

Rape and Sexual Violence by the Burmese Army – an ongoing story of abuse

Although Burma has seen some limited reforms since Thein Sein became President, the use of rape and sexual violence by Burma's armed forces against ethnic women and girls continues across the country. Over the past decades, several reports have been produced by women's organisations highlighting the use of rape and sexual violence by the Burmese army as part of the government's warfare against ethnic minority groups. UN reports have drawn upon this data to describe rape and sexual violence as "widespread and systematic"¹ and as a prevalent pattern of human rights violations in the country.

Recent cases of women and girls being raped by soldiers from the government's forces include the rape of a 12 year old girl in front of her mother, and of a disabled woman. Many of the victims were gang-raped, and many killed afterwards. This is in breach of international law, and constitutes a war crime.

"The Special Rapporteur has continued to receive allegations of serious human rights violations accompanying military offensives. This includes allegations that over 100 women and girls had been raped by the army since 2010, and reports of 47 cases of gang rape and 28 women dying as a result of their injuries."

Tomás Ojea Quintana, United Nations Special Rapporteur on human rights in Burma, March 2014 ²

The government of Burma has constantly denied the overwhelming evidence of sexual violence being perpetrated by the Burmese army. However, a report published by the Women's League of Burma (WLB), Same Impunity, Same Patterns, in January 2014,

suggests that the use of sexual violence against ethnic minority women by the military has continued on a similar scale since Thein Sein became President in 2011.³ The report highlights more than 100 rape cases where the Burmese army's soldiers have sexually abused ethnic women and girls. They suffer horrific sexual abuses while military perpetrators enjoy guaranteed impunity.

The widespread nature and scale of rape and sexual violence incidents meets the legal definition of war crimes and crimes against humanity. This briefing paper examines how the international community has for many decades failed to act to stop these violations of international law and argues that the British government should support an international investigation into the Burmese army's sexual violence against ethnic women in Burma, in order to help end these abuses.

Rape as a weapon of war

"In the front line, everything in the village of the ethnic groups is yours – women, domestic animals. You are free to do anything you want even if you have a wife at home in your village."
Alleged statement by a Burmese army military commander.⁴

Rape has been used as a weapon of war by successive dictatorships in Burma for many decades. This tactic is used against ethnic women and girls both in conflict and non-conflict areas. Rape cases have increased dramatically in Shan and Kachin states since the Burmese army broke ceasefire agreements in March and June 2011 respectively.

Between March and October 2011 alone, WLB has reported 81 cases of rape in Shan and Kachin states. Due to the difficulties in documenting these violations, the actual number of cases is believed

to be much higher. As one villager from the ethnic Palaung has put it: “It is very difficult for the victims to speak out about rape. They were threatened by the soldiers not to tell anyone, so the rest of the community is scared. It is very dangerous for us to speak out.”⁵

Furthermore, the rapes have taken place in different parts of the country, involve many different battalions, are often gang-rapes, and are connected to conflict areas, suggesting that the practice is widespread and part of military tactics.⁶

In conflict areas, victims of rape are more often subjected to further torture, mutilations and killings. According to the Kachin Women’s Association Thailand (KWAT), among the 34 cases of rape during military offensives in Kachin state between June and August 2011, 44% of rape victims were killed by their rapists.⁷ In one case reported by the Karen Human Rights Group (KHRG), two young girls who were collecting firewood near a forced relocation site were reportedly abducted by a Sergeant and his patrol, gang-raped and killed. One of them was stabbed to death while the other was beheaded.⁸

In September 2011, during a military operation in Shan State, Burmese army troops abducted, gang-raped to death and afterwards mutilated a 12-year old girl. Her dead body was found on the altar of a local shrine.⁹ Fear of sexual violence against the women and girls of their communities often leads entire villages to flee on arrival of military troops and hide in the jungle as Internally Displaced Persons (IDPs).¹⁰

Sexual violence is also used by the Burmese army against ethnic women as retaliation for ethnic resistance groups’ actions or as punishment for allegedly supporting them. In many cases reported by the Shan Human Rights Foundation (SHRF), the accusation of being “rebel soldiers’ wives” is often the pretext given to abduct women for so-called interrogations that turn to torture and rape.¹¹

“Women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group.”¹²

UN Resolution 1820

It is clear that the cases highlighted above match the criteria of rape and sexual violence as a tactic of war as described by the UN Security Council Resolution 1820. However, the UNSC has so far taken no action to establish an international investigation into these crimes.

A military occupation policy

“Do anything you like, stealing, robbing, raping or dealing in drugs. Only thing to be careful it doesn’t come out on foreign radios.”¹³

Reported by the Shan Women’s Action Network.

For many ethnic women and girls, rape and sexual violence are a permanent threat to their security. Despite some ceasefire agreements, the Burmese army is increasing troops in ethnic areas. For instance, in Mon state, despite the 1995 ceasefire, 20 more battalions have been deployed permanently since 1998.¹⁴ Most rape incidents by military personnel occur near military bases, on roads, at military check-points or during patrols.

The government’s policy of self-reliance for military troops leads to looting of villagers’ resources and exploitation of local populations.¹⁵ In some areas, troops are in daily contact with villagers and the identity of rape perpetrators, or at least of their battalion, are often known by communities.

In May 2012, Ngwa Mi, a 48-year old grandmother with 12 children, was sheltering alone in a church near the Kachin-China border town of Pang Wa. Burmese army soldiers found her and about 10 troops beat her with rifle butts, stabbed her with knives, stripped her naked and gang-raped her over a period of three days in the church. Another villager, a man who had stayed behind to care for his paralyzed wife, had been captured and brought to the church, and was tortured and forced to watch. After being taken to hospital, Ngwa Mi has been reunited with her family, but has become mentally unstable.¹⁶

The highest number of rapes occurs in victims' familiar environments or their everyday life environment. Data gathered in 'License to Rape', the first major report on sexual violence released in 2002 by the Shan Women's Action Network (SWAN) and the Shan Human Rights Foundation (SHRF), show that 75% of victims were raped either in their own houses, in their fields, while gathering food or firewood in the forest or on their way to the temple or to school.¹⁷

Sexual violence is used as a means of terror and control by the Burmese army. Not only do the women and girls themselves live in constant fear of being raped – the threat is also used to instil fear in all villagers that their wives, mothers, sisters and daughters can be abducted and raped anywhere at any time.

Apart from being a horrible crime in itself against all the women and girls targeted, it has wider implications for the community as a whole. It threatens food security by preventing women and girls from farming their fields safely and gathering necessary resources. It also shatters communities and destroys their sense of identity and pride. Some testimonies show that rape victims are sometimes stigmatised within their communities and flee from their villages, becoming even more vulnerable to further abuses. For instance, according to a report by the Women's League of Chinland, 47% of victims were either rejected by their community, did not dare to tell their families about their ordeal or moved away alone.¹⁸

The terrorising, controlling and shattering of communities resulting from sexual violence creates a long-term societal damage that fosters ethnic nationality populations' hatred for the Burman majority, the army and the government and threatens hopes of future national reconciliation.



Burmese army troops in Kachin State. The Burmese army is increasing troops in ethnic areas.

Impunity and encouragement to rape

*"Those who refuse to rape her will be shot and killed."*¹⁹

Reported by the Karen Women's Organisation, April 2004.

Rapes against ethnic nationality women and girls are committed with impunity and openly, not to say encouraged and condoned by troop commanders and army personnel with "command responsibility". In a high number of cases, rapes are perpetrated by officers. Overall, officer perpetrators represent 42% of military rapists, 70% in Mon state²⁰ and 71% in Shan state.²¹ There are many cases where commanders or low-ranking officers either encourage or sometimes order their soldiers to rape, or initiate gang-rapes themselves. For instance, according to SHRF, in July 2008 a sergeant reportedly sent his troops to abduct a 16-year old girl from her village, raped her first, and then brought her to his troops who gang-raped her.²²

The number of gang-rapes is also a clear sign of the continuing impunity enjoyed by the Burmese army soldiers who rape women in front of each other or in front of villagers and victims' families and sometimes boast about it afterwards with no concern for hiding their acts.²³ Of the 104 rape cases documented in the latest report from WLB, almost 40% were brutal gang-rapes.²⁴

Moreover, a number of reports have documented forced conscriptions of women and girls for sexual slavery, organised 'entertainment parties' involving rapes and sexual molestation and abductions of 'comfort women' by the military. In Mon state in December 2003-January 2004, as part of celebrations for the anniversary of Burma's independence, 15 village chiefs were reportedly required to provide beautiful young women for a fashion and beauty contest that took place at the military base in Ye township. Before the contest, at least 30 women were forced to spend days and nights at the base to practise in front of officers and troops and a high number of these women were reportedly raped or gang-raped by officers and troops.²⁵ Similar occurrences of women openly required from village chiefs or abducted by daylight from their village, kept overnight at military bases and returned the next day, a few days later or even months later, have been reported.²⁶ In November 2011, four Kachin women were detained as sex slaves by the Burmese army for four months. Thein Sein's government refused to investigate the

case and went as far as to deny that it was even possible.²⁷

Military perpetrators of sexual violence are confident that they will enjoy impunity. As a result of the lack of rule of law in ethnic areas and total impunity for perpetrators, only a few cases are reported to the military authorities by victims, families or village headmen for fear of further retaliation. Reporting to the military authorities often puts at risk not only the victim but the entire community. In several occurrences complainants and village leaders were imprisoned, beaten and released after a substantial fine.²⁸

In Putao, four girls between 14 and 16 years of age were gang-raped at the military base and the incident was reported to the battalion commander and passed on to international media. The girls were arrested, charged with defamation and prostitution and jailed.²⁹ In another case, a 26-year old woman was gang-raped by seven Burmese soldiers who then threatened to kill her husband if he reported the incident, saying: “Even if you tell other people, there is no one who will take action. We have the authority to rape women.” When reporting the incident anyway to the head of their village, he failed to take any action.³⁰ Testimonies have stated that during visits by the UN Special Rapporteur Paulo Sérgio Pinheiro, the ICRC and Amnesty International in 2002, a number of victims and village headmen were forced to sign retraction statements or were silenced by threats to have their tongues cut and their throats slit.³¹

The Burmese government's campaign of denial

*“It is not appropriate yet to investigate into conflict areas. The national reconciliation process is political.”*³²
Burmese government's National Human Rights Commission.

The government of Burma has repeatedly dismissed reports by women's organisations as “black propaganda” and accused them of “causing disunity among the national races” or “defaming the honour of ethnic women and the armed forces.”³³ This politics of denial has continued under President Thein Sein, even though he claims that he and his government are engaging in reforms. In October 2012 Thein Sein said, “Our military is very disciplined, there is no reason for the military to commit acts of rape or murder”.³⁴ The same

line of denial was taken by Senior General Min Aung Hlaing in March 2013: “We are a military that adheres not only to civil and martial laws and regulations, but also to the Geneva Convention. (...) Our Tatmadaw have never committed any war crimes (...)”.³⁵

The denial of rape and sexual violence by the army goes as high up as the Myanmar Supreme Court. Although the National Human Rights Commission was created in September 2011 and had promised to investigate human rights abuses in ethnic areas, it has so far always postponed investigations under the pretext of political issues.

In June 2012 the Supreme Court dismissed a law suit filed by the husband of a young Kachin woman, Sumlut Roi Ja, who had reportedly been abducted by Burmese army soldiers in Momauk township and detained as a sex slave at a military base. To dismiss the law suit, the Court argued that the regional military command in Momauk township had denied any involvement in the young woman's disappearance and that Sumlut Roi Ja, her husband and father in law were linked to the Kachin Independence Army (KIA).³⁶



Sumlut Roi Ja was arrested by the Burmese Army in 2011 and has disappeared since then.

On the rare occasions the Burmese army has admitted rape has taken place, it is always claimed that these are one-off incidents. They still deny most rapes have taken place.

Between 1996 and 1998 there were mass forced relocations in central Shan State, Eastern Burma, forcing more than 300,000 villagers from their homes. Thein Sein was a military commander in Shan State at this time, and a member of the ruling

council (SPDC), which was in charge of strategy. At this point, the use of rape by the Burmese army was most prevalent in these areas.

Documented in the report 'License to Rape' are 45 cases of rape by Burmese army soldiers based in or operating in Eastern Shan State in the area under the command of Thein Sein, most of which took place during his time in command. Given the stigma of reporting rape, and the difficulties in documenting cases, and the fact that some of those who have gone public and complained have been fined, detained, tortured and even killed by the military, the true number is likely to be much higher. A map in the report shows where the rapes took place and Thein Sein's headquarters at Kengtung is circled by incidents of rape and sexual violence by his soldiers.

Given Thein Sein's track record of allowing impunity for rape when he was a regional commander, it is no surprise he continues to allow impunity as a President.

The 2008 Constitution and the promise of impunity

In 2010, on the eve of the 'elections', a 25-year old disabled woman was raped in her house in front of her 2-year old niece by a Burmese soldier. The area in central Shan State where the woman lived had recently seen a heavy increase in military personnel, and one of the soldiers entered her house and attacked her. Her hands and feet were tied together, and her hair tied to the house post. Neighbours heard her scream but did not dare help her. She later fled the village.³⁷

Even since 'reforms' began, women continue to be subjected to rape, including gang rape and other forms of sexual violence committed by the Burmese army. This continues to this day, condoned by the 2008 Constitution that ensures impunity for military personnel's actions. Article 445 of the Constitution states that: "No proceeding shall be instituted against the said (previously-ruling) Councils or any member thereof or any member of the Government, in respect to any act done in the execution of their respective duties", which by the current government is used as a way of granting all its members, including the army, impunity for all crimes committed³⁸ whether in the past, present or future.

As a result, military rape perpetrators are not held accountable for their crimes but are condoned even by officials in the highest spheres of power and guaranteed impunity. Rape and sexual violence have also been used by other government's forces such as border security. In February 2013, at least 13 women, including teenagers, were reportedly raped by the Burmese border security force, the NaSaKa. According to one of the victims, an 18-year old girl, troops entered her house and dragged her, her 15-year old sister and mother to different places and gang-raped them over several hours.³⁹

Unless there is constitutional amendment, which ensures accountability to end impunity, ethnic women will continue to be subjected to horrific sexual abuses in Burma. This is one of many reasons why an international investigation into these crimes is needed.

Lack of legal protection for women

Gender-based discrimination is deeply rooted in all societies in Burma whether institutionally or culturally. There is no specific law in Burma that provides protection for women and children, especially women in ethnic and rural areas. Moreover, the legal system in Burma does not have provisions that promote the development and empowerment of women and their participation in the decision-making process.

For instance, Burma's current Rape Law is based on a century old penal code - Burma Penal Code No.375 (1860)⁴⁰ and is not in line with international human rights standards. A man can legally rape his wife, according to Burma's legal system. As a result, gender inequality and domestic violence persist legally without consequences. This is very much associated with the culture of impunity that is guaranteed to military rapists against ethnic women and girls, especially in conflict areas.

In addition to the lack of legal protection for women, the future of women in Burma appears to be even more depressing and unpromising when President Thein Sein, in February 2014, backed a proposed law to ban interfaith marriage aiming to restrict Buddhist women marrying non-Buddhist men.⁴¹ If this bill is passed in the parliament and comes into force, it will also affect women in Burma as a whole where the state will legalise the ongoing culture of oppression of women in Burma.

Burma needs laws that protect and empower women in line with the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).⁴²

Lack of women's involvement in ongoing peace negotiations

*"We are working very hard for women to be included at all levels. If women are excluded from the process, the post-conflict plan might not include consideration for women... They might overlook (violence against women), and might not reform gender-relevant laws. These considerations come from women's groups, not from them, they would never look at this unless we tell them."*⁴³

Tin Tin Nyo of Women's League of Burma.



26 year old Rutha was brutally gang raped by Burmese army soldiers. She was five months pregnant at the time.

Due to international and domestic pressure, in 2011 Thein Sein set out a peace plan and the government started to negotiate peace deals with ethnic armed forces. The sincerity of the government has been questioned, especially since armed conflict continues in Kachin State to this date. Nonetheless, 14 ethnic groups have signed ceasefire agreements with the government.⁴⁴

However, in the negotiations between the government and the ethnic organisations, there has been a stark absence of women, and many ethnic minority women's groups are now pointing to the lack of inclusion of gender-related issues in the agreements. For example, none of agreements mention the rape and sexual violence that the ethnic women have suffered during the conflict – and of course no means to address this issue or to bring the people responsible to justice is therefore included.⁴⁵

Under President Thein Sein, there is no truth, justice or reconciliation for women. Ceasefires alone without a political solution that guarantees rights and protection for women will not bring peace and security for women in Burma.

War crimes and crimes against humanity

*"Rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide."*⁴⁶

UNSC Resolution 1820

Rape and sexual violence in ethnic areas in Burma are likely to amount to war crimes and crimes against humanity and as such should be the focus of an international investigation. Widespread and systematic, these crimes take place in contexts of armed conflict. They are used as a purposeful method of warfare or as an organised means of dominating and subjugating ethnic populations. They are attacks against civilians taking no part in the hostilities. Even when they are not encouraged by their superiors with command responsibility to commit these crimes, Burmese soldiers are taking advantage of the conflict situation and of the powerlessness of victims in occupied areas. Since 2002, these patterns of rape and sexual violence and the total impunity enjoyed by military perpetrators have been documented yearly in the reports by different UN Special Rapporteurs on human rights in Burma.

The terminology used by UN rapporteurs matches the concerns of UN Security Council resolutions 1820 and 1325 over the security of women and girls in armed conflicts and the importance of protecting them from gender-related crimes to secure international peace and security. There are numerous UN reports and resolutions referring to sexual crimes by the Burmese army that fit the criteria of war crimes and crimes against humanity.

However, neither the UN Secretary General, UN Human Rights Council, UN General Assembly nor the UN Security Council has initiated an international investigation into these crimes. In precedent cases there have been Commissions of Inquiry into human rights violations including sexual crimes considered as international crimes (in former Yugoslavia, Rwanda and Darfur).⁴⁷

*"The Special Rapporteur is not aware of any Government initiative to address the consistent and continuing pattern of impunity by members of the military involved in the high number of allegations of sexual violence against women and girls (...) the above-mentioned serious human rights violations have been widespread and systematic, suggesting that they are not simply isolated acts of individual misconduct by middle- or low-ranking officers, but rather the result of a system."*⁴⁸

UN report, March 2008.

Even after a new UN resolution 2106 was adopted last year focusing on sexual violence in conflict, no action has been taken. The resolution was adopted unanimously with a focus on addressing impunity and promoting women's participation in peace negotiations, and states among other things that "rape and other forms of serious sexual violence in armed conflict are war crimes."⁴⁹

Preventing Sexual Violence Initiative (PSVI)

In 2012, Foreign Secretary William Hague announced the Preventing Sexual Violence Initiative (PSVI) as a priority during the UK's presidency of the G8 in 2013, and said: "Shattering the culture of impunity for those who use rape as a weapon of war is the next great global challenge of our generation."

However, that did not initially make the British government include Burma under PSVI. After pressure from NGOs and the UK Parliament, Burma has now been included under PSVI and the British government has stated that PSVI activities should be incorporated in new and existing work in the country.⁵⁰

In September 2013, the Declaration of Commitment to End Sexual Violence in Conflict was presented to the UN General Assembly. The declaration contains practical and political commitments to end impunity, promote accountability, and provide justice and safety for victims of sexual violence in conflicts. Among other things it states: "(...) for too long those who commit these crimes, and their superiors who condone them, have gone unpunished. As an international community we can - and must - do more to prevent and respond to these acts of barbarism."⁵¹

On 5th June 2014 the government of Burma finally signed the Declaration of Commitment to End Sexual Violence in Conflict. Burma was the 150th country to sign the Declaration and join the global initiative to combat sexual violence in conflict. Despite signing the declaration, the government of Burma has taken no steps to implement it.

British training for the Burmese Army

Instead of promoting accountability to end sexual violence in Burma, the British government began military training for the Burmese army in January 2014. It appears no pre-conditions were set before providing the training, even on the issue of ending the Burmese army's use of rape as a weapon of war. This appears to contravene the declaration on ending sexual violence in conflict which the British government has spearheaded. The Burmese army does not even admit that it commits human rights abuses.

Urgent need for an international investigation

The fact that reports of sexual violence and rape by the Burmese army against ethnic minority women and girls keep coming from Burma despite the official change to a "civilian-led" government means that the international community cannot keep ignoring the plight of women in Burma. The countless examples of high-level involvement and gang-rapes suggest that it is a common practice.

Furthermore, there have been no signs of the Burmese leadership wanting to address the issue of rape and sexual violence by the army; indeed, there is denial of it even taking place, and impunity persists. The Burmese government's National Human Rights Commission has been proven utterly hopeless at addressing both rape and other human rights abuses, especially in conflict zones.

Initiatives like the PSVI could have a real impact but must be applied comprehensively to Burma, and not be undermined by other policies by the British government, like training Burmese soldiers. Reforms by the Burmese government should not blind the world to the rape and sexual violence the women of Burma's ethnic minorities keep suffering. Therefore, as a matter of urgency, the international community must act and the British government must support the establishment of an international investigation body to end sexual violence in Burma and bring justice for ethnic women.

Recommendations

- An international investigation into rape and sexual violence by the Burmese military against ethnic nationality women and girls should be established.
- There must be an end to impunity for rape.
- The 2008 Constitution that guarantees impunity for military perpetrators must be amended so further sexual violence can be prevented.
- Women should be included in the peace negotiations between the Burmese government and the ethnic armed groups, and the issues of sexual violence in conflict should be addressed in these negotiations.
- There should be women's participation at every political level in Burma.
- The Burmese government should allow the UN's Office of the High Commissioner for Human Rights to open an office in Burma.
- Burma's Rape Law should be revised and should be in line with international human rights standards and outlaw rape in marriage.
- Governments should provide adequate funding for WLB and its members to support their work in documenting cases of rape and providing support for victims of sexual violence.

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For more information

Campaign to stop rape and sexual violence in Burma:
www.burmacampaign.org.uk/stop-rape-and-sexual-violence

Burma Campaign UK:
www.burmacampaign.org.uk

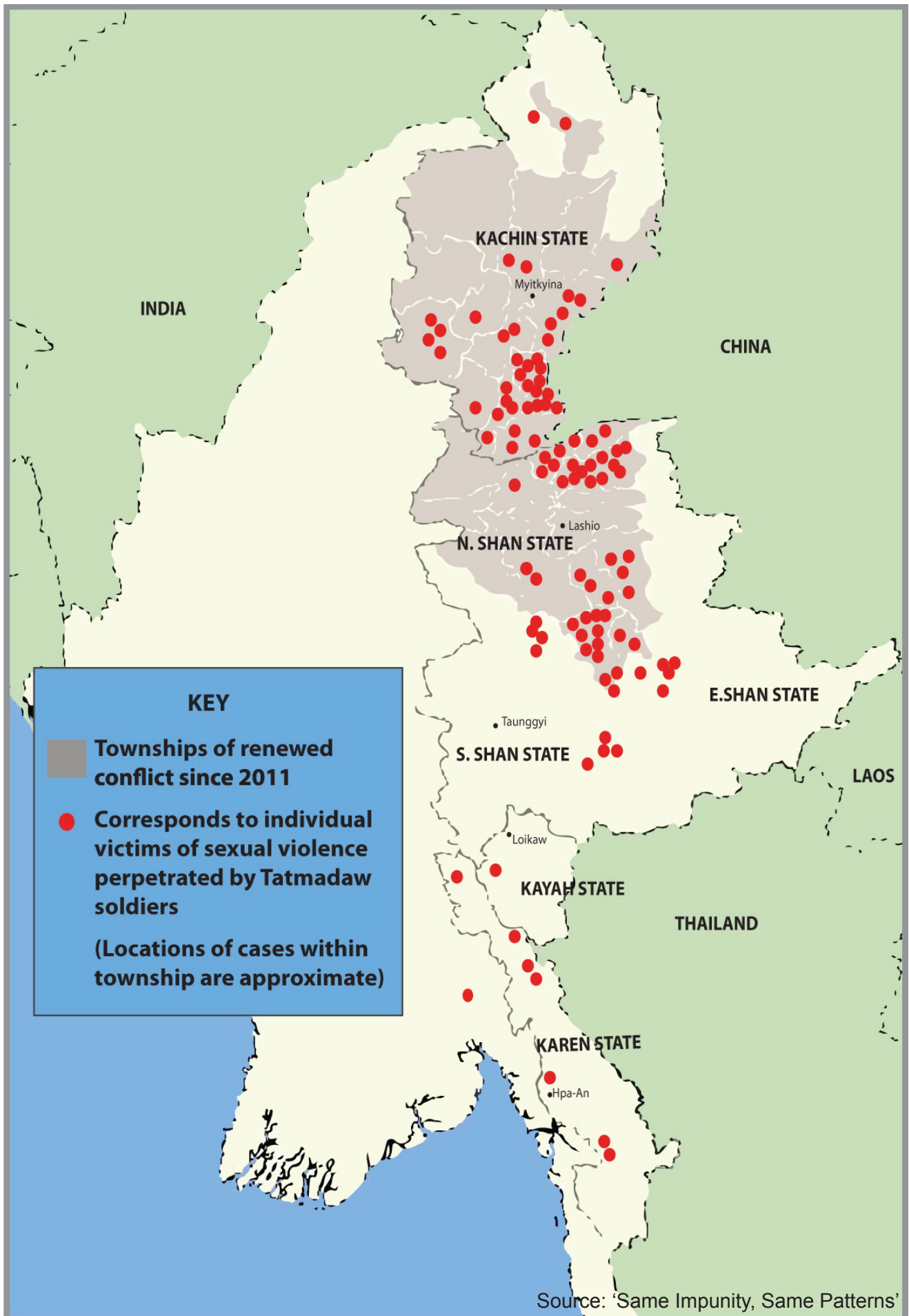
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Nobel Women's Initiative:
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Map of Rape Incidents by the Burmese Army in Conflict Areas since 2010



Footnotes

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