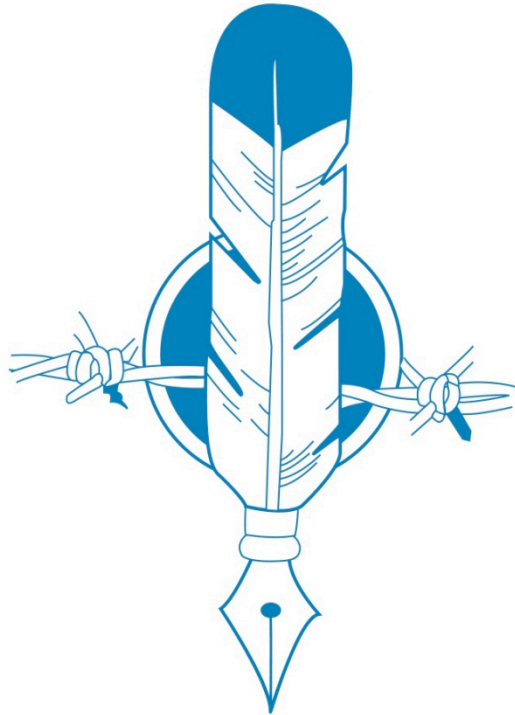
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Founded in 1995, Chin Human Rights Organization (CHRO) works to protect and promote human rights through monitoring, research, documentation, education and advocacy on behalf of indigenous Chin people and other ethnic/indigenous communities in Burma/Myanmar. The organization is a founding member of the Indigenous Peoples Network of Myanmar, made up of over 20 non-governmental organizations engaged in indigenous peoples' issues in the country.