

CRIMES IN NORTHERN BURMA

RESULTS FROM A FACT-FINDING MISSION TO KACHIN STATE

NOVEMBER 2011

PARTNERS RELIEF & DEVELOPMENT

Partners Relief & Development (Partners) is a Christian international relief and development agency founded in 1995. Partners provides humanitarian relief to refugee and internally displaced communities impacted by the war in Burma. The provisions supplied include food, shelter tarps, clothing, medicine, mosquito nets, and other essential survival supplies. Partners also provides education and medical care and training to the people of Burma.

Partners works with people of all faiths and ethnicities in Burma, striving to empower local communities to be self-sufficient. To further assist them with that goal, Partners staff and volunteers advocate across the globe to inform leaders and everyday people about the situation of Burma's ethnic citizens.

Partners is a registered charity in the United States (2001), Canada (2001), Norway (2002), Australia (2005), United Kingdom (2007) and New Zealand (2008). Partners has field offices in Chiang Mai and Mae Sot, Thailand. Funding for Partners comes from donations provided by individuals, religious institutions, and not-for-profit organizations. For further information about Partners, the programs and publications, please contact:

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A MESSAGE FROM STEVE GUMAER

Hillary Clinton will visit Rangoon on 1 December to meet the leaders who appear to be moving towards reform. On 17 November, Burma was granted the honor of being ASEAN chair in 2014. Aung San Suu Kyi has announced her intentions to run for parliament.

Norway's Deputy Foreign Minister, Espen Barth Eide, went so far as to say he was "very encouraged by the atmosphere" in Burma, and that "something real is happening."

While we at Partners Relief & Development observe these events and others with hope, human rights abuses and violence continues unabated in the ethnic states. While Burma's so called civilian leaders relax tyrannical rule in the plains, their military continues to rape, kill, and abuse the very people whose wishes they claim to represent.

A resolution condemning ongoing human rights violations in Burma was passed by an overwhelming majority of votes in the UN General Assembly on 22 November, contrasting with assertions among some world leaders that the country has shown remarkable signs of progress in recent months.

The 193-member Assembly said that "systematic violations of human rights and fundamental freedoms" continued, including state-sanctioned instances of "arbitrary detention, enforced disappearance, rape and other forms of sexual violence, torture and cruel, inhuman or degrading treatment".

This report is presented as part of the body of evidence that Burma should be pressured to make substantial, not shallow steps towards reform, and that not doing so makes a farce of the diplomatic process currently in the news.



STEVE GUMAER
CEO, Partners Relief & Development

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EXECUTIVE SUMMARY

On 9 June 2011, civil war broke out in northern Burma between the Burma Army and the Kachin Independence Army (KIA), ending a 17-year long ceasefire agreement. This report presents data collected from a Partners investigation in southern Kachin State, Burma in October 2011. The testimony of witnesses and on-site photographs reveal multiple acts perpetrated by Burma Army battalions 74 and 276 against ethnic Kachin civilians that potentially amount to war crimes and other extreme crimes. These acts include torture, extrajudicial killing, the specific targeting of civilians, human shielding, unlawful arrest, unlawful detention, forced labor, forced relocation, displacement, property theft and property destruction.

Witnesses reported that Burma Army soldiers entered Nam Lim Pa village on 8 October 2011. Men were arrested and detained for forced labor. Women and children were detained in the Roman Catholic church compound against their will and without provocation or expressed reason.

Violent injuries demonstrate signs of extreme physical abuse and strongly suggest the intentional infliction of severe pain or suffering while in custody. Civilian casualties included torture and execution. Eyewitness reports indicate no Kachin Independence Army presence during the time of the attacks.

Villagers were forcibly relocated and displaced by armed soldiers. Houses, offices and churches were robbed and vandalized, all without justification. At least one home was robbed and burned to the ground while its owner was arrested and detained.

The results from this fact-finding mission to Kachin State reveal evidence of crimes that potentially amount to war crimes, perpetrated by the Burma Army against ethnic Kachin civilians and their properties in October 2011. Based on the incidents documented in this report, the Burma Army is in contravention of its legal obligations under international humanitarian and human rights law. Considering the nature and scale of these acts in combination with documented abuses in the broader civil war in Kachin State, the actions of the Burma government and the Burma Army may also amount to other serious violations, including crimes against humanity. Those responsible must be brought to justice and held accountable for their actions. Partners makes the following key recommendations:

To the Burma government and the Burma Army

- Cease targeting civilians in the civil war in northern Burma and other ethnic areas, and respect international humanitarian law and international human rights law.
- Permit independent, impartial, and credible investigations of human rights violations.
- Develop a legal framework to investigate, prosecute and address allegations of abuse.
- Allow United Nations and humanitarian agencies unfettered access to conflict-affected communities.

To the International Community

- Support a UN-mandated Commission of Inquiry into international crimes in Burma, including crimes against humanity and war crimes, as recommended by the UN Special Rapporteur on human rights in Burma, Tomas Ojea Quintana.
- Engage the Burmese authorities on serious human rights violations occurring in the country with an emphasis on accountability.

To UN agencies and the Donor Community

- Support and coordinate activities with Burma-based and border-based humanitarian agencies working with conflict-affected communities.
- Urge the Burma government to increase access to at-risk civilian populations and all populations of internally displaced persons.

METHODOLOGY

This report is based on a culmination of data collected by Partners investigators during an October 2011 fact-finding mission. In preparing this report, Partners collected information through local coordinators and eyewitness interviews of at least 200 people affected by conflict in southern Kachin State.

Partners conducted 32 in-depth interviews with eyewitnesses and those directly affected by attacks occurring in October 2011. All 32 of those interviewed for the report have been displaced at least one time during the last four months and were able to provide detailed information on recent incidents of human rights abuse and conditions of displacement in southern Kachin State. Interviewees included a diverse demographic, representing ages ranging from 8 to 74 years old, each with first-hand experience in an attack on Nam Lim Pa village that began 8 October 2011.

Partners conducted interviews with 11 representatives of community-based organizations with years of knowledge and experience working with at-risk communities in Burma. Partners also interviewed members of the armed opposition groups who often provide protection and logistical support to displaced populations and relief workers assisting displaced populations in Burma. For security reasons, it was not possible to interview active officers of the Burma Army.

All interviews were conducted in English or, when possible, in the native language of the interviewee. Interviews were documented based on the framework for recording human rights violations provided by the *HURIDOCs events standard formats*¹ methodology. Interviews with children were conducted with their consent and in the presence of their parents. Partners has withheld the names and identifying information of the interviewees to protect them from potential reprisals by the Burma government. All interviewees were informed of the purpose of the interview and how the information would be used. All interviewees participated in the interview process voluntarily and provided oral consent to be interviewed in advance. No interviewee received any compensation for their information.

All case studies in this report present details directly from witness testimonies, as described by the witness themselves.

¹ HURIDOCs events standard formats, http://www.huridocs.org/?post_type=resource&p=632

SCOPE

The geographical scope of this report focuses on frontline communities in southern Kachin State in Burma. While the situation of conflict-affected communities living in other areas of Burma is not addressed in this report, the areas that are covered provide a sample of some of the trends and impacts associated with conflict in Burma, and they are representative of the broader war in Kachin State. The area most thoroughly documented in this report is Nam Lim Pa village, Mansi Township, Shwigu District, Kachin State, Burma, where recent conflict broke out on 8 October 2011.

The scope of this report focuses on the testimonies and photographs of eyewitnesses and exact locations where potential war crimes occurred. Other grave human rights violations are also discussed in detail. A key recommendation of this report is for the international community to support a UN-mandated Commission of Inquiry to independently evaluate allegations of crimes against humanity and war crimes.



TORTURE & EXTRAJUDICIAL KILLING²

A visual examination of the dead bodies of one man and one child reveal mutilation with what appears to be an extreme and willful use of force. The location of gunshots and volume of physical trauma present on the bodies suggest precision targeting, absolute control and wanton disregard for human life. No witnesses to the acts themselves were found, however the testimony of family members suggests motivation for torture and execution.



TOP LEFT A grave is seen in Nam Lim Pa on 19 October 2011 where Waje Myu Li and Labang Brang Nan were buried after being killed by Burma Army soldiers on 9 October 2011.

TOP RIGHT Waje Myu Li and Labang Brang Nan are seen dead after having been dug up from a grave in Nam Lim Pa on 11 October 2011.

MIDDLE The graves of Waje Myu Li and Labang Brang Nan are seen in the Baptist cemetery in Nam Lim Pa on 20 October 2011.

BOTTOM Labang Brang Nan's surviving wife and three children pose for a portrait following an interview in Nam Lim Pa on 19 October 2011.



LEFT Labang Brang Nan is seen dead on 11 October 2011 in Nam Lim Pa.

Case Study: Labang Brang Nan³

Labang Brang Nan was a 34-year-old husband and father from Nam Lim Pa, Kachin State, Burma. He was a civilian, village leader and a farmer. He was ethnic Kachin and attended a Roman Catholic church. On 9 October 2011 he was working to cook and deliver food to KIA soldiers in the Nam Lim Pa area. He was presumed dead by KIA soldiers when he and Waje Myu Li⁴ did not respond to radio contact. Two days later, he was confirmed dead and identified by his mother.



Witness⁵

"Kachin soldiers dug up my son so I could identify him (11 October 2011). I was so sad when I saw him. His head was soft and had been badly beaten. His eyes looked unnatural. They looked like they had been pulled from his head. He had been shot in each armpit and both knees. There was dried blood and dirt all over him. There were signs on his body of physical beating, scratching and cuts. I think he was tortured and executed."

³ Victim Record 02-191011-009

⁴ Victim Record 02-191011-012

⁵ Victim Record 02-191011-010



LEFT Waje Myu Li is seen is seen dead on 11 October 2011 in Nam Lim Pa.

Case Study: Waje Myu Li⁶

Waje Myu Li was a 17-year-old student and resident of Nam Lim Pa, Kachin State, Burma. He was ethnic Kachin and attended a Baptist church. Although a civilian, he was cooking and delivering food to KIA soldiers in the Nam Lim Pa area on 9 October 2011. He was presumed dead by KIA soldiers when he did not respond to radio contact. Two days later, he was confirmed dead and found partially buried wearing a KIA jacket. Villagers suspect he was tortured, killed and then dressed in a stolen KIA uniform in order to be photographed by Burma Army soldiers.



Witness⁷

“I was told my son had been killed (11 October 2011). I went to see where he had been buried but was afraid at first to dig him up out of fear of landmines. When I did, I saw he had been wrapped in plastic. His blood and some of his insides had spilled out. His tongue was dangling and pulled out from his mouth. He looked as if he had been severely beaten. His organs were exposed on his right side. He was also shot in his left foot. He was killed violently.”

⁶ Victim Record 02-191011-012

⁷ Victim Record 02-191011-011

CIVILIAN CASUALTIES⁸

At least two men and one child were killed by Burma Army fire in the absence of KIA soldiers. Those killed and their ages are as follows:

Child (8), Male, Palai Nan Naw⁹

Child (19), Male, Pausa Naw Din¹⁰

Adult (age unknown), Male, identity unknown¹¹

At least one woman and two children were injured by Burma Army fire in the absence of KIA soldiers. Improper medical care was provided by a Burma Army medic to one of the injured children. Those affected and their ages and injuries are as follows:

Child (2), Female, Bomb injury to left leg and left foot¹²

Child (15), Female, Bomb injury and damaging medical care to left leg¹³

Adult (40), Female, Bomb injury to left abdomen and right forearm¹⁴

Although witness reports do not confirm civilians to have been specifically targeted, they attest to Burma Army fire resulting in at least eight civilian casualties that each occurred at locations and times where no opposing military target was in nearby proximity.



TOP An unidentified man is seen dead in Nam Lim Pa on 11 October 2011.

BOTTOM A burned sandal is seen on 19 October 2011 next to where a Burma Army mortar landed in Nam Lim Pa.



8 Event Record 01-161011-002

9 Victim Record 02-191011-007

10 Victim Record 02-191011-014

11 Victim Record 02-191011-020

12 Victim Record 02-191011-002

13 Victim Record 02-191011-003

14 Victim Record 02-191011-001



LEFT The grave of Palai Nan Naw is seen on 11 October 2011 in the Baptist cemetery in Nam Lim Pa.

Case Study: Palai Nan Naw¹⁵

Palai Nan Naw was eight years old when he was killed. He was in fourth grade and lived with his family in Nam Lim Pa, Kachin State, Burma. He was ethnic Kachin and attended a Baptist church. He was outside of his house on the street on 8 October 2011 when Burma Army soldiers from battalions 74 and 276 opened fire among the civilian population. Palai Nan Naw was killed immediately when a bomb exploded next to him.



Witness¹⁶

"I was getting ready to watch a movie at my grandmother's house when I heard shooting out in the street. It was loud and sounded like a lot of guns. I ran outside (approx. 11 a.m. on 8 October 2011) to see what was happening. Her house is across the street from the Roman Catholic church. I could see more than 100 Burmese soldiers in the street shooting and many more getting ready to shoot. I saw two villagers much farther down the street shooting back. Villagers were in the street running and screaming. I saw Burmese soldiers fire a mortar that hit my friend Nan Naw. I didn't see any villagers with guns or KIA soldiers near him when he got hit. I saw him fall on the ground, but I didn't see him get up."

¹⁵ Victim Record 02-101911-007

¹⁶ Victim Record 02-102011-004



Witness¹⁷

"I was out at the farm when I heard gunfire. I stopped what I was doing and ran back to the village to my mother-in-law's house, where my children were staying. When I got there, my mother-in-law told me that my son was already dead. I asked four Burmese soldiers out on the street if they had seen a boy who had been shot and they told me to go and ask the group of about 40 soldiers farther down the street. Those soldiers didn't answer me but pointed to one of the houses on the street. The soldiers had dragged him inside one of the houses. I saw my son face down and there was a lot of blood. He was bleeding from the right side of his chest and from his left hand. I picked up his dead body and took it back to my house. I took his clothes off that night and washed him and washed his clothes. I put clean clothes on him and went to sleep. When I woke up the next morning, two Burmese soldiers were inside my house taking my belongings and placing them in bags. They were breaking all the things they didn't want. One of the soldiers said to me in Burmese, 'It is because of KIA soldiers, not because of us.' Then he said, 'Instead of your husband dying, your boy died for him. Why don't you agree to peace negotiation? Tell your leaders to sign a peace agreement.' When I left to go bury my son, they had taken all of my valuables, about 800,000 kyat worth. They stole 1 gold ring, 1 gold necklace, 2 gold earrings, 2 jade stones, 30,000 kyat in cash, fruit, beer, cooking pots and snacks. Fourteen Burmese soldiers were still inside my house eating my food as I walked out carrying my son. I did not return home."



ABOVE The burial site for Palai Nan Naw is seen in the Baptist cemetery in Nam Lim Pa on 20 October 2011. As is Kachin tradition, his personal items were placed at his grave when he was buried. Nan Naw's grade 4 schoolbooks reveal his grade and his name written in Burmese script on the top line of his exercise book (right).

17 Victim Record 02-191011-007



LEFT Pausa Naw Din is seen dead on 11 October 2011.

Case Study: Pausa Naw Din¹⁸

Pausa Naw Din was 19 years old when he was killed. He was working as a farmer and lived with his family in Nam Lim Pa, Kachin State, Burma. He was ethnic Kachin and attended a Roman catholic church. He was running to the street outside of his house to flee from fighting on 8 October 2011 when fired on by the Burma Army. Pausa Naw Din was killed immediately when he was shot in the back of the head.



Witness¹⁹

"I heard shooting and looked outside on the street. I saw more than 100 Burmese soldiers shooting. I didn't see any KIA or anyone else shooting back. I saw Naw Din run out of his house across the street and get shot. He fell to the ground near where they cook. He didn't get up. There were so many Burmese soldiers on my street, moving closer to my house. Many were shooting and bombs were exploding very near to my house. I was so scared. I ran to the jungle to hide."

¹⁸ Victim 02-101911-014

¹⁹ Victim 02-101911-015



Witness²⁰

"I saw (approx. 11 a.m. on 8 October 2011) Burma Army soldiers coming down the street and my brother said, 'Let's run.' He ran out the side of our house near the kitchen, heading for the street. As soon as he exited the house, he was shot in the back of the head. I saw the bullet come out the front of his head. I only saw Burmese soldiers. My brother is not a soldier. He has no military training and was unarmed, wearing normal clothes. I left my brother outside, near the kitchen, where he fell. I left my house closed and locked and fled to the jungle. When I returned, my house had been broken into. There were many things stolen including nice clothes, gold, necklaces, earrings and kitchen things. The total estimated value of everything stolen was about 500,000 kyat. My brother's body was still in the same place. The smell of his body was so bad, I had to burn it. Later I buried the remains in the Baptist cemetery."



LEFT The place Pausa Naw Din's body was burned is seen on 19 October 2011 in Nam Lim Pa.
RIGHT The place where Pausa Naw Din's burned remains were buried is seen on 19 October 2011 in Nam Lim Pa.

20 Victim Record 02-191011-013



LEFT A 15-year-old girl (left) is seen with her sister (right) on 19 October 2011 at a temporary clinic in the jungle outside Nam Lim Pa.

Case Study²¹

This 15-year-old girl is a student in grade 7. She lives in Nam Lim Pa, Kachin State, Burma and attends a Roman Catholic church. She is ethnic Kachin. Outside her house on 8 October 2011 at approx. 11 a.m., a bomb fired by Burma Army soldiers exploded approx. ten feet from her. She didn't see any KIA soldiers. Unable to walk, she crawled to her kitchen, trying to stop the bleeding in her leg. Four hours later, she heard men outside yelling in Burmese, "Out, out, out!" Soldiers escorted her to the Roman Catholic church, where a Burma Army medic was treating some fellow soldiers. He tried to suture the wound in her leg without cleaning, disinfecting, or removing the shrapnel. He wrapped her leg and sent her inside the church. She was held in the church three days and three nights with no additional medical treatment or medicine. After leaving the church on the fourth day, she fled to the jungle with her family and found two village nurses who provided her with care, despite limited resources. They removed the existing bandage, stitches and shrapnel, and disinfected and cleaned it. She is now living displaced in the jungle with her family.



Witness²²

"I heard gunfire and bombs exploding (8 October 2011) from inside my house. I looked outside and saw a bomb hit my friend. I don't know if the Burmese soldiers meant to shoot her. I didn't see KIA or anyone else shooting back."

21 Victim Record 02-191011-003

22 Victim Record 02-201011-003



ABOVE A 15-year-old girl is seen with an injury inflicted by a Burma Army mortar, after being released from a three day detention on 11 October 2011 (top left). She is seen receiving medical care by village nurses at a temporary clinic in the jungle outside Nam Lim Pa on 19 October 2011.



LEFT A 40-year-old woman (right) is seen with her family at a temporary clinic in the jungle outside Nam Lim Pa on 19 October 2011.

Case Study²³

This 40-year-old mother of two children works as a farmer in Nam Lim Pa. She is ethnic Kachin and attends a Baptist church. On 8 October 2011 she was on her way to her farm when she heard gunfire and went to fetch her children who were staying at their grandmother's house. On her way, she saw approx. 50 Burma Army soldiers shooting guns at villagers and approx. ten armed villagers. She was holding her baby on her back at the time, walking in the street, when a bomb exploded approx. ten feet away from her. She was injured on her right hand and left side. Her 2 year-old daughter²⁴ was also injured. She saw one boy²⁵ and one girl also get injured by the bomb. The boy died immediately. After being injured, she ran to the jungle on a trail along with other villagers. She estimates running approx. two miles. She did not take anything with her except the clothes she was wearing. She and her 2-year-old child were bleeding excessively while running. Two nurses were able to treat them at a temporary clinic in the jungle on 8 October 2011 in the late afternoon. They cleaned, disinfected and bandaged their wounds. She is currently struggling with staying warm at night and eating enough food. Her injuries are painful but she believes they are healing slowly.

23 Victim Record 02-191011-001

24 Victim Record 02-191011-002

25 Victim Record 02-191011-007



ABOVE A 2-year-old girl is seen with her mother while receiving treatment for an injury inflicted by a Burma Army mortar at a temporary clinic in the jungle outside Nam Lim Pa on 19 October 2011.

HUMAN SHIELDING²⁶

At least 6 men, 26 women and 12 children were arrested without provocation or stated reasons, and then detained against their will for three full days by the Burma Army beginning on 8 October 2011. There were 6 men, 4 women and 1 child arrested and detained in a house while 22 women and 11 children were arrested and detained in the Roman Catholic church. Approximately 40 soldiers from Burma Army battalions 74 and 276 slept for three nights inside the church alongside the detained civilians, where they also interrogated some of the detainees. Detainees were permitted to prepare their own food and places to sleep within the building, but they were required to sleep in the same quarters as Burma Army soldiers in an active conflict zone. This may constitute a case of human shielding, which occurs when a party to a conflict deliberately uses civilians to shield itself from attack – in this case, an attack from the KIA. If this were not a case of human shielding, it would amount to at least a violation of international humanitarian law, prohibiting against placing civilians at unnecessary risk.



Witness²⁷

"I was with three other women on our way to collect bamboo (approx. 11 a.m. on 8 October 2011). We were stopped on the trail by ten Burmese soldiers. They made us lay on our stomachs in the mud for an hour and a half. The soldiers were talking on the radio. They were from battalion 276. Eventually, they ordered us to follow them to the Roman Catholic church back in Nam Lim Pa. We were held there for three days."



Witness²⁸

"I was taken from my house by the Burmese soldiers to the Roman Catholic church. Other women and children were there already. We were not allowed to leave for three days. My sisters, my mother and my grandmother were all there with me."



LEFT The Roman Catholic church, where 33 women and children were detained for three days and three nights, is seen from the street in Nam Lim Pa on 19 October 2011.

26 Event Record 01-161011-002

27 Victim Record 02-191011-017

28 Victim Record 02-191011-003



LEFT A 23-year-old woman poses for a portrait after an interview at a KIA military outpost in Kachin State on 16 October 2011.

Case Study²⁹

This 23-year-old school teacher lives and works in Nam Gau village, Kachin State, Burma. She is ethnic Kachin and attends a Roman Catholic church. On 20 August 2011 at approx. 8 p.m., she heard bombs exploding near her village.³⁰ She was inside the girl's dormitory talking in a circle on the floor with the headmaster's wife and five female students. She ran to the office in the village, approx. 50 feet from the dormitory. The office was busy with villagers and Kachin officers listening to the radio so she waited outside. She heard a bomb land very close to her and felt the ground shake. It had landed approx. 30 feet behind her in the girl's dormitory from where she had just come. She rushed back to see if the children were injured. Dust filled the air and she could see the headmaster's wife and four of the children vomiting outside. There was a horrible smell coming from inside the house. The headmaster's wife handed her a child covered in blood and then ran back into the dormitory to fetch her bags. Looking into the house, she could see one of the girls had been killed from the blast.



²⁹ Victim Record 02-161011-001

³⁰ Event Record 01-161011-001

Those present and their ages and injuries are as follows:

Child (7), Female, Shrapnel wound to top, back of head³¹

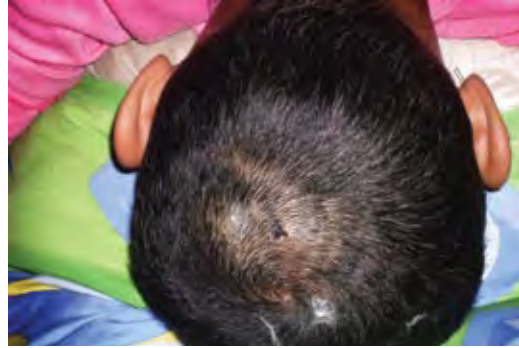
Child (8), Female, Hpaw La Htu Mai - Killed by bomb³²

Child (9), Female, None³³

Child (10), Female, Shrapnel wound to right wrist and top of right foot³⁴

Child (13), Female, Shrapnel wound to back, center of head³⁵

Adult (36), Female, Shrapnel (11 pieces) in back and left hand³⁶



LEFT The children and headmaster's wife are seen injured on 22 August 2011 from a bomb that landed in the Nam Gau girls dormitory.



After the headmaster's wife had gathered some clothes and supplies, they all fled to a farm outside the village. The walk took more than one hour. The children had problems walking.

31 Victim Record 02-161011-002

32 Victim Record 02-161011-003

33 Victim Record 02-161011-004

34 Victim Record 02-161011-005

35 Victim Record 02-161011-006

36 Victim Record 02-201011-006

They were extremely weak and suffering from blood loss. When they arrived at the farm, a nurse from the village treated them. They slept in a field with no blankets. The children cried most of the night and seemed to still be in shock. She was worried that one of the children would not survive.



Witness³⁷

"We had received news from the Kachin officers in our village that Burmese soldiers from battalion 74 were camped two hours away from Nam Gau. I prepared some bags to flee and kept the female students close to me. When the bomb exploded, I lost consciousness for a couple minutes. When I woke up, there was a horrible smell and thick dust in the air. I vomited and so did the children. A child had been killed in the blast and the rest of us were bleeding on our bodies.³⁸"



Witness³⁹

"We could hear bombs landing in the forest. My children were scared. Everyone was listening to the radio to find out what we should do. We heard a bomb land very close and everyone ran. Everyone (approx. 30 households) fled. It was dark and we didn't take anything with us.⁴⁰"

The next morning after sleeping in the field, they continued walking away from Nam Gau to Nam Lim Pa. The headmaster's wife and her daughter would continue on to another village but the rest of the children and the school teacher would stay in Nam Lim Pa at the Roman Catholic church.

On 8 October 2011 at approx. 11 a.m., this 23-year-old school teacher was washing clothes outside the church building when she saw approx. 50 Burmese soldiers shooting on the street. She did not see any KIA soldiers anywhere. "The soldiers were shooting wildly and yelling, 'Don't run or we'll shoot!'" She ran inside the church and hid in one of the back rooms. Soldiers eventually entered the building and found her hiding under a table. She was detained in the church building with 21 other women and 11 children for three days and three nights. She was not interrogated by the soldiers but witnessed four women separately questioned in private.

37 Victim Record 02-201011-006

38 Event Record 01-161011-001

39 Victim Record 02-201011-005

40 Event Record 01-161011-001

THE
SOLDIERS
WERE
SHOOTING
WILDLY AND
YELLING,
'DON'T RUN
OR WE'LL
SHOOT!'

UNLAWFUL ARREST & FORCED LABOR⁴¹

At least eight men were unlawfully arrested, detained and forced to serve as porters for the Burma Army. Of these eight men, one escaped from captivity and later confirmed the testimony of a witness whose husband was arrested. The fate and whereabouts of the remaining seven men are unknown. An additional 35 porters were alleged to have been called from villages neighboring Nam Lim Pa on 16 October 2011. The villages and the numbers called are as follows:

Je Hkam village - 10 men
Gawng Run village - 10 men
Tan Dadar village - 10 men
Je U village - 5 men



Witness⁴²

"I was outside the Roman Catholic church (approx. 11 a.m. on 8 October 2011) cutting the grass with my husband when I saw about 200 Burmese soldiers coming up the street. No one was shooting at that time. One of the soldiers yelled to my husband, 'Come with us, brother.' My husband walked toward them and asked when they would let him return. The soldier said, 'When the war is over' and laughed. I saw him walk away and that was the last time I saw him."



LEFT The Roman Catholic church is seen from the street in Nam Lim Pa on 19 October 2011.

41 Event Record 01-161011-002

42 Victim Record 02-191011-018



LEFT A 32-year-old man is seen in route to the jungle on 20 October 2011 after salvaging what was left inside his vandalized home in Nam Lim Pa.

Case Study⁴³

This 32-year-old man is a farmer from Nam Lim Pa, Kachin State, Burma. He is ethnic Kachin and attends a Roman Catholic church. On 8 October 2011 at approx. 12 p.m., Burma Army soldiers unlawfully arrested him at his house and forced him to walk with them through the village. He was told he would be carrying rice. He slept in a house, under guard, with five other village men. They prepared their own food and were not mistreated, but were detained against their will. On 11 October 2011 at approx. 2 a.m., he was forced to carry an estimated 10 kg bag of rice. He and seven other men were all carrying bags of various size and weight. On the trail leaving the village, he threw down his bag and ran through the jungle in the dark. He heard soldiers yelling and there were sounds of commotion behind him. He ran for approx. 30 minutes and was not pursued. He made his way to the jungle where other villagers had fled. On 19 October 2011 he returned to his home in the village to salvage his belongings. He is now living in the jungle outside of Nam Lim Pa.

43 Victim Record 02-191011-019

I SAW HIM
WALK AWAY
AND THAT
WAS THE
LAST TIME
I SAW HIM.

FORCED RELOCATION & DISPLACEMENT⁴⁴

Victim interviews confirm there to be at least 49 people that were forcibly relocated from their homes by Burma Army battalions 74 and 276. At least 1,564 people, 767 male and 797 female, were displaced from their homes between 8 October 2011 and 11 October 2011. Although at least 49 civilians were directly ordered by soldiers to evacuate their properties, the majority of those displaced chose to flee from fear of persecution and general conflict. The sounds and sights of guns, bombs and general pandemonium were the most common reasons found as to why villagers fled. Eighty households that fled were found hiding in the surrounding jungle, living in crude shelters of bamboo, plastic and leaves. Due to conflict and forced relocation, those living in the jungle lack access to adequate food supply, potable water, safety, education and warm, dry shelter. The biggest difficulties stated by those displaced are staying dry and warm and finding enough food. All of those interviewed reported a decline in their health since they began living in the jungle.



Witness⁴⁵

"I heard shooting and started walking to my house. I saw an elephant had been injured and one of my buffalos that I use to plow my paddy field had been shot and killed. I was inside my house when two Burmese soldiers with guns came in and told me to leave. I didn't want to go but I didn't have a choice. As I walked out, the soldiers began filling their bags with my belongings."



Witness⁴⁶

"There were so many Burmese soldiers on my street, moving closer to my house. Many were shooting and bombs were exploding very near to my house. I was so scared. I ran to the jungle to hide."

44 Event Record 01-161011-002

45 Victim Record 02-191011-016

46 Victim Record 02-191011-015



LEFT A 34-year-old woman is seen with her two daughters at her shelter in the jungle outside Nam Lim Pa on 19 October 2011.

Case Study⁴⁷

This 34-year-old woman (back left) has two daughters, ages 4 (left) and 14 (right). She has never attended school. She is ethnic Kachin and attends a Roman Catholic church. She is from Nam Gau, Kachin State, Burma. Her husband left the family more than one year ago and has not returned. On 20 August 2011 at approx. 8 p.m. Nam Gau village was bombed by Burma Army mortars.⁴⁸ She ran with her daughters to their farm where they stayed for one week. Feeling unsafe at their farm, they fled to Nam Lim Pa village on 28 August. They settled in a crude bamboo shelter in the village that had no walls. The children missed one week of school. She began weaving baskets to make income for their family to survive. They had brought only the clothes they were wearing with them.



47 Victim Record 02-201011-005

48 Event Record 01-161011-001

On Saturday, 8 October 2011 she and her children heard gunfire at approx. 12 p.m. and followed hundreds of villagers to the jungle. She carried with her a small bag of rice, two sheets of plastic, two cooking pots and a machete. After walking for approx. two hours they cleared a spot in the jungle and built a shelter with banana leaves and bamboo. It was raining sporadically at the time and the ground was very wet. She and her daughters had fevers that come and go and suspect they have malaria but have not been tested or treated. They complained of fatigue, weakness and headaches. The greatest difficulty they faced was trying to find enough food. It was also difficult for them to stay warm and dry. They were not sure if or when they can return to their village. Her children have not attended school since 7 October 2011.



LEFT A 34-year-old woman is seen with her two daughters at her shelter in the jungle outside Nam Lim Pa on 19 October 2011



ABOVE Families are seen fleeing Nam Lim Pa and heading to the jungle outside Nam Lim Pa on 19 October 2011. Displaced people can be seen living in crude shelters of bamboo and plastic, despite the wet ground and daily, sporadic rain.



ABOVE Communities of displaced people are seen living in primitive conditions in the jungle outside Nam Lim Pa on 19 October 2011.

PROPERTY THEFT AND DESTRUCTION⁴⁹

At least 297 households, a township office, a United Nations Development Program (UNDP) clinic and a Roman Catholic church were looted and vandalized by Burma Army battalions 74 and 276. At least one house was destroyed by fire. At least seven cows, one buffalo and one chicken were killed. At least two cows, two pigs, one buffalo and one elephant were injured. Total damage to civilian property is estimated by Nam Lim Pa residents to exceed 15,000,000 kyat (15,000 USD). The scope of the destruction of vacated civilian properties, primarily homes and home storefronts, suggests the damage was not inflicted for military purpose.



Witness⁵⁰

"I had been hiding in the jungle but went back to the village (12 October 2011) because I heard the Burmese soldiers had left. I had set up a clinic in the jungle with another nurse from the UNDP clinic and we needed more medicine. When I arrived at the clinic I saw the furniture was all a mess outside on the grass. I also saw they had taken a condom from the clinic and hung it on a tree just outside. When I went inside, I saw most of our medical supplies had been stolen and some were smashed on the ground. The soldiers left a mess everywhere. Leftover food, an old jacket, an empty whiskey bottle and also blood on one of the mattresses. I also found my personal diary had been opened and a letter written inside it by a Burmese soldier who had slept in the clinic."



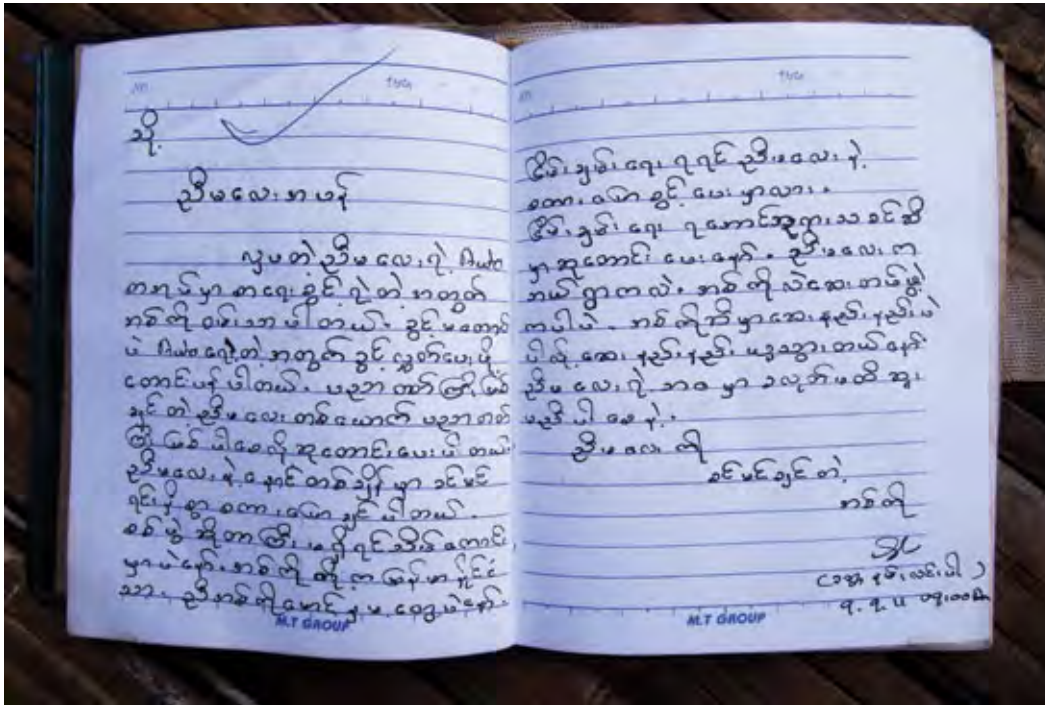
Witness⁵¹

"When I arrived back at the clinic, most of my medicine and my instruments had been stolen. Now that I don't have many supplies, it is difficult to treat the injured patients that are hiding in the jungle."

49 Event Record 01-191011-001

50 Victim Record 02-201011-001

51 Victim Record 02-201011-002



LEFT A letter is seen on 20 October 2011 that was written in a Nam Lim Pa village nurse's diary allegedly by a Burma Army soldier and left in the UNDP clinic.

To my sister,

I am pleased that you forgive me for writing in your book because I am writing without permission, so please forgive me. I see my sister wants to be an educated person and so I wish that you can receive more education. Sometimes I want to be your close friend and speak with you. If there is intense fighting, it will be the best. I am a Myanmar citizen so we are sister and brother. When there is peace, can I speak with you? Can you pray to your God for peace? Which village is my sister from? We only brought a little bit of medicine so I will take some medicine with me. I wish your life to be safe from these bad things so bad things do not happen to you. I am your close friend, your brother.

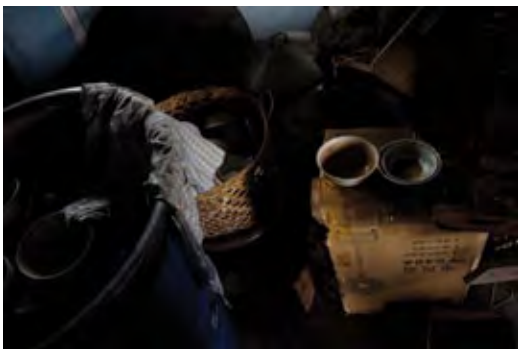
[signature]

(a short while in Nam Lim Pa)

9.9.11 09:00AM

The letter contains Burmese spelling errors and is incorrectly dated. The author refers to himself with masculine pronouns and as "Auto". He also writes in English to denote time with "AM." The letter appears to demonstrate above average education in its use of English, however, it also contains elementary mistakes in dating and spelling in the author's assumed native language. The author confesses voluntarily to the theft of civilian property by admitting to have taken medicine without permission. The accounts of the resident nurses⁵² confirm medicine and instruments to be missing from the clinic.

52 Victim Record 02-201011-001 and Victim Record 02-201011-002



ABOVE The UNDP clinic is seen with its furniture removed and stacked outside in Nam Lim Pa on 19 October 2011. Medicine, supplies and furniture is seen used and destroyed on the floor of the clinic. A condom is seen hanging from a tree outside the clinic.



LEFT A 60-year-old man poses for a portrait after an interview in Nam Lim Pa on 19 October 2011.

Case Study⁵³

This 60-year-old man works as a basket maker. He has one 38-year-old daughter. They are ethnic Kachin and both attend a Roman Catholic church. They are from Nam Lim Pa, Kachin State, Burma. On 8 October 2011, at approx. 10 a.m., approx. 100 Burma Army soldiers entered his house compound as he was inside making a basket. They yelled “Out!” at him in Burmese and motioned him to move to the street. As he exited his home, soldiers entered and began shuffling through his possessions and preparing to eat what food he had. When on the street, he was escorted to the Roman Catholic church where other villagers were also being led. He was then brought to another villager’s home where he would be held for the duration of the day. On the way, he saw a young boy die in the street, who had been shot. He went to help bury him with a few other villagers. When he returned to that house, he was detained with five other men, four women and his grandson. In the late afternoon, he was relocated to the home of the boy whom he had seen die. He also saw ten men and women forced to lay down on their stomachs in the mud in the street. He was held at that home under guard of soldiers for three nights.

Waking on Tuesday 11 October 2011, he saw there were no more soldiers guarding the house and he left to return home with his grandson. When he returned, his home had been burned completely to the ground and his daughter was sitting under the banana tree in the corner of the compound crying. Her clothes were torn and messy. Due to her mental illness and inability to speak, she was unable to tell him what happened. She had no signs of injuries. At that time, he could hear lots of shooting in the distance and screaming. He took his daughter and grandson to the jungle to live, taking nothing with him as everything he had was now burned. Finding food and staying dry are his greatest expressed hardships.

53 Victim Record 02-191011-005



ABOVE A 60-year-old man is seen with his daughter at their shelter in the jungle outside Nam Lim Pa on 19 October 2011. His home is seen burned by fire, destroying his belongings.



ABOVE Signs of forced entry, vandalism and trash from emptied beer cans is seen in Nam Lim Pa on 19 October 2011. A bunker where Burma Army soldiers dug a hole and shot from is also visible. .



ABOVE A resident of Nam Lim Pa is seen outside his vandalized home storefront in Nam Lim Pa on 19 October 2011.



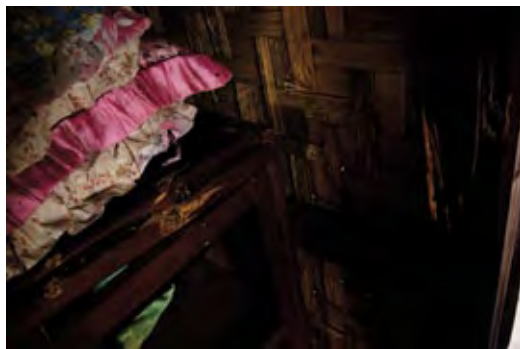
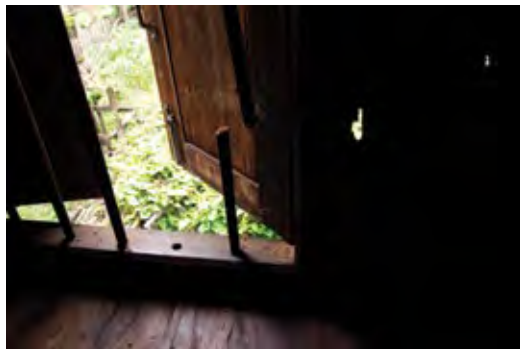
ABOVE Destroyed and damaged civilian property is seen inside a home in Nam Lim Pa on 19 October 2011. A television and a Baptist hymnal are seen having been fired upon at close range from inside the house.



ABOVE Two cows are seen dead in the grass after being killed by Burma Army fire in Nam Lim Pa on 11 October 2011. Three cows are seen injured from Burma Army fire. The remnants of a chicken is seen in the grass. Damage to fences and civilian housing compounds is seen inflicted by Burma Army mortars.



ABOVE Civilian property that has been damaged by Burma Army fire is seen in Nam Lim Pa on 19 October 2011.



ABOVE Damage is seen to a civilian home in Nam Lim Pa on 19 October 2011, that was unoccupied at the time when Burma Army fired upon it with mortars and guns.



ABOVE Damage is seen to civilian property in Nam Lim Pa on 19 October 2011, inflicted by Burma Army fire.

ALLEGED PERPETRATOR

Burma Army Battalions 74 and 276⁵⁴

Diverse eyewitness testimonies allege approx. 200 soldiers from Burma Army battalions 74 and 276 to have committed multiple human rights abuses, that could amount to war crimes in southern Kachin State between 8 October 2011 and 11 October 2011.

The dead body of a Burma Army soldier reveals a Burma Army issued jacket with an emblem from the Northern Regional Command based in Myitkyina, Kachin State. Additional military paraphernalia was discarded and abandoned throughout the village.

It is worth noting that a civilian militia, of at least ten Nam Lim Pa villagers, in plain clothes or KIA uniforms were armed with KIA weapons and witnessed to have exchanged fire with Burma Army on 8 October 2011 and 9 October 2011.

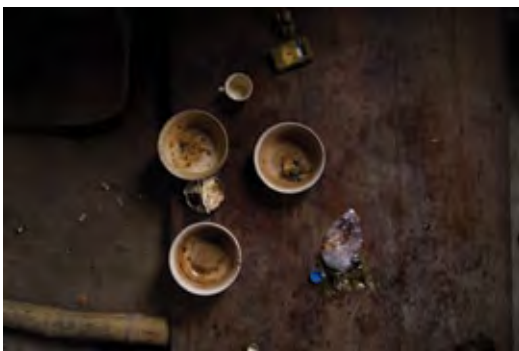


TOP A military style canteen inscribed with "Infantry battalion 74, Moe Gawng," in Burmese script is seen after being found on a street in Nam Lim Pa on 19 October 2011. BOTTOM A plastic case used for storing bullets is seen inscribed with "Battalion 74" in Burmese script after being found on a street in Nam Lim Pa on 19 October 2011.

⁵⁴ Alleged Perpetrator Record 03-191011-001



ABOVE A Burma State flag is seen draped over a table inside a village office that was forcibly entered by the Burma Army. Remnants of used ammunition are seen in a variety of locations on 19 October 2011 in Nam Lim Pa.



ABOVE Items left by the Burma Army are seen in more than one place in Nam Lim Pa on 19 October 2011.

BURMA'S LEGAL OBLIGATIONS

International Criminal Law

Based on the evidence provided, the Burma Army and the Burma government has not only failed to uphold its legal obligations under international humanitarian and human rights law, but its actions may also amount to violations of international criminal law, including crimes against humanity and war crimes. Crimes against humanity and war crimes are among the most serious crimes in international law and are generally considered to be universally applicable, meaning States and individuals can be held accountable for acts of crimes against humanity or war crimes without formally agreeing to abide by particular standards.⁵⁵ The Rome Statute of the International Criminal Court provides the necessary legal framework to establish crimes against humanity and war crimes.⁵⁶

Considering the evidence available, the actions and involvement of the Burma Army in causing extensive and prolonged displacement of civilian populations throughout Burma are likely to amount to crimes against humanity and/or war crimes. In order to establish the facts, investigate allegations of these grave breaches of international law and hold the perpetrators responsible for their role in such crimes, the international community should support a UN-mandated Commission of Inquiry into international crimes in Burma. This does not have to come at the expense of parallel engagement with the Burmese authorities – on the contrary, the Burmese authorities would be expected to welcome such independent inquiries.

War Crimes

A war crime is a serious breach of international humanitarian law within the context of armed conflict. The Geneva Conventions and their Additional Protocols form the core of international humanitarian law and establish the minimum codes of conduct for actors involved in armed conflict. As a party to the Geneva Conventions of 1949, Burma is legally obligated to abide by the standards elucidated in the Conventions while carrying out military operations. Breach of these minimum standards may amount to war crimes.

The Rome Statute provides the legal framework to assess crimes of war. Under the Rome Statute, a war crime arising from an internal armed conflict involves the commission of a prohibited act, such as torture and directing attacks at a civilian population or non-military target, perpetrated with awareness “of the factual circumstances that established the existence of an armed conflict.”⁵⁷ The Rome Statute defines a non-international (or internal) armed conflict as one that takes place “in the territory of a State when there is a protracted armed conflict between governmental authorities and organized armed groups or between such groups.”⁵⁸

55 As an extremely serious offense in international law, it is generally accepted that a crime against humanity is universally applicable, meaning that it applies to States and individuals even if they have not signed onto a treaty or agreement to prevent crimes against humanity. See, M. Cherif Bassiouni, “Crimes against Humanity and Universal Jurisdiction,” in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (accessed 27 July 2008).

56 Rome Statute of the International Criminal Court (Rome Statute), A/CONF.183/9, July 17, 1998, entered into force July 1, 2002.

57 Rome Statute, art. 8(2)(c).

58 Rome Statute, art. 8(2)(f); see also *Prosecutor v Musema*, International Criminal Tribunal for Rwanda, Case no. ICTR-96-13-T, 27 January 2000, paras. 247-8.

The situation must also amount to more than “internal disturbances or tensions.”⁵⁹ Considering that the conflict in northern Burma – and other regions in Burma – is not international in nature and is ostensibly between Burma government’s forces and ethnic armed opposition groups, the ongoing conflict would qualify as an internal armed conflict as defined by the Rome Statute, and the above legal framework would apply for evaluating potential war crimes.

“Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand” is one of the prohibited acts enumerated by the Rome Statute for the purposes of establishing a war crime.⁶⁰ This prohibition mirrors the definition of arbitrary displacement as provided by the UN Guiding Principles. It is also similar to the prohibition of “forcible transfer of civilians” as a crime against humanity. As analyzed in the above sections, the actions and involvement of the Burma army in causing large-scale displacement in Burma would qualify as a prohibited act as defined by the Rome Statute for the purposes of establishing a war crime. Similarly, considering that the Burma army is typically directly involved in carrying out displacements of civilians, it is possible to demonstrate that the Burma army was sufficiently aware “of the factual circumstances” when carrying out the displacements.

⁵⁹ Rome Statute, art. 8(2)(d) and (f). See also, *Prosecutor v Kayishema and Ruzindana*, International Criminal Tribunal for Rwanda, Case No. ICTR-95-1-T, Judgment, 21 May 1999, para. 171.

⁶⁰ Rome Statute, art. (8)(2)(e)(viii).

RECOMMENDATIONS

Considering the nature and scale of the abuses documented in this report, and in combination with documented abuses in other ongoing civil wars in Burma, the actions of the Burma government and the Burma Army may amount to war crimes and crimes against humanity. Those responsible must be brought to justice and held accountable for their actions. Partners reiterates the following key recommendations:

To the Burma government and the Burma Army

- Cease targeting civilians in the civil war in northern Burma and other ethnic areas, and respect international humanitarian law and international human rights law.
- Permit independent, impartial, and credible investigations of human rights violations.
- Develop a legal framework to investigate, prosecute and address allegations of abuse.
- Allow United Nations and humanitarian agencies unfettered access to conflict-affected communities.

To the International Community

- Support a UN-mandated Commission of Inquiry into international crimes in Burma, including crimes against humanity and war crimes, as recommended by the UN Special Rapporteur on human rights in Burma, Tomas Ojea Quintana.
- Engage the Burmese authorities on serious human rights violations occurring in the country with an emphasis on accountability.

To UN agencies and the Donor Community:

- Support and coordinate activities with Burma-based and border-based humanitarian agencies working with conflict-affected communities.
- Urge the Burma government to increase access to at-risk civilian populations and all populations of internally displaced persons.

ACKNOWLEDGEMENTS

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Partners also gratefully acknowledges the financial contributions of our support community which made the completion and publication of this report possible.

Many people from Burma facilitated the research for this report and provided invaluable assistance in serving displaced communities, often at great personal risk and with great courage. These people cannot be named due to security concerns; Partners would like to recognize their work and contributions toward free, full lives for the children of Burma.

Partners is especially grateful to the at-risk families and individuals who generously shared their personal experiences of the atrocities that continue in Burma today. We applaud their courage and perseverance and hope that this report helps to bring real and lasting change to Burma.

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