

Life Under the Junta: Evidence of Crimes Against Humanity in Burma's Chin State

ABOUT PHYSICIANS FOR HUMAN RIGHTS

Physicians for Human Rights (PHR) is an independent, non-profit organization that uses medical and scientific expertise to investigate human rights violations and advocate for justice, accountability, and the health and dignity of all people. We are supported by the expertise and passion of health professionals and concerned citizens alike.

Since 1986, PHR has conducted investigations in more than 40 countries around the world, including Afghanistan, Congo, Rwanda, Sudan, the United States, the former Yugoslavia, and Zimbabwe. With the help of our supporters, we have worked to stop torture, disappearances, political killings, and denial of the right to health by governments and opposition groups; deaths, injuries, and trauma inflicted on civilians in armed conflict; suffering and deprivation caused by political differences or discrimination; mental and physical anguish inflicted on women by abuse; loss of life or limb from landmines and other indiscriminate weapons; harsh methods of incarceration and interrogation and torture in prisons and detention centers; and poor health stemming from vast inequalities in societies.

As one of the original steering committee members of the International Campaign to Ban Landmines, PHR shared the 1997 Nobel Peace Prize.

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PHR is indebted to five Chin community-based organizations, including the Chin Human Rights Organization, for their collaboration, expertise, and tireless advocacy on behalf of the Chin people, without which this research would not be possible.



No nation
has the right
to oppress
its people, but to
the extent that
we abandon those
people, we allow
the crimes to
continue.

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Foreword

The many peoples of Burma have suffered long and hard under decades of military misrule. Burma's diverse ethnic nationalities, courageous clergy of all faiths, principled democratic opposition, and generations of students and citizens have struggled mightily against dictatorship and oppression. Their struggle continues. The unfree and unfair electoral exercise conducted by the ruling military junta in November of 2010 has neither alleviated Burma's ongoing political crisis nor addressed the suffering of her people.

We greatly welcome the recent release of Daw Aung San Suu Kyi from house arrest after spending 15 of the last 21 years in illegal detention. But Burma is not yet free. Daw Suu Kyi's heartfelt call for dialogue and national reconciliation has thus far gone unheeded by Senior General Than Shwe and the regime he controls. Burma's authoritarian system, with all the harms it has generated, remains intact.

It has long been clear that ethnic nationality peoples in Burma's border regions have faced particularly brutal treatment under military rule. Too much of their suffering has been deliberately hidden from the world by the regime's control of access to these troubled regions. While the horrors of military rule in Eastern Burma have been better known and documented, we know much less about Burma's Western regions, including Chin State, on Burma's border with the Indian State of Mizoram. The Physicians for Human Rights report you hold in your hands is the first independent and population-based assessment of the health and human rights situation across Chin State. We urge you to read it carefully, and to consider its implications seriously, for this report evidences extraordinary levels of state violence against civilian populations. It demands not only attention, but reparative action by all who are concerned with Burma's peoples, their well-being, and Burma's future as a functioning state.

PHR and its partners, including courageous members of Chin organizations, used innovative methods to conduct population-based assessments across all nine townships of Chin State in 2009 and 2010. They conducted quantitative and qualitative interviews with heads of over 600 households, and documented human rights violations at the household level. The quantitative approach used by the investigators lets us see the widespread and systematic nature of these abuses. The qualitative work, which includes the voices of Chin survivors of these atrocities, lets us hear something else—the voices of an enslaved and brutalized population asking for assistance in the struggle for justice, for freedom, and for life itself.

The results are devastating. The most commonly documented abuse, forced labor, was reported by 91.9% of all households, the highest rate yet reported for any region of this troubled country. This number includes Chin family members forced to porter military supplies, sweep for landmines, labor as unpaid servants, build roads, and do hard labor. Other documented violations include hundreds of cases of forced conscription into military service, beatings, torture, intimidation, rape of women, children and men by soldiers, killings, disappearances, and persecution based on Chin ethnicity or Christian faith.

What can the international community do about the human rights violations of this regime? First, both international law and basic human dignity demand accountability for these crimes. We urge the United Nations to immediately establish a Commission of Inquiry into crimes against humanity in Chin State, and in all of Burma. Second, Burma's neighbors and the regime's allies, China, Thailand, Bangladesh, Malaysia, and most importantly India, must do much more to pressure the regime to cease and desist from its ruthless repression and lawless violence. Chin people, with well-founded fears of persecution, have sought refuge from their unstable homeland in India, Malaysia, and Thailand. These states have special responsibilities to do more to rein in the Burmese junta and to help create the conditions which would allow Chin people to be able to return to a safe and secure homeland. Finally, each and every one of us must do more. We must pay more attention to Burma and her suffering. We must pressure our leaders to address these atrocities. And we must support the courageous democracy movement, the clergy and the students, and the ethnic nationalities and their leaders, as they struggle to bring justice and freedom to this long-suffering country. Please do what you can. It is unconscionable that suffering as dire as that of the Chin people under Burma's dictatorship should be allowed to persist in silence.

The Honorable **Richard J. Goldstone**

Former U.N. Chief Prosecutor,

International Criminal Tribunals for the former Yugoslavia and Rwanda (ICTY and ICTR)

Current PHR Board Member

The Most Reverend **Desmond M. Tutu**

Anglican Archbishop Emeritus of Cape Town

Chair, The Elders

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This report was written by Richard Sollom MA, MPH, Deputy Director at Physicians for Human Rights (PHR) and principal investigator for PHR's work on Burma; Chris Beyrer MD, MPH, Director, Center for Public Health and Human Rights (CPHHR) at the Johns Hopkins Bloomberg School of Public Health; Adam Richards MD, MPH, Robert Wood Johnson Clinical Scholars Fellow at University of California, Los Angeles and PHR Board member; Vit Suwanvanichkij MD, MPH, Research Associate at CPHHR; Parveen Parmar MD, MPH, Clinical Instructor, Department of Emergency Medicine, Brigham and Women's Hospital, Harvard Medical School and Associate Faculty at Harvard Humanitarian Initiative; Luke Mullany PhD, Associate Professor, International Health, Johns Hopkins Bloomberg School of Public Health; and John Bradshaw JD, Washington Director at PHR.

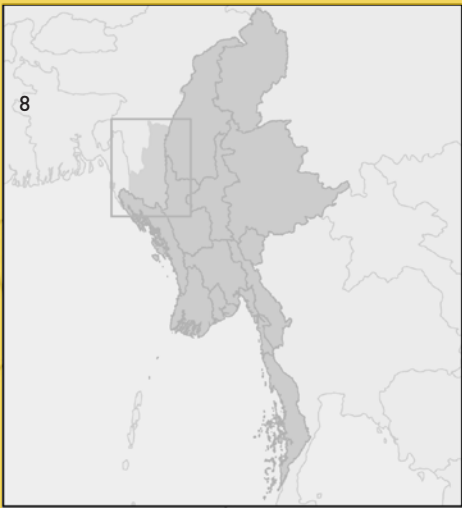
This report is based on field research conducted by Richard Sollom and Parveen Parmar in October 2009 and January-February 2010 as well as a follow-up investigation to Burma in November 2010 by John Bradshaw.

The findings of this report are part of an ongoing project to investigate and document the nature and extent of human rights abuses in Burma by PHR in collaboration with the Center for Public Health and Human Rights at the Johns Hopkins Bloomberg School of Public Health. PHR is grateful to our colleagues at CPHHR: Chris Beyrer MD, MPH, Vit Suwanvanichkij MD MPH, Luke Mullany PhD, and Andrea Wirtz MHS, for their invaluable collaboration, and our colleagues at the Global Health Access Program: Tom Lee MD, MPH, Adam Richards MD, MPH, and Linda Smith MPH.

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PHR is deeply indebted to the 621 families across Chin State who shared their experiences with our team, and to the several community-based organizations who care deeply for the lives and well being of all Burmese nationals irrespective of religious or ethnic identity, and who made this study possible. For their protection, they shall remain anonymous.



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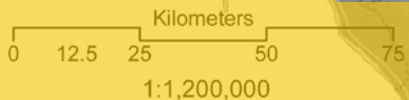
BANGLADESH

CHIN STATE

RAKHINE STATE

SAGAIYIN DIVISION

MAGWAY DIVISION



Acronyms

AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
BIA	Burma Independence Army
BSPP	Burma Socialist Programme Party
CI	confidence interval
CNA	Chin National Army
CNF	Chin National Front
CNO	Chin National Organization
CNP	Chin National Party
COI	Commission of Inquiry
CPHHR	Center for Public Health and Human Rights
CPP	Chin Progressive Party
D	diameter
DKBA	Democratic Karen Buddhist Army
ENDP	Ethnic National Development Party
HH	household
ILO	International Labor Organization
MIMU	Myanmar Information Management Unit
MUAC	Mid-upper arm circumference
NLD	National League for Democracy
NUP	National Unity Party
PHR	Physicians for Human Rights
PPS	probability proportional to size
SLORC	State Law and Order Restoration Council
UN	United Nations
UNA	United Nationalities Alliance
UNHCR	United Nations High Commissioner for Refugees
USDA	Union Solidarity and Development Association
USDP	Union Solidarity and Development Party
VPDC	Village Peace and Development Council
ZNC	Zomi National Congress

Executive Summary

RATIONALE

Despite the November 2010 electoral exercise in Burma (also known as Myanmar), the military junta still controls all branches of government and leverages its power to suppress ethnic nationalities, who represent approximately 40% of the population occupying 55% of the land area of this Southeast Asian country. Since 1996, over 3,600 villages in Eastern Burma are estimated to have been destroyed, forcibly relocated, or abandoned, comparable in scale to the conflict in Sudan's Darfur, forcing over 500,000 people from their homes. Forced relocation is often accompanied by widespread abuses against ethnic civilians, including confiscation of land and property, destruction of food supplies, arbitrary taxation, rape and other forms of sexual violence, torture, and extrajudicial execution. Several reports have been published on the situation in Eastern Burma, highlighting the widespread and systematic nature of such human rights violations, and underlining the need for an independent, impartial, international investigation into alleged war crimes and crimes against humanity.

By contrast, comparatively little has been written about the situation in Western Burma. Chin State, an isolated, mountainous region in Western Burma, has poor health outcomes and lacks basic infrastructure. There is no network of roads connecting the nine major townships of Chin State; the few roads that exist are unpaved and often impassible in the rainy season. Access to Chin State is problematic from the bordering northeast Indian States of Mizoram and Manipur and the Chittagong Hill Tracts area of Bangladesh, as those areas are designated restricted zones, limiting the possibilities for cross-border humanitarian assistance to Chin State.

While the people of Chin State have not suffered the protracted 60-year conflict of Eastern Burma, rapid militarization in Chin State since 1988 has resulted in widespread human rights violations. Since 1988, estimates place more over 75,000 displaced Chin in India, and another 50,000 in Malaysia. Decades of neglect and widespread abuses have debilitated the Chin who remain in Chin State and rendered them highly food insecure and vulnerable to the current famine.

Qualitative research has shed light on the atrocities committed by successive military regimes over the past five decades. While some quantitative research has been carried out in Eastern Burma, this research represents the first quantitative study on Western Burma to assess the scale and scope of alleged crimes against humanity, defined as the most serious crimes of concern to the international community. These crimes include murder, torture, rape, group persecution, and other inhumane acts, which are committed as part of a widespread or systematic attack against a civilian population.

METHODS

This study was approved by the Institutional Review Board at the University of California Los Angeles Office for the Human Research Protection Program, and the Johns Hopkins Bloomberg School of Public Health Committee on Human Research. Our research team first conducted a field investigation along the Chin State border in October 2009 and met with 32 key informants and representatives from Chin civil society to assess the feasibility of conducting a population-based survey in Chin State to quantify alleged rights abuses and to determine whether they are widespread or systematic.

With the help of local partners, we trained surveyors to perform a multi-stage, 90-cluster sample survey of households in Chin State from January to March 2010, using an 87-question survey instrument that was translated into five regional languages.

FINDINGS

Twenty-two trained surveyors approached 702 households in all nine townships of Chin State in 2010, and 621 (89%) agreed to participate in the study. One third of these households (34%) were headed by women or a woman spoke for the family on the day of the interview, and two-thirds were men. We questioned them about their experiences over the past year, forced labor and other human rights violations, food security, their health status, and access to healthcare.

Surveyed households in all nine townships in Chin State reported a total of 2,951 abuses in the 12 months prior to the interview, with forced labor being the most prevalent. Of the 621 households interviewed, 91.9% reported at least one episode of a household member being forced to porter military supplies, sweep for landmines, be servants, build roads, and do other hard labor. The Burmese military imposed two-thirds of these forced labor demands; they also accounted for all reported rapes. Government soldiers tortured or beat ethnic Chins (reported by 14.8% of households), and killed and abducted civilians with impunity. One out of eight Chin households was forcibly displaced (most to find food), and one-third of all forcible conscriptions were of children under 15. The tatmadaw military accounted for more than 92% of all forced recruitment, and ethnic forces (for example the Chin National Army) were not reported to have forcibly conscripted any children or adults.

LEGAL ANALYSIS

Our data reveal that Government authorities have perpetrated human rights violations against the ethnic Chin population in Western Burma. Although other researchers have posited that a *prima facie* case exists for crimes against humanity in Burma, the current study provides the first quantitative data on these alleged crimes. At least eight of the violations that we surveyed fall within the purview of the International Criminal Court (ICC) and may constitute crimes against humanity. The ICC has jurisdiction over the most serious crimes of concern to the international community, including murder, extermination, enslavement, forced displacement, arbitrary detention, torture, rape, group persecution, enforced disappearance, apartheid, and other inhumane acts.

For acts to be considered crimes against humanity, three common elements must be established: (1) Prohibited acts took place after 1 July 2002 when the ICC treaty entered into force. (2) Such acts were committed by government authorities as part of a widespread or systematic attack directed against a civilian population. (3) The perpetrator intended or knew that the conduct was part of the attack.

Our research demonstrates that the human rights violations we surveyed in Chin State meet these necessary elements. All reported human rights violations in our study occurred during the immediate 12 months before the interview in 2010 and thus fall within the temporal jurisdiction of the ICC. Additionally, our data show that 1,768 attacks were directed against a relatively large body of civilian victims. And although there is no threshold definition of what constitutes widespread, these data provide evidence that these reported abuses occurred on a large scale with numerous victims. Coupled with qualitative information that our team of investigators gathered, this quantitative data reveal patterns of abuse that constitute systematic targeting and executing of human rights violations against an ethnic and religious minority.

While our data imply knowledge that would satisfy the third element of the definition of a crime against humanity, further evidence is needed to establish individual culpability. This evidence would likely stem from a U.N. Commission of Inquiry or another thorough investigation.

RECOMMENDATIONS

Based on our findings, Physicians for Human Rights recommends:

TO THE GOVERNMENT OF BURMA:

- Stop human rights violations against individuals and communities in Chin State and throughout Burma including but not limited to forced labor, killings, beatings, sexual assault, and arbitrary detention.
- Cease the persecution of ethnic groups and religious minorities.
- Conduct a thorough investigation of human rights violations documented in this report.
- Remove provisions of the 2008 Constitution that provide immunity for human rights violations.
- Allow United Nations agencies, officials, and international humanitarian and human rights organizations unrestricted access to provide essential services, and to monitor and conduct investigations into alleged human rights violations throughout the country, especially in remote areas such as Chin State.

TO THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN):

- Call on the Government of Burma to conduct an investigation into human rights violations in the country.
- Ensure that any engagement with Burma centers on human rights and accountability.
- Demand that Burma adhere to its commitments under the ASEAN Charter.
- Work with the United Nations and others in the international community to protect human rights in Burma and end impunity. Support efforts from the United Nations to investigate alleged crimes in Burma.
- Encourage the ASEAN Intergovernmental Human Rights Commission (AICHR) to protect human rights in Burma.

TO CHINA, INDIA, BANGLADESH AND OTHER KEY REGIONAL PARTNERS:

- Exert pressure on the Burmese authorities to respect human rights and promote accountability.
- Ensure access to protection and essential services to those fleeing persecution, human rights violations, and food insecurity in Burma.

TO THE UNITED NATIONS:

- Establish a Commission of Inquiry to investigate reports of human rights and humanitarian law violations in Burma, through the mechanisms of the Human Rights Council, the Security Council, the General Assembly, or the office of the Secretary General.

TO MEMBERS OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL:

- Use Burma's Universal Periodic Review in January 2011 to discuss the human rights violations committed by the authorities in Chin State. Develop recommendations for the government that reflect the information contained in this report. Make public statements calling for an end to human rights violations and impunity.
- Include calls for accountability in official statements and reports of the Human Rights Council.

TO THE UNITED STATES GOVERNMENT:

- Work to build consensus within the international community to support a Commission of Inquiry to investigate crimes against humanity and war crimes in Burma, and press for public support from the EU, ASEAN, and key regional countries.
- Continue to press for national reconciliation, including dialogue incorporating human rights issues, between the government, democratic opposition, and the leaders of ethnic groups, including the Chin.

TO THE OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT:

- Continue monitoring the situation in Burma and liaising with local, regional, and international groups who are trying to end impunity in Burma.
- Encourage open communication between human rights documentation groups and the Office of the Prosecutor, so that the Court can remain informed about human rights violations in Burma.
- Build the capacity of human rights organizations documenting human rights violations in Burma to facilitate future complementary forms of justice, including truth commissions and/or local prosecutions.

History and Background of Chin State, Burma

BECOMING BURMA

Chin State, a sparsely populated, mountainous area of northwest Burma, shares its western border with India and Bangladesh. As a result of international boundary drawing that dates back to independence from British colonial rule, the Chin people inhabit lands that cross international borders that include Bangladesh and the Indian states of Manipur and Mizoram.¹ Although the term “Chin” refers to one of Burma’s larger nationalities, the Chin are split into at least six different groups and over sixty sub-groups. The Chin originally practiced spirit worship. American missionaries, however, encouraged by the British soon after colonization in 1896, successfully introduced Christianity such that over 90% of the population of Chin State is today estimated to be Christian.² Christianity has become an integral part of the Chin identity.³

During the Second World War, Japan invaded Burma, aided by the Burma Independence Army led by General Aung San, who wanted to rid Burma of British Colonial rule. After it became apparent that Japan had no intention of allowing Burma independence, General Aung San secretly turned to the British in order to drive out the Japanese from Burma.

After the Second World War, Chin, Shan, and Kachin leaders, believing that independence would be more rapidly achieved by cooperating with General Aung San, signed the historic Panglong Agreement on 12 February 1947, which paved the way for independence from Britain. However, General Aung San was assassinated a few months later by Burman rivals, and the federal vision outlined in the Panglong Agreement was never realized.

On 4 January 1948, Burma became an independent nation, with U Nu as prime minister. Shortly afterwards, all the Chin tribes met to discuss their administration in the new democratic system. On 20 February 1948, the Chin representatives overwhelmingly voted to end “the traditional political system of chieftainship” in favor of representative government.⁴ In honor of this momentous event, the 20th of February is celebrated as Chin National Day, which has served to solidify the Chin national identity.⁵

In 1961, U Nu declared Buddhism to be the state religion. In direct response to this perceived imposition of Buddhism, the majority Christian Kachin and Chin started armed rebellions against the central government.⁶ In the midst of these crises and U Nu’s erratic leadership, the military underwent significant expansion and increasingly stepped in to dominate the Burmese economic and political scene.⁷

¹ Lian H. Sakhong, *In Search of Chin Identity: A Study in Religion, Politics and Ethnic Identity in Burma* 7-8 (2003); Human Rights Watch, *We are Like Forgotten People: The Chin People of Burma: Unsafe in Burma, Unprotected in India* 9 (2009), <http://www.hrw.org/en/reports/2009/01/27/we-are-forgotten-people>.

² *In Search of Chin Identity*, supra note 1, at 119; Lian Sakhong, *Christianity and Chin Identity*, in *Exploring Ethnic Diversity in Burma* 206-224 (Mikael Gravers ed., 2007).

³ Chin Human Rights Organization, *Religious Persecution: A Campaign of Ethnocide Against Chin Christians in Burma* (2004) at <http://www.chro.ca/publications/special-reports.html>; *Christianity and Chin Identity*, supra note 2, at 206-224.

⁴ *In Search of Chin Identity*, supra note 1, at 220-223.

⁵ *Id.*; Chin National Front, <http://www.chinland.org/hev> (last visited 8 Dec. 2010).

⁶ Lian H. Sakhong, *Democracy Movement Towards Federal Union: The role of UNLD in the struggle for democracy and federalism in Burma*, in *The New Panglong Initiative: Rebuilding the Union of Burma*, (Chao Tzang Yawngnaw and Lian H. Sakhong ed., 2004).

⁷ Centre on Housing Rights and Evictions (COHRE), *Displacement and Dispossession: Forced Migration and Land Rights in Burma* (2007); David I. Steinberg, *Burma: The State of Myanmar* 17-19 (2001); Kay Latt, *Panglong Agreement, Federal Principles and the 2008 Constitution*, *The Irrawaddy*, 19 Oct. 2009, http://www.irrawaddy.org/article.php?art_id=17017; Michael W. Charney, *A History of Modern Burma* 92 (2009); Mary P. Callahan, *Making Enemies: War and State Building in Burma* 170-206 (2004).

BIRTH OF A MILITARY REGIME

On 2 March 1962, the military, headed by General Ne Win, launched a coup, aimed primarily against the growing federal movement in order to “prevent the nation from breaking up.” The new military regime then embarked upon the xenophobic, isolationist “Burmese Way to Socialism.” The violence of the new regime, the abolition of the federal system on which the nation was founded, and the arrests, disappearances, and deaths of ethnic leaders intensified the civil war.⁸ In Chin State by the 1960s, repression of federalist Chin leaders fueled a growing insurgency by the Chin National Organization (CNO).⁹ By the 1980s, almost all of Burma’s frontier areas were controlled by armed opposition groups.¹⁰

RESISTANCE AND NATIONAL ELECTIONS

In 1974, General Ne Win’s Revolutionary Council was dissolved, and the Socialist Republic of the Union of Burma was proclaimed, along with a new constitution. Although seven ethnic states (Shan, Karen, Mon, Karenni, Kachin Arakan, and Chin) were created in this process, Burma remained a single-party state with the Burman-dominated military at the center. Ne Win ruled as president until 1978 and then as head of the Burma Socialist Programme Party (BSPP) until his resignation in 1988.¹¹ In September 1987, Ne Win voided larger denomination banknotes. The move bankrupted many families overnight. Local protests starting in March 1988 upsurged into a nationwide uprising.

In March 1988, the Chin National Front (CNF) was formed by ethnic Chin leaders in Mizoram, north-east India, “to regain self-determination right of the Chin People and to restore democracy and federalism in the Union of Burma.”¹² Many ethnic Chin students returned home and organized demonstrations against General Ne Win’s Burma Socialist Programme Party.

On 8 August 1988, thousands took to the streets calling for a democratically elected, civilian government. The army responded by firing into crowds of unarmed protesters.¹³ On 18 September 1988, General Saw Maung seized power in a military coup and established the State Law and Order Restoration Council (SLORC), replacing the BSPP. In response to the Chin National Front, however, the SLORC further militarized Chin State, forcing thousands of ethnic Chins to flee across the border into Mizoram and further swelling the ranks of the Chin National Army (CNA).¹⁴

Upon consolidating control, the State Law and Order Restoration Council announced that elections would be held on 27 May 1990. Although over 200 political parties contested the election, the two main national parties were the National League for Democracy (NLD) – whose Secretary-General was Aung San Suu Kyi, daughter of revered independence hero Aung San – and the military’s National Unity Party (NUP). The NLD won 392 out of 485 contested seats. Chin candidates secured a total of 13 seats, four as members of the NLD.¹⁵

The SLORC ignored the election results and declared Chin political parties that won seats illegal. Several Chin MP-elects were imprisoned while others sought political asylum.¹⁶ The SLORC author-

⁸ Transnational Institute (TNI) and Burma Centrum Netherlands (BCN), *Burma Policy Briefing Nr 1: Burma in 2010: A Critical Year in Ethnic Politics 2* (Jun. 2010), <http://www.tni.org/briefing/burma-2010-critical-year-ethnic-politics>; Hannah Beech, *Inside Burma’s War*, Time, 21 Sep. 2009, <http://www.time.com/time/printout/0,8816,1921485,00.html>; Bertil Lintner, *Burma in Revolt: Opium and Insurgency since 1948* 172-174 (1994); State of Myanmar, *supra* note 7, at 185; Making Enemies, *supra* note 7, at 208-210.

⁹ Chin National Front, *supra* note 5; Transnational and Non-State Armed Groups, The Graduate Institute Geneva, The Chin National Front (CNF), <http://www.armed-groups.org/6/section.aspx/ViewGroup?>

¹⁰ Transnational Institute (TNI), *Neither War Nor Peace: The Future of the Cease-Fire Agreements in Burma 7* (2009), <http://www.idpc.net/sites/default/files/library/TNI%20report%20ceasefire%20agreements%20in%20burma.pdf>.

¹¹ State of Myanmar, *supra* note 7, at 186.

¹² We are Like Forgotten People, *supra* note 1, at 11; Chin National Front, *supra* note 5; Unrepresented Nations and Peoples Organization (UNPO), Chin, <http://www.unpo.org/members/7866> (last visited 8 Dec).

¹³ Human Rights Watch, *Vote to Nowhere: The May 2008 Constitutional Referendum in Burma* (2008), at <http://www.hrw.org/en/node/62239/section/1>.

¹⁴ We are Like Forgotten People, *supra* note 1, at 13; The Chin National Front (CNF), *supra* note 9; GlobalSecurity.org, *Military: Chin National Front/Chin National Army*, <http://www.globalsecurity.org/military/world/para/chin.htm> (last visited 8 Dec).

¹⁵ *Vote to Nowhere*, *supra* note 13, at 11-12.

¹⁶ *Religious Persecution*, *supra* note 3.

ities claimed that the elections had been designed to elect representatives for a National Convention to draft a new constitution. The drafting process, however, lasted 14 years led by delegates hand-picked by the military, without the participation of the victors of the 1990 elections.¹⁷

COUNTER-INSURGENCY, MILITARIZATION, AND ABUSE

Between 1989 and 1996, the SLORC signed ceasefires with armed insurgent groups. These agreements created a patchwork of semi-autonomous zones controlled by different armed groups, who financed their activities through timber, taxation, transport, smuggling, and the narcotics trade.¹⁸ The Chin National Army is among a handful of groups that have refused to agree to a ceasefire and continue armed resistance against the State Peace and Development Council (SPDC, the official name of the military regime of Burma).¹⁹ Today the CNA numbers fewer than 500 soldiers.²⁰ They do not control large areas of land and engage mainly in small-scale, sporadic fighting with the junta's troops.²¹

Since the 1970s, the Burmese army (or SPDC soldiers, also known locally as *tatmadaw*) has employed the Four Cuts Policy in conflict zones to sever the four crucial links between insurgents and the local villagers (food, funds, recruits, and information).²² (Army troops are easily recognizable in their dark green uniform and by their language, Burmese, as they are predominantly of Burman ethnicity.) The cornerstone of this policy is the forced relocation of civilians from contested areas to those more firmly under the control of the *tatmadaw*, coupled with the destruction of rice fields and food storage facilities.²³

Prior to 1988, only one Burmese army battalion was present in Chin State. According to the Chin Human Rights Organization, currently there are 14 army battalions (an estimated 5,000 soldiers) permanently stationed at approximately 50 army camps in Chin State. The geographic isolation of Chin State and lack of central oversight of troop activities has escalated abuses on the civilian population.²⁴ Increased militarization has also intensified forced labor demands in Chin State.²⁵ Although the Burmese government ratified the International Labor Organization (ILO) Convention prohibiting forced labor in 1995, forced labor continues. Civilians who have filed complaints with the ILO have been arrested and sentenced to long jail terms.²⁶

The SPDC policies to make Chin State the "tea state" of Burma²⁷ and to expand cultivation of *Jatropha curcas* have further harmed local populations. Also known as physic nut, *jatropha* is an inedible castor oil crop grown for export, which has replaced edible crops to the detriment of the local food supply.²⁸ Civilian representatives of the SPDC, or Village Peace and Development Council (VPDC), have carried out these agricultural policies in rural areas. Local Peace and Development Council staff meet with villagers and ask for three nominations for village headman. They then directly appoint one of the three nominees, usually a village elder with Burmese language skills.*

(*Information provided by the Chin Human Rights Organization, December 2010.)

¹⁷ Vote to Nowhere, *supra* note 13 at 15.

¹⁸ David Scott Mathieson, *Peace in Name only*, The Irrawaddy, Oct. 2009, http://www.irrawaddy.org/article.php?art_id=16899; *Inside Burma's War*, *supra* note 8; *Neither War Nor Peace*, *supra* note 10.

¹⁹ Hannah Beech, *A Closer Look at Burma's Ethnic Minorities*, Time, 30 Jan. 2009, <http://www.time.com/time/world/article/0,8599,1874981,00.html>; Tom Kramer, *Burma's Cease-fires at Risk: Consequences of the Kokang Crisis for Peace and Democracy*, TNI Peace and Security Briefing Nr 1, Sep. 2009, <http://www.tni.org/briefing/burmas-cease-fires-risk>; Chin National Front/Chin National Army, *supra* note 14.

²⁰ Human Rights Watch, *My Gun Was as Tall as Me: Child Soldiers in Burma* [2002], at <http://www.hrw.org/en/reports/2002/10/16/my-gun-was-tall-me>.

²¹ *My Gun Was as Tall as Me*, *supra* note 20, at 13; Chin National Front/Chin National Army, *supra* note 14.

²² *Neither War Nor Peace*, *supra* note 10, at 6-7; International Crisis Group (ICG), *Myanmar Backgrounder: Ethnic Minority Politics* (2003), <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/burma-myanmar/052%20Myanmar%20Backgrounder%20Ethnic%20Minority%20Politics.ashx>; Gary Risser, Oum Kher & Sein Htun, Institute of Asian Studies at Chulalongkorn University, *Running the Gauntlet: The Impact of Internal Displacement in Southern Shan State*, (2004).

²³ Thailand Burma Border Consortium (TBBC), *Internal Displacement and Vulnerability in Eastern Burma* (2004), <http://www.tbcc.org/idps/report-2004-idp-english.pdf>.

It is practically impossible for VPDC headman to resign or escape his duties, one of which is to provide villagers for forced labour, as demanded by the Burma Army or officials from the Peace and Development Council.

Conflict, militarization, and its attendant abuses have spawned a humanitarian catastrophe: hundreds of thousands of non-Burman ethnic peoples are now displaced. Much of the displacement has occurred in Eastern Burma, where an estimated 500,000 have been displaced since 1988. Estimates place more than 75,000 displaced Chin in India,²⁹ and another 50,000 Chin in Malaysia.³⁰

Decades of neglect and widespread abuses have, moreover, devastated the Chin who remain in Burma and rendered them highly food insecure and vulnerable to natural disaster. Starting in late 2006, the bamboo of Chin State began to flower, a predictable process that occurs naturally twice every century, and is known locally as mautaam. The plant's blossoms and subsequent fruit fueled an explosion in the rat population. After exhausting their natural food supply, these rats devoured villagers' crops and food stores, furthering widespread hunger and famine. The authorities' response has been inadequate: no preventative measures in place and food aid is sparse.³¹ In some regions of Chin State, over 80% of farmland was destroyed, which left 20% of the population food insecure.³² As a result, thousands more have fled to India or to Thailand, with most en route to Malaysia.³³ While the northern Chin State has begun to recover, recovery from mautaam can last five years. In the four southern townships, the food crisis continues. An estimated 114 villages in Kanpalet Township in southern Chin State are currently facing acute food shortages after crops and food stores were destroyed by rats.³⁴ Despite worsening food insecurity, poverty, and debt, government authorities reportedly restrict humanitarian access to Chin State.³⁵

24 Religious Persecution, *supra* note 3; Women's League of Chinland, *Unsafe State: State-sanctioned sexual violence against Chin women in Burma* (2007), <http://www.chinwomen.org/images/publications/documents/UnsafeState.pdf>; Mizzima News, *Burmese junta sanctions rape of Chin women: report*, *Burmese News International*, 27 Mar. 2007, http://www.bnionline.net/index.php?option=com_content&task=view&id=1481&Itemid=6; Christian Solidarity Worldwide, *Briefing: Burma - Visit to the India-Burma Border* (2009), <http://dynamic.csw.org.uk/article.asp?t=report&id=122&search=>.

25 Chin Human Rights Organization, *Individual Submission to the Universal Periodic Review of Burma* (2010), <http://www.chro.ca/action-alerts/advocacy-a-campaign.html>; Chin Human Rights Organization, *On the Edge of Survival: The Continuing Rat Infestation and Food Crisis in Chin State, Burma* (2009), http://www.chro.ca/images/stories/files/PDF/special_reports/On_The_Edge_of_Survival.pdf; Chin Human Rights Organization, *Critical Point: Food Scarcity and Hunger in Burma's Chin State* (2008), <http://www.chro.ca/publications/special-reports.html>; Khonumthung News, *Military Engages Villagers to Construct Bunkers*, 6 Oct. 2006, http://www.bnionline.net/index.php?option=com_content&task=view&id=719&Itemid=6; Ron Corben, *ILO: Forced Labor Still Widespread in Burma*, *VOA News*, 8 Jul. 2010, <http://www1.voanews.com/english/news/asia/ILO-Forced-Labor-Still-Widespread-in-Burma-98019769.html>; Yeni, *New ILO Liaison Officer for Rangoon, The Irrawaddy*, 29 May 2007, http://www.irrawaddymedia.com/cartoon.php?art_id=7307; International Labour Organization (ILO), *A global alliance against forced labour: Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report of the Director-General* (2005), at http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_081882/lang-en/index.htm; US Department of State, *2009 Human Rights Report: Burma*, 11 Mar. 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135987.htm>.

26 Nan Kham Kaew and Aye Nai, *Families Criticize ILO Over Sentencing*, *Democratic Voice of Burma (DVB)*, 23 Nov. 2009, <http://www.dvb.no/news/families-criticize-ilo-over-sentencing/3097>.

27 *Critical Point*, *supra* note 25.

28 For a detailed discussion of jatropha and the Burmese government's biofuel campaign policies, see *Ethnic Community Development Forum*, *Biofuel by Decree: Unmasking Burma's bio-energy fiasco* 8 (2008), <http://burmacampaign.org.uk/images/uploads/BiofuelByDecree.pdf>.

29 *Displacement and Dispossession*, *supra* note 7; Thailand Burma Border Consortium (TBBC), *Protracted Displacement and Militarisation in Eastern Burma* (2009) at <http://www.tbtc.org/resources/resources.htm>; *Individual Submission to the Universal Periodic Review of Burma*, *supra* note 25.

30 Estimates provided by the Chin Refugee Committee and the Alliance of Chin Refugees, two community-based organizations in Malaysia (17 Dec. 2010).

31 *On the Edge of Survival*, *supra* note 25; *Critical Point*, *supra* note 25.

32 *On the Edge of Survival*, *supra* note 25; *Critical Point*, *supra* note 25; Colin Hinshelwood, *Swarms of Rats Plague Rural Myanmar*, *Asia Times*, 21 Oct. 2009, http://www.atimes.com/atimes/Southeast_Asia/KJ21Ae01.html; Lawi Weng, *Chin, Faced with Food Shortage, Entering Thailand*, *The Irrawaddy*, 12 Dec. 2008, http://www.irrawaddy.org/article.php?art_id=14785.

33 *Id.*; *On the Edge of Survival*, *supra* note 25.

34 *Chinland Guardian*, *Ongoing Food Crisis Puts Southern Chin State on Brink of Starvation*, 1 Dec. 2010, <http://www.chinlandguardian.com/news-2009/1131-ongoing-food-crisis-puts-southern-chin-state-on-brink-of-starvation.html>.

Junta leader Senior General Than Shwe consolidated power over potential rivals during the past decade. During the same time, the Burmese military regime grew increasingly insular and xenophobic, despite Burma's admission to the Association of Southeast Asian Nations (ASEAN) in 1997. ASEAN, a regional association that promotes integration among its ten member states, encourages members to embody principles such as good governance, adherence to the rule of law, commitment to peace and security, and respect for fundamental freedoms and human rights. Burma has so far failed to live up to these commitments, now embodied in the ASEAN charter.³⁶

Joining the ASEAN did not stem abuses or oppression in Burma. In 2002, Aung San Suu Kyi, who had been under periodic house arrest since 1989, was released. On 30 May 2003, members of the Union Solidarity and Development Association (a mass "social" organization created by the junta in 1993) attacked Aung San Suu Kyi and her convoy in Sagaing Division, leaving at least 70 dead. Aung San Suu Kyi survived the attack, but was taken into custody and returned to house arrest until November 2010. In response to international condemnation following the assassination attempt, known as the Depayin Massacre, the regime announced a "Seven Step Roadmap to Democracy," starting with the resumption of the National Convention in 2006.

On 15 August 2007, the SPDC announced steep increases in fuel prices, doubling the price of diesel overnight and increasing the price of natural gas by 500%. Protests quickly spread. By September 18-24, tens of thousands of Buddhist monks and nuns were leading peaceful protests across Burma in the most significant challenge to military rule since 1988. This demonstration would come to be known as the Saffron Revolution. Government forces arrested 6,000 people, including up to 1,400 monks; many others disappeared.³⁷ Although officially only ten people were killed in the crackdown, the real figure is estimated to have been well over 100, which included 30-40 monks, many of them killed as a result of torture and ill-treatment while in detention.³⁸

³⁵ Khonumthung News, Rat Infestation Again; Crops Destroyed in 20 Villages in Chin State, 3 Aug. 2010, <http://www.khonumthung.org/news.php?readmore=258>; Salai Pi Pi, Chin in Dire Straits: CSW, Mizzima News, 4 Dec. 2009, <http://www.mizzima.com/news/world/3114-chins-in-dire-straits-csw.html>; Jonathan Head, Six Million Burmese Need Food, BBC, 28 Jan. 2009, <http://news.bbc.co.uk/2/hi/asia-pacific/7856265.stm>; Khonumthung News, Chairman of Chin State Bars Foreign Aid, 30 Jul. 2009, <http://bnionline.net/news/khonumthung/6766-chairman-of-chin-state-bars-foreign-aid.html>; Lawi Weng, 85 Percent of Chins in Debt, The Irrawaddy, 25 Jun. 2009, http://www.irrawaddy.org/article.php?art_id=16187.

³⁶ These principles were codified in ASEAN's Charter, which came into effect in December 2008. Charter of the Association of South-east Asian Nations, Preamble (2008).

³⁷ Shah Paung, Where Have All the Monks Gone?, The Irrawaddy, 16 Oct. 2007, http://www.irrawaddy.org/article.php?art_id=9029; Human Rights Documentation Unit, National Coalition Government of the Union of Burma, Bullets in the Alms Bowl: An Analysis of the Brutal SPDC Suppression of the September 2007 Saffron Revolution (2008), <http://burmalibrary.org/docs4/BulletsInTheAlms-Bowl.pdf>.

³⁸ Ed Johnson, Myanmar Junta May have Killed 110 Protesters, Bloomberg, BurmaNet News, 25 Oct. 2007, <http://www.burmanet.org/news/2007/10/25/bloomberg-myanmar-junta-may-have-killed-110-protesters-un-says-ed-johnson/>; Choe Sang-Hun, Burmese Monks are Shown the Limits of their Moral Authority, International Herald Tribune, BurmaNet News, 23 Oct. 2007, <http://www.burmanet.org/news/2007/10/23/international-herald-tribune-burmese-monks-are-shown-the-limits-of-their-moral-authority-choe-sang-hun/>; David Stringer, World May Never Learn Death Toll in Myanmar Protests, Associated Press, BurmaNet News, 19 Oct. 2007, <http://www.burmanet.org/news/2007/10/19/associated-press-world-may-never-learn-death-toll-in-myanmar-protests-british-official-says-david-stringer/>; NLD Resists Preconditions for Talks with Junta, Associated Press, BurmaNet News, 9 Oct. 2007, <http://www.burmanet.org/news/2007/10/09/associated-press-nld-resists-preconditions-for-talks-with-junta/>; Secret Cremations Hide Burma Killings, Sunday Times, BurmaNet News, 8 Oct. 2007, <http://www.burmanet.org/news/2007/10/08/sunday-times-secret-cremations-hide-burma-killings-our-staff-correspondent-rangoon/> (accessed 9 Oct. 2007); Burma Releases Detained Monks but Diplomats Not Hopeful, Deutsche Presse-Agentur, BurmaNet News, 6 Oct. 2007, <http://www.burmanet.org/news/2007/10/06/deutsche-presse-agentur-burma-releases-detained-monks-but-diplomats-not-hopeful/>.

³⁹ Mungpi, Burmese Junta Rebuff International Pressure, Vow to 'March On', Mizzima News, BurmaNet News, 16 Oct. 2007, <http://www.burmanet.org/news/2007/10/16/mizzima-news-burmese-junta-rebuff-intl-pressure-vow-to-march-on-mungpi/>; Myanmar Rejects UN Calls for Negotiations, Associated Press, Burma Net News, 12 Oct. 2007, <http://www.burmanet.org/news/2007/10/12/myanmar-rejects-un-call-for-negotiations/>.

Despite the international condemnation of the regime's crackdown, the regime continued to deny holding any political prisoners, rejected calls to negotiate with the democratic opposition, and proceeded with its planned roadmap. On 4 April 2008, the draft constitution was released, roughly one month before the scheduled public referendum.³⁹ The new constitution guarantees the military immunity from persecution for crimes committed against the civilian population. The new constitution also reserves a quarter of the seats in the future parliament for members of the military. Because 75% of the vote is needed to amend the constitution, any future revision would remain under the control of the military. The constitution also holds that the Presidency itself and senior posts in three key ministries (Defense, Home Affairs, Border Affairs) must be held by members of the military. The President cannot have served a prison sentence or have foreign nationals as family members – conditions that bar Aung San Suu Kyi and many other political activists from office. Finally, the Constitution allows the Commander-in-Chief to “take over and exercise State sovereign power” in the event of a state of emergency. The President also enjoys immunity from prosecution for actions taken during such emergencies.⁴⁰

On 10 May 2008, one week after Cyclone Nargis claimed 140,000 lives across Burma, the constitutional referendum was held. Reportedly, 98% of eligible voters cast their votes amid widespread reports of fraud and voter intimidation; purportedly, 92% voted in favor of the Constitution.⁴¹

NOVEMBER 2010 ELECTION AND ITS AFTERMATH

In March 2010, the regime announced its Election Commission Law. The Political Parties Registration Law excluded most of the regime's opposition. Those who had been convicted and were serving time in custody were prohibited from joining a political party. Those from “outlawed organizations” and religious leaders were also excluded.⁴² The NLD and the United Nationalities Alliance (UNA), an umbrella group of 12 ethnic political parties, thus decided not to re-register their parties. This failure to re-register resulted in their official disbandment.⁴³ Meanwhile, the Union Solidarity and Development Association (USDA), implicated in intimidation and violence against the regime's opponents, was transformed into the Union Solidarity and Development Party (USDP). Whereas opposition parties fielded candidates in less than half of the constituencies, the USDP was able to contest every seat in regional and national parliaments, fielding over 1,150 candidates. The other pro-government party, the National Unity Party, fielded 999.⁴⁴ Its main pro-democracy rival, the National Democratic Force, could field only 163.⁴⁵

On 16 September 2010, the junta announced that elections would not be held in some 200 villages in ethnic Shan, Karen, Karenni, Kachin, and Mon States “because the situations there will not be conducive to free and fair elections,” depriving perhaps three million ethnic peoples from taking part in the elections.⁴⁶ These conditions galvanized renewed calls for a more inclusive, federal

⁴⁰ Htet Aung, Burma's New Constitution Privileges Soldiers Above Civilians, *The Irrawaddy*, 7 Sep. 2009, http://www.irrawaddy.org/article.php?art_id=16727; Saw Yan Naing, New Constitution Guarantees Junta Immunity: Report, *The Irrawaddy*, 17 Oct. 2009, http://www.irrawaddy.org/article.php?art_id=17014; ALTSEAN-Burma, Burma's 2008 Constitution Perpetuates Root Causes of Instability, 21 Jun. 2010, <http://www.altsean.org/Docs/PDF%20Format/Thematic%20Briefers/June%202010%20ASEAN%20briefing%20packet.pdf>; National Democratic Institute, Burma's 2010 Electoral Framework: Fundamentally Undemocratic: A Legal and Human Rights Analysis (2010), http://www.ndi.org/files/NDI_Burma_Elections_0810_1.pdf; Burma News International (BNI), Election Report, 2010 (2010) at <http://www.nd-burma.org/hr-reports/other-report/item/39-election-report-2010.html>.

⁴¹ International Center for Transitional Justice (ICTJ), Immunity Prolonged: Burma and Its 2008 Constitution (2009), http://www.ictj.org/static/Asia/Burma/ICTJ_MMR_Impunity2008Constitution_pb2009.pdf; Burma's 2010 Electoral Framework, *supra* note 40. See also Election Report, 2010, *supra* note 40; Vote to Nowhere, *supra* note 13.

⁴² Burma's 2010 Electoral Framework, *supra* note 40.

⁴³ Burma's 2008 Constitution Perpetuates Root Causes of Instability, *supra* note 40; Burma's 2010 Electoral Framework, *supra* note 40.

⁴⁴ Veteran Myanmar Politician Says Gov't Party Poised to Win, *Associated Press*, 22 Aug. 2010, <http://thestar.com.my/news/story.asp?file=/2010/8/22/apworld/20100822201607&sec=apworld>; Ba Kaung, Election Results will be Predictable, *The Irrawaddy*, 23 Aug. 2010, http://www.irrawaddy.org/highlight.php?art_id=19282; AFP, Election Rules Out Burma Democracy, *Bangkok Post*, 30 Aug. 2010, <http://www.bangkokpost.com/breakingnews/193770/democracy-groups-struggle-to-challenge-burma-junta>; *The Irrawaddy*, A Foregone Conclusion, Oct. 2010, http://www.irrawaddy.org/article.php?art_id=19642&Submit=Submit.

⁴⁵ *Id.*; Htet Aung, Candidate Lists Paints Picture of Election Results, *The Irrawaddy*, 6 Sep. 2010, http://www.irrawaddy.org/article.php?art_id=19383; Tim Johnston, Burma's Rulers Keep Tight Rein on Power, *Financial Times*, 2 Nov. 2010, <http://www.ft.com/cms/s/0/762df628-e6a2-11d0-99b3-00144feab49a.html#axzz17YVTCYGJ>.

Burma. In October, the Zomi National Congress (ZNC) and other democratic organizations declared that the 2008 Constitution and the forthcoming election would not result in national reconciliation. The Zomi National Congress issued the Kalay Declaration, calling for national dialogue and a second Panglong conference “to establish a Federal Union based on democracy and equality for all ethnic nationalities dwelling in Burma, rather than a centralized country or separatist states. All ethnic nationalities must work together for the conference to occur.”⁴⁷

In Chin State, widespread disaffection with the constitution and the election prompted growing support for the CNF and the new alliance. In the lead-up to the elections, human rights abuses continued to be reported in Chin State, with the authorities using forced labor and forced relocation to prepare election venues.⁴⁸

Elections were held on 7 November 2010 amid widespread charges of fraud, vote-tampering, and coercion of voters into supporting the junta-backed USDP.⁴⁹ In Chin State, at least one polling station was an army checkpoint where voting occurred under the observation of the Burmese army. The number of voting stations was reportedly inadequate. At other polling stations, officials reportedly turned away voters who did not intend to support the USDP; the USDP notified them that ballots had already been marked for them.⁵⁰

On 4 November 2010, six major ethnic armies – the Kachin Independence Organization (KIO), Shan State Army North (SSAN), New Mon State Party (NMSP), Karen National Union (KNU), Karenni National Progressive Party (KNPP) and the Chin National Front (CNF) – formed a military alliance called the Committee for the Emergence of Federal Union, in anticipation of fresh military offensives by the Burma Army in the post-election period.⁵¹ In response, the Burma Army tripled the number of troops stationed at key army camps along the Burma-India border in Chin State.⁵²

Ten days after the 7 November elections, the final results were announced in a Chinese newspaper: the USDP had won 883 out of 1,154 parliamentary seats (76.5%); the largest opposition party, the NDF, won 16 seats (1.39%) while 17 ethnic-based parties secured 15.69%.⁵³ This victory, coupled with the 25% of seats already reserved for the military, gives the regime a mandate

⁴⁶ Aung Hla Tun, Myanmar Bars Some Ethnic Leaders from Polls: Source, Reuters, 16 Sep. 2010, <http://www.reuters.com/article/idUSTRE68F38F20100916>; Kelly Macnamara, Burma Deprives ‘Millions’ of Vote in Ethnic Areas, AFP, Bangkok Post, 17 Sep. 2010, <http://www.bangkokpost.com/news/asia/196864/burma-deprives-millions-of-vote-in-ethnic-areas>; Patrick Smyth, A Pariah State Conducting and Electoral Farce, The Irish Times, 30 Oct. 2010, <http://www.irishtimes.com/newspaper/opinion/2010/1030/1224282315060.html>.

⁴⁷ Burma Partnership, Kalay Declaration: Ethnic and Democratic Leaders Inside Burma Working for a Unified National Reconciliation Conference, 6 Nov. 2010, <http://www.burmapartnership.org/2010/11/kalay-declaration-ethnic-and-democratic-leaders-inside-burma-working-for-a-unified-national-reconciliation-conference/>; Kyaw Zwa Moe, Election Reignites Ethnic Tensions, The Irrawaddy, 10 Nov. 2010, http://www.irrawaddy.org/article.php?art_id=20037.

⁴⁸ Chin Human Rights Organization, Media Statement: Burma’s electoral Process Marred by Human Rights Violations in Chin State, 6 Nov. 2010; Chin Human Rights Organization (CHRO), Briefing: Election Conditions in Chin State, 6 Nov. 2010; Network for Human Rights Documentation-Burma (ND-Burma), Intimidation, Imprisonment and Repression: The Road to Military Victory in the 2010 Elections (2010) at <http://www.nd-burma.org/hr-reports/other-report/item/42-%E2%80%9CIntimidation-imprisonment-and-repression-the-road-to-military-victory-in-the-2010-elections%E2%80%9D.html>.

⁴⁹ Mizzima News, Pressure to Support USDP Further Fools Vote Integrity, Burma News International, 6 Nov. 2010, <http://www.bnionline.net/news/mizzima/9706-pressure-to-support-usdp-further-fools-vote-integrity.html>; New York Times, Myanmar Votes in Election Controlled by Military, 6 Nov. 2010, <http://www.nytimes.com/2010/11/07/world/asia/07myanmar.html>; Al Jazeera, Voting Underway in Myanmar, 7 Nov. 2010, <http://english.aljazeera.net/news/asia-pacific/2010/11/20101170373336867.html>; Zoe Daniel, Fraud, Voter Intimidation Mar Myanmar Vote, ABC/Reuters, <http://www.abc.net.au/news/stories/2010/11/07/3059390.htm>; The Irrawaddy, Electoral Irregularities Rampant, 7 Nov. 2010, http://www.irrawaddy.org/article.php?art_id=19984.

⁵⁰ Achara Ashayagachat and AFP, Junta Faces Threat Claims: Burmese Military and Proxies Accused of Intimidation before Election, Bangkok Post, 7 Nov. 2010, <http://www.bangkokpost.com/news/local/205148/junta-faces-threat-claims>; Burma’s electoral Process Marred by Human Rights Violations in Chin State, *supra* note 48; Chin Human Rights Organization, Press Release: Electoral Violence and Intimidation in Tedim Township, Chin State, 7 Nov. 2010.

⁵¹ Khonumthung News, Chin People Welcome CNF Joining Ethnic Alliance, 8 Nov. 2010, <http://www.khonumthung.org/news.php?readmore=315>.

⁵² Chinland Guardian, Troops Reinforced on the Western Front as Tensions Flare in Eastern Burma, 3 Dec. 2010, <http://www.chinlandguardian.com/news-2009/1134-troops-reinforced-on-the-western-front-as-tensions-flare-in-eastern-burma.html>.

to elect the president and amend the constitution unilaterally.⁵⁴ Of the 39 contested seats in Chin State, the USDP allegedly won 18, the Chin Progressive Party (CPP), 11; the Chin National Party (CNP), nine; and the Ethnic National Development Party (ENDP), one. The USDP failed to win many constituencies in Chin State, despite its tactics of coercion and voter intimidation. The USDP has since threatened to withhold development projects in those areas where its candidates lost.⁵⁵

On 14 November 2010, one day after her release from house arrest, Aung San Suu Kyi publicly announced her support for a second Panglong conference, recognizing the urgent need to resolve Burma's ongoing and widening ethnic conflict. Her call was widely supported by ethnic leaders, providing a glimmer of hope for national reconciliation that has been otherwise absent from the regime's electoral process.⁵⁶

On 10 December 2010, global Human Rights Day, Aung San Suu Kyi underscored the important link between human rights, democracy, and development in a video message delivered to the United Nations in Geneva. She noted: "Human rights are the very stuff of everyday living. Without freedom and security our lives cannot be meaningful. . . . We believe that without human rights there can be no such thing as genuine democratic institutions."⁵⁷

The history of Chin State and of Burma is inked in a chronicle of abuse. To move on to peace, those who have suffered need reconciliation, which may come only when such crimes have been duly investigated and perpetrators held accountable. Impunity is a quicksand for nation building. True national reconciliation in Burma, moreover, is unachievable as long as human rights violations continue against Burma's ethnic minorities, her clergy, and the democratic opposition.

⁵³ USDP Wins 76.5 Percent of the Vote, The Irrawaddy, 18 Nov. 2010, http://www.irrawaddy.org/article.php?art_id=20118; ALTSEAN-Burma, Burma 2010 Election Recap, 26 Nov. 2010 at <http://burmadigest.info/2010/11/26/altsean-burma-burma-2010-election-recap/>.

⁵⁴ Id.

⁵⁵ Khonumthung News, No Development Work in Chin Opposition Areas: USDP, 26 Nov. 2010, <http://www.bnionline.net/news/khonumthung/9850-no-development-work-in-chin-opposition-areas-usdp.html>.

⁵⁶ Lawi Weng, Ethnic Leaders Back Suu Kyi's Call for Panglong 2, The Irrawaddy, 15 Nov. 2010, http://www.irrawaddy.org/article.php?art_id=20090; Saw Yan Naing, Leaders of Armed Ethnic Groups Support Suu Kyi, The Irrawaddy, 15 Nov. 2010, http://www.irrawaddy.org/article.php?art_id=20089; Supalak Ganjanakhundee, Call for Second Panglong Conference, The Nation, 16 Nov. 2010, <http://www.nationmultimedia.com/2010/11/16/politics/Call-for-second-panglong-conference-30142295.html>; Jaloon Htaw, MNDF Joins with Aung San Suu Kyi in Calling for Second Panglong Conference, IMNA, 18 Nov. 2010, <http://www.bnionline.net/news/imna/9807-mndf-joins-with-aung-san-suu-kyi-in-calling-for-a-second-panglong-conference.html>; Myint Maung, Suu Kyi Propose Second Panglong Conference via Modern Communication Technology, Mizzima News, 18 Nov. 2010, <http://www.bnionline.net/news/mizzima/9805-suu-kyi-propose-second-panglong-conference-via-modern-communication-technology.html>. See also Aung Din, What's Next for Burma's Democrats?, Foreign Policy, 10 Dec. 2010, http://www.foreignpolicy.com/articles/2010/12/10/whats_next_for_burmas_democrats.

⁵⁷ AFP, Human Rights Essential for Myanmar: Suu Kyi, 10 Dec. 2010, http://www.google.com/hostednews/afp/article/ALeqM5jVf_z5BMHxb1cdtYmPL74bvm71GQ?docId=CNG.a8f77417d0291e36102d6723ad98a57c.4d1.

Methods

The research team (Richard Sollom MA MPH, and Parveen Parmar MD MPH) carried out an initial field investigation to the Chin State border in October 2009 and met with 32 key informants and representatives from Chin civil society to assess the feasibility of conducting a population-based survey in Chin State, Burma in early 2010. The same team returned to the region from January to February 2010 to 1) finalize the research methodology; 2) translate and refine the 87-question survey instrument; 3) lead the two-week training course for 23 civil society leaders from Chin State; 4) prepare logistics for the population-based field study in Chin State; and 5) conduct qualitative interviews with recent arrivals from Chin State. John Bradshaw JD, Washington Director at PHR, conducted a follow-up investigation to Burma in November 2010.

TRANSLATION OF 87-QUESTION SURVEY INSTRUMENT

One month prior to the surveyor training, the field team worked with local partners to translate the survey instrument into five regional languages (Burmese as well as four of the main Chin languages: Hakha, Mara, Falam, and Zomi). Two other local language experts then separately back-translated the instrument from Burmese into English. With local partners, the field team refined the Burmese translation based on group discussions with the project director, who wrote and designed the instrument, and the two back-translators. During the training, the field team next grouped the trainees into their native languages to compare the Hakha, Mara, Falam, and Zomi language surveys with the refined Burmese translation. These collaborative sub-groups then collectively edited the surveys in their own languages based on operationalized definitions for each question they had learned during the first six days of training. The survey in each local language was finalized based on this collective input. Surveyors fluent in Burmese as well as at least one Chin language were assigned to clusters within a particular township where that language is spoken. Translating the questionnaire into all five languages allowed for complete geographic coverage of Chin State.

SELECTION OF 23 SURVEYORS

Local partners coordinated the recruitment of 23 community leaders and health professionals from across Chin State to participate in the training. Each organization nominated three to six candidates who met the following criteria: fluency in Burmese and at least one Chin language, baccalaureate degree, and experience traveling inside Chin State. Seven women and 16 men were selected for training. Ages of trainees ranged from 21 to 40 with a mean age of 25. The field team and partnering organizations fully informed all trainees of the work involved in the study, security concerns, time commitments, and the content of the training program. Informed, written consent was obtained from each trainee.

TWO-WEEK TRAINING OF SURVEYORS

The field team designed and facilitated the two-week skills-training course in interview techniques, sampling methodology, survey questions, case definitions, interviewing vulnerable populations, and informed consent. The main objective of this course was to build local capacity to document human rights violations. Secondary objectives included increasing their knowledge of international human rights law and the principles of scientific inquiry and epidemiology. The team adopted a learner-focused model of instruction where input from the trainees was sought throughout the course not only to improve both the content and translation of the survey, but also to adapt the syllabus to their needs. The trainers utilized various techniques and modes of instruction such as simulation, role play, brainstorming, demonstration, spaced lectures, case stud-

ies, problem solving, guided practice, and peer group work. The field team also led discussions on the problem of secondary trauma and practical remedial measures. For example, if a surveyor observed signs of possible retraumatization (distress, hypervigilance, dissociation), the surveyor was instructed to discontinue the interview.

A local partner organized a one-day practicum (Day 6) in a nearby rural village where displaced Chin households had sought refuge. Each trainee was paired with one household and had the opportunity to field-test the survey instrument and practice interviewing a head of household. The field team reviewed each completed practice survey with trainees individually and discussed common inaccuracies with the group at the end of the field exercise. On Day 9, the field team tested all 23 trainees with a standardized mock case. Working through an interpreter and with a set of predetermined gold standard answers, the lead trainer simulated a survey interview and served as a head of household. The trainees jointly asked the lead trainer all survey questions and privately recorded the answers on their own survey form. Group discussion followed as well as individual evaluations. Additionally, each surveyor was individually tested on his or her ability to apply the proximity method to choose eight households within each cluster and to perform mid-upper arm circumference (MUAC) measurement correctly. Twenty-two trainees successfully completed the surveyor training course.

RANDOMIZED SCIENTIFIC STUDY AMONG 621 HOUSEHOLDS ACROSS CHIN STATE

The main study comprised a cross-sectional survey conducted by local surveyors ($n = 22$) who performed a multistage cluster sample survey of households in Chin State using a quantitative survey instrument and collecting anthropometric data to assess child malnutrition. The survey consisted of 87 questions among five domains of inquiry: household demographic data, access to health care, physical and mental health status, food insecurity, and human rights violations. These violations include acts of forced labor, pillaging, forced displacement, conscription of child soldiers, detention, disappearance, group persecution, murder, rape, and torture committed by government authorities or other armed forces.

We operationalized each reported human rights abuse. For example, forced labor includes all non-voluntary and non-remunerated work or service exacted from any person under menace of penalty or harm, and excludes compulsory military service, civic obligations, and minor communal services.⁵⁸ Group persecution refers to the intentional and severe deprivation of fundamental rights due to one's religious, ethnic, or other identity.⁵⁹ Torture is defined as the intentional infliction of severe physical or mental pain or suffering.⁶⁰ If such an incident reportedly lasted less than ten minutes, we classified it as beating.

We employed strict inclusion criteria for each reported human rights violation to be included in our analysis. The respondent needed first to answer a series of follow-up questions regarding each incident; second, verify the reported incident occurred during the preceding 12 months; third, identify the perpetrator of the incident as a government authority or member of another armed force—civilian or unknown perpetrators were excluded; and fourth, affirm that s/he had personally experienced or was an eyewitness to the reported incident.

Data were collected during February and March 2010, and the period under investigation included events occurring 12 months before the interview. This study was approved by the External Review Committee of Physicians for Human Rights, the institutional review board at the University of California Los Angeles Office for the Human Research Protection Program, and the Johns Hopkins Bloomberg School of Public Health Committee on Human Research.

⁵⁸ ILO Convention Concerning Forced or Compulsory Labour (No. 29), 1 May 1932, 39 U.N.T.S. 55 (ratified Mar. 4, 1955).

⁵⁹ Rome Statute of the International Criminal Court, 17 Jul. 1998, U.N. Doc. 2187 U.N.T.S. 90.

⁶⁰ U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 Dec. 1984, 1465 U.N.T.S. 85.

SAMPLING FRAME

To create the sampling frame we compiled a complete list of 991 village names in Chin State from the U.N.-sponsored Myanmar Information Management Unit (MIMU) township maps⁶¹ and the U.S. Geographic Names Database with corresponding geographic coordinates.⁶² We obtained ambient population estimates (the average population for a given location over 24 hours) for all rural villages from the 2005 Oak Ridge National Laboratory LandScan dataset⁶³ and used 2006 census data from the Union of Myanmar Ministry of Health for the nine urban centers.⁶⁴ (We used ambient population estimates since complete village-level census data were unavailable.) The total Land-Scan population estimate for Chin State (547,000) compared favorably with government-reported 2006 population figures (533,000) as well as with known village-level populations.

All nine townships within Chin State were included in the sample, which was stratified by urban and rural status. The number of clusters to be sampled was determined with the following approach: townships (T_i) in Chin State were labeled $T_1, T_2, T_3 \dots T_9$. We listed population (P_i) in each township as $P_1, P_2, P_3 \dots P_9$. $\sum P_i = P$, the total population in Chin State. We derived the number of clusters, X_i , in each township, T_i , where $X_i = 90P_i/P$, and $\sum X_i = 90$.

For the second stage of the sample, a fraction of the total clusters X_i were assessed to be urban and the rest were considered rural. This determination was done by calculating township-specific urban-to-rural population ratios and then applying this ratio to the township-specific cluster count, X_i . Lists of urban and rural villages were compiled by township, and the first cluster was selected using a random number generator. Subsequent clusters were selected by probability proportional to size (PPS) sampling.

For the third stage of cluster sampling, random start proximity sampling was used. In each urban and rural cluster, the surveyor assigned to that cluster walked the diameter (D) of the village and counted the number of visible houses on one side of the main road. The surveyor then returned to the center of the village ($D/2$), spun a pen, and headed in that direction. To minimize the potential bias of spin-the-pen methods,⁶⁵ a household was chosen by randomly selecting a number from 1 to $D/2$. From this starting household, the surveyor proceeded to the closest adjacent residence until eight households were surveyed. A household was defined as a unit that ate together and had a separate entrance from the road.

INFORMED CONSENT

Surveyors did not publicize their presence or the purpose of their visit when arriving in a village. Surveyors knocked on the door of the household selected by the cluster-sampling methods described above and asked for the adult head of the household (older than 18 years). Surveyors then informed the heads of household of the purpose of the survey, assured them that all information would be strictly confidential and that no names would be gathered, and that there would be no benefits or penalties for refusing or agreeing to participate. They were also informed that they did not have to answer any or all questions and that they could stop the interview at any time. Surveyors memorized and used the following script, translated into the local language:

⁶¹ Myanmar Information Management Unit, Chin State planning maps, Chin State: MIMU (2009), <http://www.themimu.info/HTML/Maps/Chin.html>.

⁶² National Geospatial Intelligence Agency, Geonet names server, Washington, D.C. (2009), <http://earth-info.nga.mil/gns/html/>.

⁶³ Oak Ridge National Laboratory, LandScan, Geographic Information Science and Technology, Oakridge (Tennessee): UT-Battelle for Department of Energy (2009), <http://www.ornl.gov/sci/gist/>.

⁶⁴ Union of Myanmar Ministry of Health, Township health profiles, Yangon (2006), <http://www.moh.gov.mm/> (last visited Oct. 27, 2009).

⁶⁵ Rebecca F Grais, Angela MC Rose & Jean-Paul Guthmann, Don't spin the pen: Two alternative methods for second-stage sampling in urban cluster surveys, *Emerging Themes in Epidemiology* 4: 8 (2007).

Hello, my name is _____. I work with a public health organization in America. It is not part of any government or political group. We are here to ask people from across Burma about the impact of war on their health and families over the past year. Some questions might be sensitive and personal. All answers will be kept private. Your identity will remain anonymous, and I will not ask your name.

The interview should take about one or two hours. Please stop me if you have any questions. Please tell me if you prefer not to answer a particular question or if you want to stop the interview. There will be no effect on you or your family if you withdraw from this interview. You will not receive any specific incentive, such as money, food, or healthcare for participating in this survey. But we hope that the findings from this study will help to improve the situation in Burma by letting the world know what is happening here. Are you willing to be in this study?

Heads of household from whom verbal consent was obtained were interviewed about health and rights in the household over the previous 12 months, about their individual experiences, and about the health and nutrition status of any individual children or infants in the household. Separate informed consent was obtained from the head of household to collect anthropometric data among children 5–59 months of age.

STATISTICAL ANALYSIS

Analysis of the survey data focused on reports of human rights violations, health outcomes, and the association between these variables. First, township-specific coverage and participation rates were estimated. The overall completion rate for the survey was defined as the total number of consenting households divided by the number of planned households ($n = 720$).

Second, the prevalence of household-level exposure to human rights violations was estimated for a variety of domains. These included (1) forced labor (any and type/task specific) and the reported responsible authority, (2) food security-related events (e.g., forced to give food, destruction of crops, theft or killing of livestock), (3) forced relocation or movement, (4) physical violence (e.g., death or injury by gunshot or landmine, beatings and torture, and sexual assault), (5) other violations including forced conscription, kidnapping, detainment, imprisonment, and religious or ethnic persecution. For each domain the overall percentage of affected households was estimated, and 95% confidence intervals (CI) constructed.

PRIMER ON STATISTICS AND EPIDEMIOLOGY USED IN THIS STUDY

To determine with precision the rate of occurrence of human rights violations in Chin State, the true prevalence of human rights violations, it would be optimal to interview every member of the population. A complete survey of this exhaustive breadth would, however, be neither logistically feasible nor safe within Chin State. Epidemiologists have, moreover, developed techniques to determine information about large populations based upon the study of representative but smaller samples.

In the technique of systematic random sampling, for example, variable sampling rates are initially prescribed, for example, the 2nd, 3rd, 4th, or n th household of a town is selected and one, two, or n members of each household are interviewed, and these variables are applied systematically to all towns in a region. Systematic random sampling is the preferred technique for generating accurate information reflective of the entire population; however, the success of this technique is predicated on the availability of complete accurate lists of the households in a town or neighborhood. In Chin State, however, where hunger, human rights violations, and conflict have lead to large-scale movements of populations and outdated census information, such lists are not readily available.

A second technique known as cluster survey has been designed to obtain representative samples in areas where detailed rosters of residents are not available, but where population by some smaller unit (village, town, etc.) is known. According to this method, villages or towns are chosen proportionally to size such that larger villages have a greater chance of being selected. Clusters of households are then randomly selected within each village. The heads of these randomly selected households are surveyed in order to generate the study sample. Cluster surveys, initially developed to study vaccination rates in the 1970s, have been used to study human rights violations, sexual violence, and disease in several conflict and post-conflict settings.⁶⁶

Cluster surveys allow for estimation of the rates at which the larger population has experienced a specific event or outcome. For example, our study, using the cluster survey method, found a prevalence of forced labor of 91.9% in the sample studied that allows us to estimate that nearly 92 of every 100 households in Chin State have been subjected to forced labor. The term prevalence rate refers to an estimate of how common a condition is within a population. This report counted prevalent events that occurred over the 12-month reporting period. Prevalence is expressed as a ratio in which the number of events (in the past year) is the numerator and the population at risk is the denominator. For example, if fifty households report that their livestock was stolen or killed in the past 12 months (numerator) in a village with 100 households (denominator), then the prevalence of livestock theft/killing among households in that village in the past 12 months is $50 / 100 = 50\%$. A prevalence rate in this report can be interpreted as an estimate of the proportion of all households in Chin State that would report experiencing that event (in the past year).

Because every household in Chin state was not questioned, percentages cited in this study are estimates of the true prevalence. The precision of an estimate (or how confident one can be that an estimate is correct) is termed the confidence interval; in statistical parlance, the more confident one's estimate is correct, the more narrow is the confidence interval. The confidence interval becomes narrower as more households are selected for interview. For example, if a random sample of five homes out of 100 is surveyed, the confidence interval is very wide—as the surveyor is not certain that these five homes accurately represent the experience of all 100 households. In contrast, if 95 of these 100 homes are sampled, the confidence interval is very narrow, as scientists are far more comfortable stating that this random sample of 95 households closely matches the experiences of the larger group of 100 homes.

Prior to this study, individual or group interviews and active case finding were the main methods that had been used to study human rights violations across Chin State, and such techniques do not allow for an estimate of prevalence. As a result of the use of the technique of cluster sampling, our study is the first to allow for an estimate of the prevalence of human rights violations in Chin State with confidence intervals.

Overview of study findings on human rights violations

Twenty-two trained surveyors approached 702 households in all nine townships of Chin State in 2010, and 621 (89%) agreed to participate in the study. Data from these 621 households include demographic information on 3,281 individuals (male 49.9% and female 50.1%) ranging in age from newborn to 98 years (Figure 1).⁶⁷ One third of these households (34%) were headed by women (or a woman who spoke for the household on the day of the interview), and two-thirds were headed by men. We questioned them about life under the junta, their experiences over the past year, about

forced labor and other human rights violations, food security, their health status, and access to healthcare.⁶⁸

Households in all nine townships reported a total of 2,951 separate abuses, which we delineate by those that are potentially crimes against humanity and other human rights violations (Table 1). The number of households reporting at least one crime against humanity ($n = 570$) represents 91.7% of all surveyed households.⁶⁹ When we exclude forced labor from among those eight crimes ($n = 144$), that prevalence drops to 23.9%.⁷⁰ The number of households that reported at least one human rights violation during the preceding year ($n = 441$) represents 72.8% of all surveyed households.⁷¹

Forced labor was by far the most common abuse reported by households. Of the 621 households interviewed, 91.9% reported at least one episode of a family member being forced to porter military supplies, sweep for landmines, be servants or cook at military camps, build roads, and do other hard labor.⁷² The Burmese military imposed nearly a third (64.9%) of these forced labor demands. Other government authorities were responsible for most all other demands for forced labor (33.2%). SPDC soldiers torture or beat ethnic Chin (14.8% of households), and kill, rape, and abduct civilians with impunity; all rapes that heads of household reported to our researchers were committed by SPDC soldiers. One out of eight Chin households was forcibly displaced – most to find food, and one-third of all forcible conscriptions were children under 15.

Burmese tatmadaw soldiers committed all cases of murder, rape, torture and other inhumane treatment that households reported to our researchers, and nine out of ten reported cases of arbitrary arrest, abduction, forced conscription, and religious or ethnic persecution. Police reportedly committed 4.9% of these abuses, Village Peace and Development (VPDC) authorities 1.5%, border security forces 0%,⁷³ and ethnic forces 0%.⁷⁴

These findings quantify the extent to which the Chin ethnic minority in Burma is subjected to multiple human rights violations and indicate the geographical spread of these abuses, with three townships in Southern Chin State comprising 51% of all reported abuses. The prevalence of forced labor is high (91.9%), and although other human rights violations may appear low in comparison (Table 1), we estimate a large number of households across Chin State has been affected.⁷⁵ These widespread reports of human rights violations in Chin State in 2009–10 provide strong evidence that crimes against humanity are occurring with impunity.

⁶⁶ See, e.g., Kirsten Johnson, Jana Asher, Stephanie Rosborough, Amisha Raja, Rajesh Panjabi, Charles Beadling & Lynn Lawry, Association of Combatant Status and Sexual Violence with Health and Mental Health Outcomes in Postconflict Liberia, *JAMA* Vol. 300, no. 6, 13 Aug. 2008 at 676–90, <http://jama.ama-assn.org/content/300/6/676.full.pdf>; Les Roberts, Riyadh Lafta, Richard Garfield, Jamal Khudhairi & Gilbert Burnham, Mortality before and after the 2003 invasion of Iraq: cluster sample survey, *The Lancet* Vol. 364, no. 9448, 20 Nov. 2004 at 1857–64, [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(2804\)2917441-2/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(2804)2917441-2/abstract); Kirsten Johnson, Jennifer Scott, Bigy Rughita, Michael Kisielewski, Jana Asher, Ricardo Ong & Lynn Lawry, Association of Sexual Violence and Human Rights Violations With Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo, *JAMA* Vol. 304, no. 5, 4 Aug. 2010 at 553–62, <http://jama.ama-assn.org/content/304/5/553.short>; Gilbert Burnham, Riyadh Lafta, Shannon Doocy & Les Roberts, Mortality after the 2003 invasion of Iraq: a cross-sectional cluster sample survey, *The Lancet*, Vol. 368, no. 9545, 21 Oct. 2006 at 1421–8, [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(06\)69491-9/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)69491-9/abstract), Erratum in: *Lancet*, Vol. 373, no. 9666, 7 Mar. 2009 at 810; Paul B. Spiegel & Peter Salama, War and mortality in Kosovo, 1998–99: an epidemiological testimony, *The Lancet*, Vol. 355, no. 9222, 24 Jun. 2000 at 2204–2209.

⁶⁷ Mean age: 25.5 years (95% CI = 24.6–26.3); median age: 20. Proportion <5: 10.6%; <15: 35.5%; >65: 3.5%.

⁶⁸ These other data will be presented in a forthcoming report.

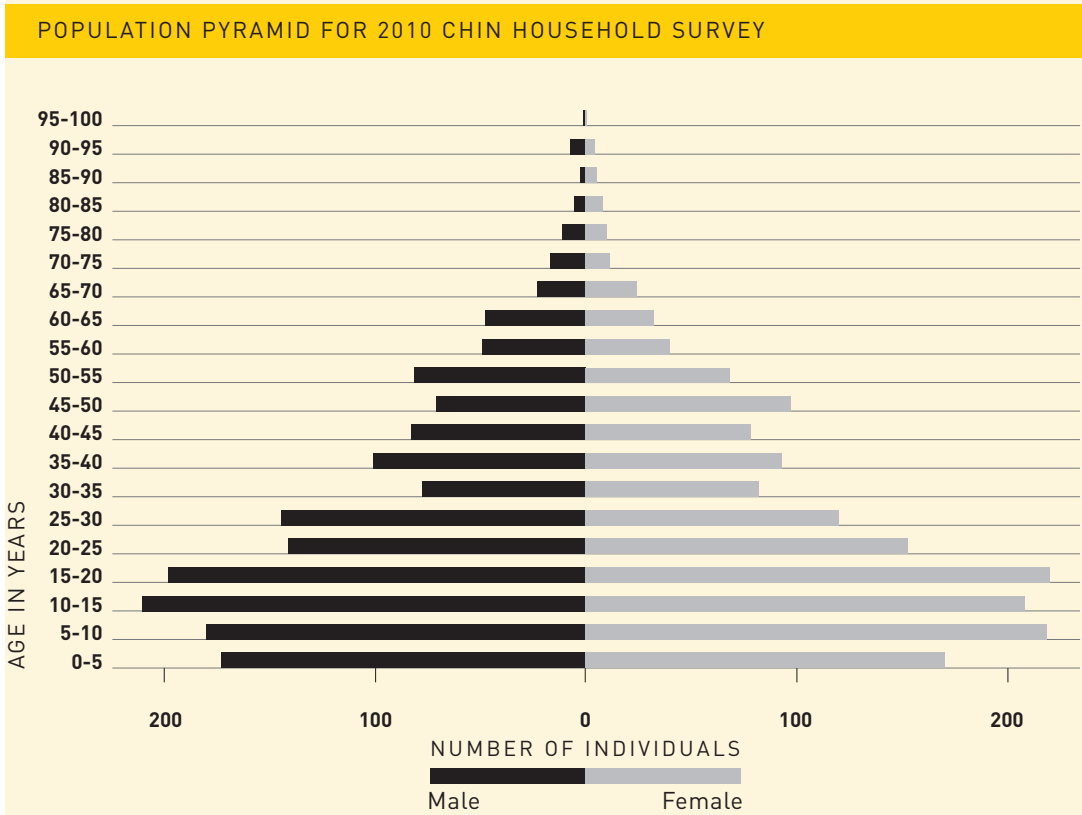
⁶⁹ 95% CI = 89.5 – 94.0%.

⁷⁰ 95% CI = 17.3 – 30.5%.

⁷¹ 95% CI = 66.0 – 80.0%.

⁷² The term forcible is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment. ICC Elements of Crimes at fn. 12, U.N. Doc. PCNICC/2000/1/Add.2

Figure 1.
**Population pyramid of 3,281 individuals from 621 households
PHR surveyed in Chin State, Burma.**



73 Burmese border security forces are known as the Border Administration Force, or by its Burmese acronym, NaSaKa.
74 For the purpose of this study, we use the term ethnic forces to refer to any non-state armed group that has been active in Chin State, such as Chin National Army, Chin Integrated Army, Chin Liberation Council, and Chin National Confederation.
75 Prevalence rate is an estimate of how common a condition is within a population over a given period of time, in this case, over the 12-month reporting period (March 2009-February 2010).

Table 1.

Household cases of human rights violations over 12-month reporting period.

Type of abuse	Households responding	Reported cases over 1 yr	%
CRIMES AGAINST HUMANITY			
Households that experienced any forced labor (excl. from subtotal)	618	568	91.9
Forced to build roads, bridges, buildings	597	468	78.4
Forced to grow jatropha or other crop	592	458	77.4
Forced to porter	602	357	59.3
Forced to cook or be a servant	567	105	18.5
Forced to carry weapons	567	84	14.8
Forced to sweep for landmines	567	8	1.4
Forced to do other hard labor	557	90	16.2
Households that experienced religious / ethnic persecution	611	86	14.1
Household members arbitrarily arrested, detained, or imprisoned	609	36	5.9
Household members abducted or disappeared	607	29	4.8
Household members tortured	609	23	3.8
Household members raped or sexually violated	603	17	2.8
Household members killed	607	6	1.0
Household members suffering other inhumane acts	603	1	0.2
Subtotal crimes against humanity		1,768	
OTHER HUMAN RIGHTS VIOLATIONS			
Household livestock stolen or killed	602	316	52.5
Household members forced to give food out of fear	601	304	50.6
Household members forced to give money out of fear	605	259	42.8
Communal property attacked or destroyed	602	77	12.8
Household members beaten	609	68	11.2
Household members wounded from gunshot, explosion, or deadly weapon	607	55	9.1
Home attacked or destroyed	607	29	4.8
Adults forcibly conscripted into armed forces	615	35	5.7
Children <15 years forcibly conscripted into armed forces	615	17	2.8
Household crops / food stores stolen or destroyed	598	23	3.8
Subtotal other human rights abuses		1,183	
Total crimes against humanity and other human rights abuses		2,951	

Table 2.

Proportion of reported crimes against humanity and other human rights abuses, by alleged perpetrator.

Type	Army %	VPDC %	Police %	Ethnic Forces %	Frontier Forces %
PROPORTION OF CRIMES AGAINST HUMANITY, BY PERPETRATOR					
Forced labor	64.9	30.8	2.3	1.9	0.1
Religious or ethnic persecution	94.2	1.2	4.7		
Arbitrary arrest, detention, imprisonment	94.4	2.8	2.8		
Enforced disappearance	93.1		6.9		
Torture	100				
Rape	100				
Murder	100				
Other inhumane acts	100				
Subtotal	68.3%	27.5%	2.4%	1.7%	0.1%
PROPORTION OF OTHER HUMAN RIGHTS VIOLATIONS, BY PERPETRATOR					
Household livestock stolen or killed	85.4	7	6.6	0.6	0.3
Households forced to give food out of fear of violence	88.5	7.2	2.3	0.3	1.6
Households forced to give money	55.2	31.3	10.4	2.3	0.8
Communal property attacked or destroyed	89.6	2.6	7.8		
Household members beaten	91.2		5.9	1.5	1.5
Household members wounded from gunshot, explosion, or other weapon	92.7		5.5		1.8
Homes attacked or destroyed	86.2	10.3	3.4		
Household crops / food stores stolen or destroyed	87	8.7	4.3		
Adults forcibly conscripted into armed forces	91.4	2.9	5.7		
Children <15 years forcibly conscripted into armed forces	94.1		5.9		
Subtotal	80.8%	11.2%	6.2%	0.8%	0.8%
Combined total	73.4%	21.0%	3.9%	1.4%	0.4%

OVER 91% OF ALL SURVEYED HOUSEHOLDS PERFORM FORCED LABOR

Among our random sample of 621 households, Burmese authorities forced 91.9% of families to porter military supplies, sweep for landmines, be servants, build roads, and do other hard labor across Chin State in 2009 (Table 3).⁷⁶ Nine out of ten men and women interviewed recounted at least one episode of an adult or child being subjected to forced labor in 2009, corroborating previous documentation of this widespread abuse,⁷⁷ which the International Labor Organization (ILO) has concluded is a crime against humanity.⁷⁸

Forced labor is often performed at gunpoint under military oversight. Government soldiers reportedly beat and even shoot to death civilians while they labor under duress.⁷⁹ Burmese military have also made civilian laborers serve as minesweepers and human shields to protect the soldiers while marching on dirt roads.⁸⁰

Households reported 1,570 separate incidents of forced labor, defined as any involuntary and unremunerated work or service that a state authority orders a civilian to do under threat of penalty.⁸¹ More than three-quarters of all households (78.4%) were ordered to construct roads, buildings, or bridges.⁸² Nearly six out of ten households (59.3%) were forced to carry supplies for SPDC soldiers, and another 14.8% were forced to carry weapons.

When the military come to my village, they make at least one person from every family carry their supplies. Sometimes they make us porter a whole day, sometimes three days in a week, sometimes just once a month. In the past year, I've had to do forced labor 12 times; I can't remember the exact number of days, but many. I had to carry rations and weapons for the soldiers by tying a piece of cloth around my head and carrying the load on my back. Sometimes it's only 30 kilograms, but sometimes much more. The young and the old, we all have to do it. They don't care. If you can't carry your load, the military treat you very poorly. The soldiers are armed and make us march along dirt paths for hours and hours. They don't let us talk, and beat us if we do.⁸³

⁷⁶ 95% CI= 89.7-94.1%.

⁷⁷ Critical Point, supra note 25, at 6; Andrew Bosson, Forced Migration/Internal Displacement in Burma: With an Emphasis on Government Controlled Areas 29-30 (2007), [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/D057F0FCA432F4B5C12572D7002B147B/\\$file/Burma_report_mai07.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/D057F0FCA432F4B5C12572D7002B147B/$file/Burma_report_mai07.pdf); Unsafe State, supra note 24, at 12; Christian Solidarity Worldwide, Briefing: Burma: Visit to the India-Burma Border 6,7,17 (2007), <http://csw.org.uk/documents/visit/pdf/CSWReportIndia-BurmaBorderSeptember07.pdf>; Images Asia, Karen Human Rights Group, & Open Society Institute, Burma Project, All Quiet on the Western Front? The Situation in Chin State and Sagaing Division, Burma 3,5,7-13(1998), http://www.burmalibrary.org/docs/Western_Front.htm; Religious Persecution, supra note 3, at 6,15,17; Benedict Rogers, Christian Solidarity Worldwide, Carrying the Cross: The military regime's campaign of restriction, discrimination and persecution against Christians in Burma 37 (2007), <http://csw.org.uk/Countries/Burma/Resources/Carryingthecross.pdf>; We are Like Forgotten People, supra note 1, at 14,20,25,32,38,40-44,51,78; Visit to the India-Burma Border (2009), supra note 24, at 9,15; International Human Rights Clinic at Harvard Law School, Crimes in Burma 15-18,58,86 (2009), <http://www.law.harvard.edu/programs/hrp/documents/Crimes-in-Burma.pdf>; FIDH, ALTSEAN-Burma & Burma Lawyers' Council, Burma/Myanmar: International crimes committed in Burma: the urgent need for a Commission of Inquiry 13-16, 20-21 (2009), <http://www.fidh.org/IMG/pdf/bu08.pdf>.

⁷⁸ International Labour Office (ILO), Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29): Legal aspects arising out of the 95th Session of the International Labour Conference ¶ 20, GB.297/8/2 (Nov. 2006).

⁷⁹ Amnesty International, Amnesty International's Concerns at the 89th International Labour Conference (5-21 June 2001, Geneva) 9 (2001), <http://www.amnesty.org/en/library/asset/IOR42/004/2001/en/f580f55f-d93b-11dd-ad8c-f3d4445c118e/ior420042001en.pdf>

⁸⁰ All Quiet on the Western Front?, supra note 77, at 12.

⁸¹ Any compulsory military service, prison labor, normal civic obligations, or minor communal services for which the community is consulted is not considered in our analysis. See also Article 2 of the Convention concerning Forced or Compulsory Labour, which states: "For the purposes of this Convention the term "forced or compulsory labour" shall mean all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." ILO Convention Concerning Forced or Compulsory Labour, supra note 58, at art. 2(1).

⁸² Researchers point out that the primary reason for the military's road-building campaign in the 1990s was to increase access to this remote region, suppress insurgent groups, and consolidate control over the border with India. Subsequent to this build-up of roads and military bases, human rights violations increased significantly. All Quiet on the Western Front?, supra note 77.

⁸³ Interview with a displaced Chin man, in Mizoram, India (30 Jan. 2010). Note: throughout this report, we omit identifying details, including names of villages, because of security considerations.

Nearly one out of five households (18.5%) was ordered to provide government authorities a family member to be a servant or cook for them at an army camp – a task often forced upon women and girls, which makes them vulnerable to rape, forced marriage, and other sexual abuse.⁸⁴ Another 16.2% of households were forced to do other hard labor, and a minority of households reported being forced to sweep for landmines (1.4%). On average each household was forced to provide free labor to SPDC soldiers and other government authorities on three occasions during the preceding year. The majority (64.9%) of forced labor demands were reportedly imposed by the Burmese military, or tatmadaw.⁸⁵ The civilian representatives of the tatmadaw, or Village Peace and Development Council, were responsible for an additional 30.8% of all reported acts of forced labor. Burmese police and Chin ethnic minority forces accounted for a minority of cases, at 2.3% and 1.9% respectively.

Government authorities used various forms of coercion to compel households to provide forced labor: men and women reported being forced at gunpoint (13.5%), threatened with death (13.2%), threatened with physical harm (35.7%), and threatened with a monetary fine (30.3%) if they did not send a family member to the authorities. The vast majority of households were not paid for their labor (81.8%). In addition, eight out of ten households said they were forced to pay a fine to the authorities to avoid forced labor at least once during the past year. The fines range from 200 to 100,000 kyat. The median fine paid was 20,000 kyat (\$20 USD).

The tatmadaw forced me to porter at least seven times since 2008. Soldiers made me carry their supplies, their weapons, and the rice they took from our village. I was gone for three days the last time. When we got to the military camp, they made us make repairs and build fences. We do not dare refuse the tatmadaw, as even mothers with little children are beaten. If no one is at home when the military come by for forced labor, then we have to pay a heavy tax.⁸⁶

When the military come to our village, they stay in our homes. My family has had soldiers stay in our home. Four soldiers stayed the last time. We have no choice. They take food and animals from us. Then they make people from my village carry the food and supplies to the next village. They made us carry sand for three days. One person from every household – there are 120 in my village – has to do forced labor. When we do their work – sometimes for two weeks – they stand and watch. They have weapons, and guard us to make sure we work.⁸⁷

In addition to carrying military supplies and weapons, minesweeping, building roads, and being forced into servitude, 77.4% of Chin households have been ordered by government authorities to switch from growing food crops to jatropha cultivation.⁸⁸ SPDC authorities force villagers to purchase jatropha seeds and grow this non-food crop. They also confiscate villagers' land, further exacerbating household poverty.⁸⁹ Seventy-two percent of these farming households report not being paid for growing jatropha.⁹⁰ Although households report SPDC military (39%) and local VPDC officials (54%) are the main authorities forcing them to grow jatropha, directives come from the upper levels of government.⁹¹ Such actions directly contravene the Government's international legal obligations, which only permit "compulsory cultivation as a method of precaution against famine or a deficiency of food supplies".⁹² Indeed, restricting the cultivation of food crops in favor of jatropha has had the opposite effect by negatively impacting this population's food security and health.⁹³ Because forced labor ruptures traditional farming practices and prevents villagers from growing subsistence crops, pervasive forced labor imposed by the tatmadaw is a significant factor contributing to food insecurity in Chin State.⁹⁴

⁸⁴ Unsafe State, supra note 24, at 12.

⁸⁵ "Requisitions for forced labor are not just the case of junior officers and army unit commanders exercising power in violation of directives from the top prohibiting the use of forced labor by army personnel, nor are they isolated incidents as has been portrayed by the military regime. Many of the forced labor incidents involving mass civilian populations are a result of direct requisition orders by Tactical Command No. 1 and No. 2, the highest military authorities in Chin State." Chin Human Rights Organization, The Forced Labor Pandemic, Rhododendron News, Jul.-Aug. 2005.

⁸⁶ Interview with a school teacher displaced from Chin State, in Mizorma, India (23 Oct. 2009).

The exaction of forced labor is a violation of both the 2008 Burmese Constitution⁹⁵ and international treaties to which the Government has acceded.⁹⁶ The International Labor Organization has stated: “The Myanmar case . . . demonstrates that it is impossible to make effective progress against forced labor when there is a climate of impunity and repression against persons who denounce forced labor abuses, in the absence of the political will to clamp down on the military and local authorities who are themselves deriving economic advantage from forced labor practices.”⁹⁷

In February 2010, Physicians for Human Rights spoke with a 39-year-old Chin man living in Hahka Township.⁹⁸ He, his wife, and their 12-year-old daughter were conscripted for 26 days of forced labor during the past year.

The Village Peace and Development Council (VPDC) forced them to build roads, porter, grow jatropha, and engage in other forms of forced labor last year. The family still paid 3,000 kyat (\$3 USD) in fines to avoid further forced labor duties. In addition to the VPDC’s demands for money, tatmadaw soldiers demanded that this family provide troops with livestock.

His health is poor, he says, and he has felt depressed nearly every day over the past two weeks. He shares that his family has had difficulty obtaining reliable medical care nearby; a medical health worker denied family members treatment this year, during a time when someone in his house was very sick and unable to get medical care in Chin State. He fears being denied treatment because of his religion or ethnicity, he explains, and says that insecurity prevents his family from seeking health care.

⁸⁷ Interview with a displaced Chin woman, in Mizoram, India (30 Jan. 2010).

⁸⁸ 95% CI = 70.8 – 84.0%

⁸⁹ Khonumthung News, Military Authorities Order 85 Villages to buy Jatropha Seeds, 11 May 2007, http://www.bnionline.net/index.php?option=com_content&task=view&id=1671&Itemid=6; Khonumthung News, Military to Award Death Sentence to People Opposing Jatropha Plantation, 26 Jul. 2006, http://www.bnionline.net/index.php?option=com_content&task=view&id=290&Itemid=6; Khonumthung News, Land Confiscation Continues for Jatropha Plantation, 12 Aug. 2006, http://www.bnionline.net/index.php?option=com_content&task=view&id=389&Itemid=6.

⁹⁰ Not only are farmers not paid for growing jatropha, but they must also buy their own seeds from the VPDC. Chin Human Rights Organization, Cultivate Jatropha Plant Or Leave the Village, X.1 Rhododendron News, Jan-Feb. 2007, http://burmalibrary.org/docs4/Rhododendron-News_2007-02.pdf. Moreover, Colonel Tin Hlah of the SPDC threatened a death sentence to any resident in Chin State who spoke of drawbacks to jatropha cultivation. Khonumthung News, Military to Award Death Sentence to People Opposing Jatropha Plantation, 12 Jul. 2006, <http://www.burmanet.org/news/2006/07/26/khonumthung-news-military-to-award-death-sentence-to-people-opposing-jathropa-plantation/>.

⁹¹ “The SPDC Central Committee has ordered jatropha to be planted in every village, every township and every district of all thirteen military command areas by any means.” Biofuel by Decree, *supra* note 28, at 8.

⁹² ILO Convention Concerning Forced or Compulsory Labour, *supra* note 58, at art. 19.1, May 1, 1932, 39 U.N.T.S. 55.

⁹³ In 2009 the World Food Program (WFP) conducted a monitoring exercise in Chin State and concluded that a decline in agricultural yields, resulting in food availability and household income, is the main cause of household food insecurity. World Food Program, An Overview of the Food Security Situation in Chin May 2009 2 (2009), <http://home.wfp.org/stellent/groups/public/documents/ena/wfp204292.pdf>. See also, Food and Agriculture Organization of the United Nations, Rome, Special Report: FAO/WFP Crop and Food Security Assessment Mission to Myanmar 28,34,36,40,41 (2009), <ftp://ftp.fao.org/docrep/fao/011/ai478e/ai478e00.pdf>; United Nations Country Team’s (UNCT), Strategic Framework for the UN Agencies in Myanmar 15,33 (2005), <http://www.unops.org/SiteCollection-Documents/Information-disclosure/UNDAs/Myanmar-Strategic-Framework-2005.pdf>; World Food Program, Protracted Relief and Recovery Operations – Myanmar 200032: Improving the Food Security, Nutrition Status and Livelihoods of Vulnerable Populations at 9,13, 14 Oct. 2009, WFP/EB.2/2009/9/2, http://one.wfp.org/operations/current_operations/project_docs/200032.pdf; WFP’s Vulnerability Analysis & Mapping Unit (VAM) & UNDP, Rapid Assessment of the Potential Impact of Delayed Rains on Harvests in Selected Areas Across Myanmar 3,13 (2010), <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp221522.pdf>. For documentation of forced cultivation of jatropha in Chin State, see generally, Critical Point, *supra* note 25, at 7.

⁹⁴ Critical Point, *supra* note 25, at 6. See also, Chin Human Rights Organization (CHRO), On the Edge of Survival, *supra* note 25, at 9.

⁹⁵ The 2008 Constitution comes into effect in early 2011 when the new Parliament convenes and states that “[t]he Union prohibits forced labor except hard labor as a punishment for crime duly convicted and duties assigned by the Union in accord with the law in the interest of the public.” Constitution of the Republic of the Union of Myanmar, art. 359, 29 May 2008. Note the second exception in article 359, however, which ostensibly justifies the use of forced labor. See also, Yee May Aung & Rosalie Smith, ILO condemns Burmese law allowing forced labour (8 Jun. 2009), <http://www.dvb.no/english/news.php?id=2603>.

⁹⁶ ILO Convention Concerning Forced or Compulsory Labour, *supra* note 58.

⁹⁷ A global alliance against forced labour, *supra* note 25, at ¶¶ 108-109.

⁹⁸ Interview with household no. 451, in Chin State (21 Feb. 2010).

Table 3.

Households reporting separate incidents of forced labor, by type, over the 12-month reporting period.

Type of abuse	Households responding	Reported cases over 1 year	Prevalence rate	95% CI
Households that experienced any forced labor (excluded from total)	618	568	91.9%	89.7—94.1
Forced to build roads, bridges, buildings	597	468	78.4%	72.2—84.5
Forced to grow jatropha or other crop	592	458	77.4%	70.8—84.0
Forced to porter	602	357	59.3%	51.5—67.1
Forced to cook or be a servant	567	105	18.5%	12.6—24.5
Forced to carry weapons	567	84	14.8%	8.4—21.2
Forced to sweep for landmines	567	8	1.4%	0—2.8
Forced to do other hard labor	557	90	16.2%	10.3—22.0
Total		1570		

BURMESE GOVERNMENT SOLDIERS ACCOUNT FOR ALL REPORTED RAPES AMONG SURVEYED HOUSEHOLDS IN 2009

Among our random sample, 2.8% of all households reported men, women, and children being raped⁹⁹ over the 12-month reporting period.¹⁰⁰ Two households reported more than one family member who had been raped, and nearly a third (29%) of the victims were children under the age of 15. Five male heads of household reported that they themselves were victims of rape. Asked who had perpetrated these assaults, all households reported that tatmadaw soldiers had raped or sexually violated their family members. According to the heads of household whom PHR interviewed, armed soldiers committed more than a third of these rapes at gunpoint, and threatened to kill another 47% of the victims if they did not comply. The remaining 18% of victims were forcibly raped at knife point or with another deadly weapon.

More than 90% of all households reporting family members being raped believed the military targeted their families because of their Chin ethnicity (47%) or that they wanted to kill (18%) or persecute (29%) them. One 18-year-old single woman recounted how the Burmese military raped her at gunpoint; she believed she was raped “because I am Chin.”¹⁰¹ Another 48-year-old widow and mother of three from Falam Township described how she was also raped at gunpoint by military in September 2009 “because they want to kill us [Chin]”.¹⁰² A father of five young children from Kanpalet Township told PHR that Burmese military sexually assaulted and threatened to kill him on 20 July 2009.¹⁰³

These quantitative data on the prevalence of rape in Chin state corroborate accounts of sexual violence that local and international human rights advocates have documented.¹⁰⁴ Army troops in Burma force women into sexual slavery on military bases, and use rape as a means to demoralize ethnic nationalities.¹⁰⁵ Evidence also suggests that soldiers use rape to Burmanize the ethnic groups by forcibly impregnating women to produce Burman offspring.¹⁰⁶

Rape and sexual assault by Burmese soldiers contravene both national¹⁰⁷ and international¹⁰⁸ law. The United Nations “has expressed deep concern at the high prevalence of sexual and other forms of violence, including rape, perpetrated against rural women from the . . . Chin ethnic [group] by members of armed forces.”¹⁰⁹ The United Nations most senior official for human rights in Burma, Tomás Ojea Quintana, subsequently stated that “proper investigations must be conducted . . . [into] allegations of rape and sexual assault by military personnel . . . and justice must be done”.¹¹⁰

99 We used the following definition of rape for this survey: Any situation in which “the perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.” ICC Elements of Crimes, *supra* note 72, at art. 7 (1) (g)-1. The concept of “invasion” is intended to be broad enough to be gender neutral. *Id.* at fn 15. In this report, rape, sexual abuse, sexual violence, and sexual assault are used interchangeably.

100 95% CI = 1.3-4.4%. We posit that this prevalence rate underestimates the true number of affected Chin households due to stigma and fear. Women and men may feel shameful in talking about sexual abuse; Christian beliefs reinforce this stigma. They may also fear retaliation from local military if it became known that they reported the incident. As a result, many Chin who have experienced rape may have fled across the border to India, preferring to keep silent so as not to face possible censure from their community.

101 Interview with household no. 482, in Chin State (19 Feb. 2010).

102 Interview with household no. 394, in Chin State (16 Feb. 2010).

103 Interview with household no. 046, in Chin State (28 Feb. 2010).

104 Women’s League of Chinland documented 37 cases of rape and sexual violence by tatmadaw soldiers. *Unsafe State*, *supra* note 24, at 20-32. Human Rights Watch documented several cases of rape in *We are Like Forgotten People*, *supra* note 1, at 59-60. Several earlier cases from the 1990s were documented by *All Quiet on the Western Front?*, *supra* note 77; *Visit to the India-Burma Border* (2007), *supra* note 77. Chin Human Rights Organization documented recent cases of rape and sexual violence by SPDC authorities: Chin Human Rights Organization, Rhododendron, Vol. XIII, No. II (24 Apr. 2010), <http://www.chro.ca/publications/rhododendron/76-rhododendron-2010/358-rhododendron-news-vol-xiii-no-iii-may-june-2010.html>; Chin Human Rights Organization, Rhododendron News, Vol. XII, No. I (26 Jan. 2009; 2 Jan. 2009), <http://www.chro.ca/publications/rhododendron/68-rhododendron-2009/164-rhododendron-news-volume-xii-no-i-january-february-2009.html>; Chin Human Rights Organization, Rhododendron News, Vol. XII, No. II (4 Mar. 2009; 6 Mar. 2009), <http://www.chro.ca/publications/rhododendron/68-rhododendron-2009/163-rhododendron-news-volume-xii-no-ii-march-april-2009.html>; Chin Human Rights Organization, Rhododendron News, Vol. XII, No. IV (12 Jul. 2009), <http://www.chro.ca/publications/rhododendron/68-rhododendron-2009/339-rhododendron-news-volume-xii-no-iv-july-august-2009.html>; Chin Human Rights Organization, Rhododendron News, Vol. XII, No. III (23 Jun. 2008), <http://www.chro.ca/publications/rhododendron/67-rhododendron-2008/160-volume-xii-no-iii-may-june-2008.html>; Chin Human Rights Organization, Rhododendron News, Vol. VIII, No. III (27 May 2006), <http://www.chro.ca/publications/rhododendron/65-rhododendron-2006/146-rhododendron-news-volume-viii-no-iii-may-june-2006.html>; Chin Human Rights Organization, Rhododendron News, Vol. VII, No. V (12 Oct. 2005), <http://www.chro.ca/publications/rhododendron/64-rhododendron-2005/140-rhododendron-news-volume-vii-no-v-september-october.html>; Chin Human Rights Organization, Rhododendron News, Vol. VI, No. V (26 Aug. 2004), <http://www.chro.ca/publications/rhododendron/63-rhododendron-2004/134-volume-vi-nov-september-october-2004.html>; Other groups report on rape and sexual violence generally throughout ethnic minority states in Burma; see, e.g., Amnesty International, *Torture of Ethnic Minority Women* 1 (2001) at <http://www.amnestyusa.org/document.php?id=AEF1DCC1AA1ED49E80256A8C005196B3&lang=e>; Crimes in Burma, *supra* note 77, at 51-64; Women’s League of Burma and Nobel Women’s Initiative, *International Tribunal on Crimes Against Women of Burma* 7 (2010), <http://www.nobelwomensinitiative.org/images/stories/burma.pdf>. Women of Burma, CEDAW Shadow Report 9, 67-81 (2008), http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/Women_Burma42.pdf.

105 DLA Piper Rudnick Gray Cary US LLP, The Honorable Vacláv Havel & Archbishop Desmond M. Tutu, *Threat to the Peace: A Call for the UN Security Council to Act in Burma* 47 (2005), <http://burmacampaign.org.uk/images/uploads/Burmaunscreport.pdf>.

106 *Id.* at 47; Refugees International, *No safe place: Burma’s army and the rape of ethnic women* 45 (2003), http://repository.forced-migration.org/show_metadata.jsp?pid=fmo:3162.

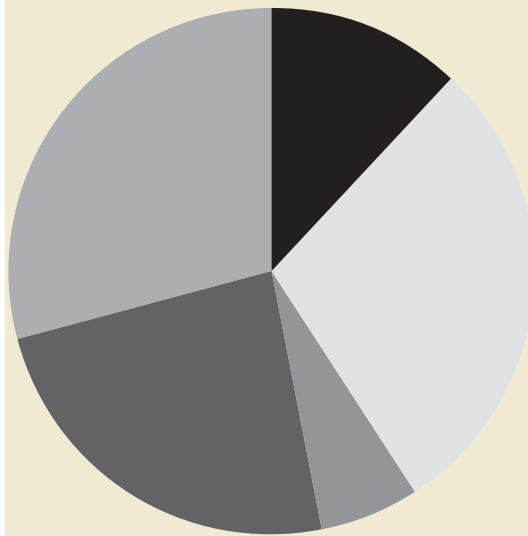
107 Article 353 of Burma’s Constitution ensures that “[n]othing shall . . . be detrimental to the life and personal freedom of any person” while article 351 additionally provides “[m]others, children and expectant women . . . equal rights as prescribed by law.” Article 348 further protects women by confirming the State’s obligation: “The Union shall not discriminate any citizen . . . based on sex....” Constitution, *supra* note 95.

108 Burma is state party to the Convention on the Elimination of All Forms of Discrimination against Women (Convention on Women). U.N. Convention on the Elimination of All Forms of Discrimination against Women, 18 Dec. 1979, 1249 U.N.T.S. 13 (acceded 22 Jul. 1997). Although the Convention on Women does not define rape or sexual violence, article 17 established the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), which defines gender-based violence as a form of discrimination: “The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include: the right to life; the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; the right to equal protection according to humanitarian norms in time of international or internal armed conflict; the right to liberty and security of person....” Committee on the Elimination of Discrimination against Women, General recommendations made by the Committee on the Elimination of Discrimination against Women, Gen. Rec. No. 19, “Violence against Women” (11th session, 1992) at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>.

109 The U.N. Special Rapporteur referred to the U.N. Committee on the Elimination of Discrimination against Women in his report. Progress report of the Special Rapporteur on the situation of human rights in Myanmar, U.N. Doc A/HRC/13/48 (10 Mar. 2010).

110 Situation of human rights in Myanmar, ¶ 69, U.N. Doc A/64/318 (24 Aug. 2009).

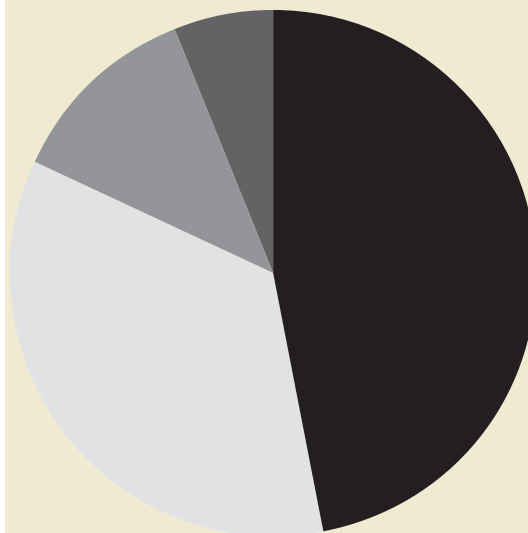
Who in your family was raped?



Reported incidents of rape in Chin State over 12 months: 2009 - 2010 (n=17)

- Myself / Male 29%
- Myself / Female 6%
- Other adult family member 24%
- Other child family member 29%
- More than one family member 12%

How did they forcibly rape you / your family member?



Reported incidents of rape in Chin State over 12 months: 2009 - 2010 (n=17)

- By verbally threatening to kill 47%
- With a knife 12%
- With another deadly weapon 6%
- At gunpoint 35%

Physicians for Human Rights spoke with an 18-year-old single woman who lives with her mother and two young sisters in Mindat Township.¹¹¹ She is Chin and Christian, and has never been married. In poor health at the time of our meeting, this young woman recounted how the Burmese military raped her at gunpoint in June 2009 in her rural village. She believes she was raped because she is Chin.

The military forced her to be a servant and cook for them for seven days in 2009; she was not paid for this labor. She has been very sick within the past 12 months, but has been unable to get medical care in Chin State. Her household is unable to afford medical treatment, and the closest clinic is a half-day's walk from her home.

ONE OUT OF SEVEN SURVEYED HOUSEHOLDS REPORT TORTURE AND INHUMANE TREATMENT BY GOVERNMENT SOLDIERS

Burmese soldiers reportedly tortured¹¹² at least one member from 3.8% of all surveyed households and physically beat individuals from another 11.2% of households in 2009.¹¹³ These 12-month prevalence rates are based on a scientific study that PHR conducted in Chin State in early 2010. Seventeen percent of these torture survivors were reportedly children under the age of 15. Overall, 14.8% of all households this past year have had family members either beaten or tortured by SPDC authorities. These abuses were particularly prevalent in southern Chin State, with 82% of all beatings and 92% of all torture reported occurring in the townships of Paletwa, Mindat, and Kanpalet.

Ten heads of household reported they themselves are torture survivors, and another seven told PHR that tatmadaw soldiers tortured more than one of their family members during the past year. One Chin family recounted two separate incidents involving a child under the age of 15. One out of six households reporting torture involved SPDC soldiers causing severe pain or suffering to young children. Among the 24 households that reported family members being tortured, SPDC soldiers accounted for perpetrating 23 of the cases.¹¹⁴ Burmese soldiers used various methods of coercion, and among these 23 cases, 17% reported being tortured at gunpoint; another 44% said SPDC soldiers used other deadly weapons. Government soldiers threatened to kill 13% of all households reporting torture.

¹¹¹ Interview with household no. 482, in Chin State (19 Feb. 2010).

¹¹² We used the following definition of torture for this survey: "[T]he infliction of severe physical or mental pain or suffering". ICC Elements of Crimes, *supra* note 72, at art. 7 (1) (f)-1. We further operationalized this definition by including a temporal requirement of the incident lasting more than 10 minutes. Any incident of severe physical or mental pain or suffering lasting fewer than 10 minutes was categorized as beating. The U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity," U.N. Convention against Torture, *supra* note 60, at art. 1.1.

¹¹³ The prevalence of torture may be as high as 5.5% of households that have experienced at least one family member being tortured over the 12-month reporting period (95% CI 2.1-5.5%). The prevalence of Chin households experiencing at least one family member being physically beaten by SPDC soldiers during the past year may be as high as 15.3% (95% CI = 7.0-15.3%).

¹¹⁴ One of the 24 households reported that the perpetrator was a civilian (not an agent of the State or member of an armed force) and so does not constitute a human rights violation.

"Soldiers arrested my father and tortured him,"¹¹⁵ shared one interviewee. Another respondent from Chin State said: "They don't treat us like humans."¹¹⁶

One 45-year-old father of four retold the story of how in August 2009 Burmese soldiers tortured him at gunpoint at his rural home in Paletwa.¹¹⁷ Asked why he thought the local military tortured him, he responded, "to make us flee" Chin State. Another Chin father of five told PHR that tatmadaw soldiers similarly tortured an under-15 child of his at gunpoint in September 2009.¹¹⁸ While telling his story at his urban home, he said that he believed the military did this because his family is of Chin ethnicity. Households reporting family members tortured believed Government soldiers targeted their families to persecute them (35%), kill them (17%), or make them flee (13%). Others reported that it was because of hatred (22%) or because of their ethnicity (9%).

One man from Falam Township explained, "A lot of people were beaten by military soldiers because they don't know how to speak Burmese and couldn't understand."¹¹⁹

Other local and international groups have provided anecdotal evidence of torture,¹²⁰ which our population-based study not only corroborates, but also quantifies for the first time.

Torture by SPDC soldiers and other state actors violates both national¹²¹ and international law.¹²² The main obstacle to securing the fundamental right to be free from torture, however, is a culture of impunity among Burmese government authorities. Since the mandate began in 1992, the Special Rapporteur on the situation of human rights in Myanmar has reported on "widespread and systematic human rights violations, including . . . torture.... These violations have not been investigated and their authors have not been prosecuted. Victims have not been in a position to assert their rights and receive a fair and effective remedy."¹²³

¹¹⁵ Interview with household no. 453, in Chin State (23 Feb. 2010).

¹¹⁶ Interview with household no. 438, in Chin State (17 Feb. 2010).

¹¹⁷ Interview with household no. 588, in Chin State (22 Feb. 2010).

¹¹⁸ Interview with household no. 620, in Chin State (27 Feb. 2010).

¹¹⁹ Interview with household no. 066, in Chin State (17 Feb. 2010).

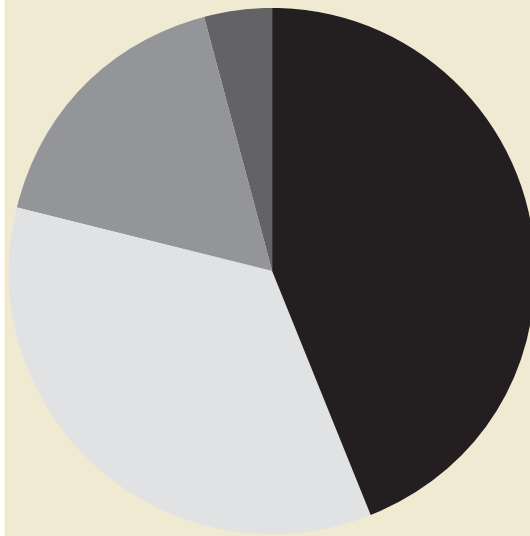
¹²⁰ Several organizations have documented cases of torture in Chin State over the past decade: All Quiet on the Western Front?, supra note 77; Unsafe State, supra note 24, at 16; Visit to the India-Burma Border (2007), supra note 77, at 7-14; Visit to the India-Burma Border (2009), supra note 24, at 8; We are Like Forgotten People, supra note 1, at 27-38; Carrying the Cross, supra note 77, at 17,36,39; Religious Persecution, supra note 3, at 9.3,9.7. Other organizations have documented torture across Burma: Bullets in the Alms Bowl, supra note 37, at 123-138; Crimes in Burma, supra note 77, at 64-76; Bo Ki & Hannah Scott, Assistance Association for Political Prisoners (Burma), Torture, Political Prisoners and the Un-Rule of Law: Challenges to Peace, Security and Human Rights in Burma (2010), http://www.aappb.org/Torture_political_prisoners_and_the_un-rule_of_law.pdf; Torture of Ethnic Minority Women, supra note 104.

¹²¹ "Nothing shall . . . be detrimental to the life and personal freedom of any person." Constitution, supra note 95, at art. 353.

¹²² Although the Republic of the Union of Myanmar is not party to the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it has acceded to other international human rights treaties that protect the right to be free from torture. For example, Myanmar is state party to the U.N. Convention on the Rights of the Child, which obligates the Government to ensure that "[n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment." U.N. Convention on the Rights of the Child, art. 37 (a), 20 Nov. 1989, 1577 U.N.T.S. 3 (acceded 15 Jul. 1991). The Government is also obligated to "take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of . . . torture or any other form of cruel, inhuman or degrading treatment or punishment". Id. art. 39. The Government of Myanmar is also signatory to the Protocol Against the Smuggling of Migrants by Land, Sea and Air, and so is obligated to "protect the rights of persons . . . in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment." Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, art. 16.1, 15 Nov. 2000, 2241 U.N.T.S. 507; U.N. Doc. A/55/383 (acceded 30 Mar. 2004). The right to be free from torture is so fundamental to life that it has achieved that status of *jus cogens*, or "a peremptory norm of general international law [which] is . . . accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted". Vienna Convention on the Law of Treaties, art. 53, 23 May 1969, 1155 U.N.T.S. 331 (acceded 16 Sep. 1998). For a discussion that discloses the following international crimes as *jus cogens* offenses (aggression, genocide, crimes against humanity, war crimes, piracy, slavery and slave-related practices, and torture), see M. Cherif Bassiouni, *International Crimes: Jus Cogens and Obligato Erga Omnes*, Law and Contemporary Problems, Vol. 59 No. 4, Accountability for International Crimes and Serious Violations of Fundamental Human Rights 68 (Autumn 1996), citing: The 1993 International Tribunal For the Former Yugoslavia and the 1994 International Tribunal for Rwanda statutes include the Statute of the International Tribunal for the Former Yugoslavia, U.N. SCOR, 48th Sess., 3217th mtg., at 1, U.N. Doc. S/RES/827 (1993) and the Statute of the International Tribunal for Rwanda, U.N. SCOR, 49th Sess., 3453rd mtg., at 1, U.N. Doc. S/RES/955 (1994), and address Genocide, Crimes Against Humanity, and War Crimes. The 1996 Code of Crimes includes these three crimes plus Aggression. See Draft Code of Crimes Against Peace and Security of Mankind: Titles and Articles on the Draft Code of Crimes Against Peace and Security of Mankind adopted by the International Law Commission on its Forty-Eighth Session, U.N. GAOR, 51st Sess., U.N. Doc. A/CN.4L.532 (1996), revised by U.N. Doc. A/CN.4L.532/Corr.1 and U.N. Doc. A/CN.4L.532/Corr.3.

¹²³ See, e.g., Situation of human rights in Myanmar, ¶ 58, U.N. Doc A/HRC/7/18 (7 Mar. 2008).

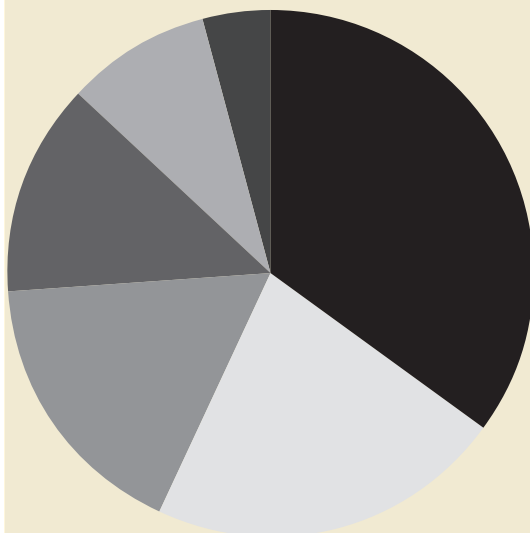
Whom in your family did SPDC soldiers torture?



Reported incidents of torture Chin State over 12 months: 2009 - 2010 (n=23)

- Self 44%
- More than one adult family member 35%
- Other child family member 17%
- Other adult family 4%

Why do you think SPDC soldiers tortured you / your family member(s)?



Reported incidents of torture Chin State over 12 months: 2009 - 2010 (n=23)

- To persecute us 35%
- Because they hate us 22%
- To kill us 17%
- To make us flee 13%
- Because we are Chin 9%
- No response 4%

We spoke with a 46-year-old man living with his wife and seven children, five of whom are under fifteen years of age. The family, Chin and Christian, lives in Paletwa Township.¹²⁴ He describes himself as feeling depressed and hopeless nearly every day during the past two weeks and shares that his entire family has faced religious persecution by the Burmese army within the past year.

More than one family member was tortured with deadly weapons by army troops in the last 12 months, he explains. Family members have been forced to relinquish livestock, food and money to state authorities, which this man interprets as means to kill his family and make them flee. Though there is a public health facility in his township (a full day's walk away), no one in this man's family has received treatment from a medical doctor, nurse, or community health worker within the past year. He fears being denied care because of his religion or ethnicity.

BURMESE GOVERNMENT SOLDIERS KILL CIVILIANS WITH IMPUNITY

Six households, or 1% of our random sample, reported family members killed in 2009, with two households reporting multiple family members killed.¹²⁵ Two of these victims were children under the age of 15, both of whom were killed by Burmese military. Households with family members killed report that the Burmese military were responsible for all deaths. A further 55 households (9.1%) reported family members being wounded by gunshot, explosion, or other deadly weapon.¹²⁶

Asked why their family members were killed, half of all households believed they were targeted for their ethnicity and Christian faith. A 19-year-old female from rural Hahka Township reported that the tatmadaw military beat, then shot to death her sibling in 2009 "because they hate us" Chin.¹²⁷ Similarly, an elderly grandfather from rural Tedim Township replied that his grown child was killed in February 2009 because of the military's hatred toward the Christian Chin minority.¹²⁸ A 36-year-old father of five living in rural Hahka reported that the tatmadaw military killed a member of his family in June 2009 because they wanted "to make us flee" Chin State.¹²⁹

Local and international human rights groups have documented other recent killings of Chin civilians,¹³⁰ including Christian pastors and church workers,¹³¹ by Burmese armed forces. Such arbitrary executions¹³² constitute egregious violations of both national¹³³ and international human rights law.¹³⁴ The most senior United National official charged with reporting on the human rights situation in Burma, Tomás Ojea Quintana, recently concluded that representatives of the Burmese government arbitrarily kill civilians "within a culture of impunity," which stems from the lack of accountability for grave human rights violations in Burma.¹³⁵ Investigating and prosecuting government authorities who perpetrate such serious violations is not only an obligation, but would also deter other violations and provide redress for victims and their families.¹³⁶

¹²⁴ Interview with household no. 107, in Chin State (21 Feb. 2010).

¹²⁵ The prevalence rate of 1.0% may be as high as 2.4% of households experiencing at least one killing over the 12-month reporting period [95% CI = 0-2.4%].

¹²⁶ The prevalence rate of 9.1% may be as high as 13.3% of households experiencing at least one family member being wounded over the 12-month reporting period [95% CI = 4.8-13.3%].

¹²⁷ Interview with household no. 453, in Chin State (23 Feb. 2010).

¹²⁸ Interview with household no. 120, in Chin State (27 Feb. 2010).

¹²⁹ Interview with household no. 116, in Chin State (6 Mar. 2010).

The oldest person from Chin state whom Physicians for Human Rights interviewed was a man who lives in rural Tedim Township in northern Chin State with his elderly wife and ten children and grandchildren.¹³⁷ The family is Zomi and Christian. When we spoke with him in March 2010, he described his health as fair, but was feeling depressed and hopeless during the past two weeks. In February 2009, local Burmese police killed an 18-year-old family member.

The local Burmese military garrison recently forced his family to build roads, porter supplies, and carry their weapons. The military threatened to kill him and his family if they did not comply. This man had also previously paid the military 1500 kyat (\$1.50 USD) over the past 12 months to avoid forced labor. He recounted to us other human rights violations that his family endured over the past year. In 2009, members of the military stole his livestock and demanded food from the household because, he said, of his ethnicity (Zomi, Chin). Also in 2009 the local VPDC forced the household to give them money, and forced them to grow jatropha, verbally threatening to harm the family if they did not do so. The forced growing of jatropha was understood as a means to persecute them.

¹³⁰ We are Like Forgotten People, *supra* note 1, at 26, citing Chin Human Rights Organization, Villager Shot to Death by Burmese Police in Thantlang, Rhododendron News, Vol. X, No. V, 12 Oct. 2007; Chin Human Rights Organization, CHRO Condemns Summary Executions of Three Chin Headmen, Rhododendron News, Vol. X, No. II, 12 Apr. 2007; Chin Human Rights Organization, Three Bodies Found after Weeks of Arrest by Military, Rhododendron News, Vol. X, No. II, 9 Apr. 2007; Chin Human Rights Organization, Village Headman Killed, Two Forcibly Recruited as Soldiers, Rhododendron News, Vol. IX, No. IV, 13 Jul. 2006; Chin Human Rights Organization, Village Headman Shot to Death, Rhododendron News, Vol. IX, No. III, May-Jun. 2006; Chin Human Rights Organization, A 17 Year old Boy Summarily Executed by Burmese Troops, Rhododendron News, Vol. IX, No. I, 1 Feb. 2006; Chin Human Rights Organization, Burmese Soldiers Killed Two Children, Injured Six Civilians in Random Shooting, Rhododendron News, Vol. VIII, No. VI, 14 Nov. 2005; Chin Human Rights Organization, Villagers Flee to India to Escape Brutalities, Rhododendron News, Vol. VIII, No. III, 5 May, 2005; Chin Human Rights Organization, Innocent Chin Beaten to Death by Burmese Army, Rhododendron News, Vol. VIII, No. II, 21 Mar. 2005; Chin Human Rights Organization, Innocent Villager Shot to Death and Burned, Rhododendron News, Vol. VIII, No. I, 26 Feb. 2005; Chin Human Rights Organization, Innocent Chin Villager Summarily Executed, Rhododendron News, Vol. VIII, No. I, 9 Feb. 2005.

¹³¹ Carrying the Cross, *supra* note 77, at 3. See also, Religious Persecution, *supra* note 3, at 66.

¹³² The United Nations defines arbitrary execution as the killing of a person perpetrated by an agent of the State or any other person acting under government authority or with its complicity, tolerance, or acquiescence, but without any or due judicial process. Arbitrary executions include killings committed for political reasons, deaths following torture or any other cruel, inhuman or degrading treatment, and killings following kidnapping or forced disappearance. Executions resulting from a death sentence issued by a court, are also arbitrary executions if the fair trial guarantees provided in Articles 14 and 15 of the U.N. Covenant on Civil and Political Rights are not respected. Arbitrary executions (to be distinguished from executions after a fair trial) often are killings under suspicious circumstances with the following characteristics: 1) The death occurred when the victim was in the hands of law enforcement officials (e.g., police custody), or other state authorities. 2) An official inquiry following the death (e.g., autopsy or medical report) did not occur. United Nations. Training Manual on Human Rights Monitoring 43–44, Professional Training Series No.7 (2001) at <http://www.ohchr.org/Documents/Publications/training7part24en.pdf>.

¹³³ “Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person.” Constitution, *supra* note 95, at art. 353.

¹³⁴ The Universal Declaration of Human Rights affirms that “[e]veryone has the right to life, liberty and security of person.” Universal Declaration of Human Rights G.A. res. 217A (III), U.N. Doc A/810 art. 3 (1948). The U.N. Covenant on Civil and Political Rights provides that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” International Covenant on Civil and Political Rights, art 6.1, 16 Dec. 1966, 999 U.N.T.S. 171. The right to be free from arbitrary killing is non-derogable, that is, it cannot be suspended even in times of emergency. *Id.*, at art 4.

¹³⁵ Situation of human rights in Myanmar: Report of the Special Rapporteur on the situation of human rights in Myanmar, ¶ 63, U.N. Doc A/65/368 (15 Sep. 2010). See also Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, ¶13, U.N.Doc. A/HRC/13/48 (10 Mar. 2010).

¹³⁶ Situation of human rights in Myanmar: Report of the Special Rapporteur on the situation of human rights in Myanmar, ¶ 67, U.N. Doc A/65/368 (15 Sep. 2010). The U.N. Human Rights Committee considers that governments should not only prevent and punish deprivation of life by criminal acts, but should also prevent arbitrary killing by their own security forces. Because the deprivation of life by the authorities of the State is a grave matter, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities. Human Rights Committee, Gen. Comment 6, Art. 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994). The United Nations has articulated what constitutes a proper investigation: “There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice, which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.” Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, E.S.C.R Res. 1989/65 [24 May 1989] at <http://www2.ohchr.org/english/law/pdf/executions.pdf>.

NEARLY ALL REPORTED ABDUCTIONS BY GOVERNMENT SOLDIERS OCCUR IN SOUTHERN CHIN STATE

Among our random sample of 621 households in Chin State, 4.8% of families reported the disappearance of one or more family members, including women and children, during the past 12 months.¹³⁸ For the purpose of this research, we define enforced disappearance as the apprehension of a person by a state authority, and the person goes missing for at least seven consecutive days, and state authorities refuse to acknowledge the arrest, detention, or abduction of that person or give information about that person's whereabouts.¹³⁹ Only those cases in which the head of household was an eyewitness to the abduction (or when the case involved that same head of household) are included in this analysis. Nearly all cases of disappearance (97%) took place in two southern townships in Chin State, Paletwa and Mindat. Government soldiers accounted for 93.1% of all reported abductions, and the police accounted for 6.9%.

A man in his eighties with 11 family members in his household saw SPDC soldiers forcibly abduct his grandchild at gunpoint last year with the intent, he believed, of killing him.¹⁴⁰ His whereabouts are unknown. More than half of all reported abductions (55%) happened at gunpoint. A 32-year-old single mother of four young children told PHR that while her husband was being abducted by police in Tedim last year, they threatened to kill him.¹⁴¹ Asked why she thought her husband was taken away by force, she responded, "because they hate us." His whereabouts are unknown. Other reasons people gave for their family members being disappeared by SPDC forces include "because we are Chin" (21%), "to persecute us" (27%), and "to kill us" (21%).

Several organizations have documented instances of abduction and enforced disappearance in Chin State.¹⁴² The United Nations has repeatedly called on the Burmese government to stop such abuses,¹⁴³ which contravene both domestic¹⁴⁴ and international law.¹⁴⁵ In response to international pressure, the Government established an "Investigation Body" within the Ministry of Home Affairs to investigate the deaths, arrests, and disappearances of civilians following the crackdown following the September 2007 demonstrations.¹⁴⁶ No investigations are known to have been conducted.¹⁴⁷

¹³⁷ Interview with household no. 120, in Chin State (27 Feb. 2010).

¹³⁸ The 12-month prevalence may be as high as 7.9% of households experiencing at least one family member being abducted by state authorities (95% CI = 1.6-7.9).

¹³⁹ See, Rome Statute of the International Criminal Court, supra note 59, at art. 7(2)(i).

¹⁴⁰ Interview with household no. 090, in Chin State (26 Feb. 2010).

¹⁴¹ Interview with household no. 130, in Chin State (23 Feb. 2010).

¹⁴² See, e.g., *All Quiet on the Western Front?*, supra note 77, at 5,23; *Visit to the India-Burma Border* (2007), supra note 77, at 9. Other organizations have documented the practice of kidnapping and forced disappearance across Burma. See, e.g., *Crimes in Burma*, supra note 77, at 101; *Torture of Ethnic Minority Women*, supra note 104, at 1; Amnesty International, *Myanmar: Crimes Against Humanity in Eastern Myanmar* 2, 3, 18-20 (2008), <http://www.amnesty.org/en/library/asset/ASA16/011/2008/en/72d2e8c2-b9ce-4afb-91c6-ba3391ed41e5/asa160112008en.pdf>; *Bullets in the Alms Bowl*, supra note 37, at 98.

¹⁴³ For a listing of United Nations documents calling on the Burmese government to end "practices of torture, disappearances and summary executions," see Irish Centre for Human Rights, *Crimes against Humanity in Western Burma: The Situation of the Rohingya* 118 (2010), http://uscampaignforburma.org/wp-content/uploads/2010/06/ichr_rohingya_report_20101.pdf, citing *Situation of Human Rights in Myanmar*, ¶ 11, U.N. Doc. A/RES/50/194 (1996); See also *Situation in Myanmar*, ¶ 6, U.N. Doc. A/RES/47/144 (1993); *Situation of Human Rights in Myanmar*, ¶ 7, U.N. Doc. A/RES/48/150 (1994); *Situation of Human Rights in Myanmar*, ¶ 1, U.N. Doc. A/RES/49/197 (1995); *Situation of Human Rights in Myanmar*, ¶ 11, U.N. Doc. A/RES/50/194 (1996); *Situation of Human Rights in Myanmar*, ¶ 11, U.N. Doc. A/RES/51/117 (1997); *Situation of Human Rights in Myanmar*, ¶ 12, U.N. Doc. A/RES/52/137 (1998); *Situation of Human Rights in Myanmar*, ¶ 10, U.N. Doc. A/RES/53/162 (1999); *Situation of Human Rights in Myanmar*, ¶ 14, U.N. Doc. A/RES/55/112 (2001); *Situation of Human Rights in Myanmar*, U.N. Doc. A/RES/56/231 (2002) at para. 4; *Situation of Human Rights in Myanmar*, ¶ 2(a), U.N. Doc. A/RES/60/233 (2006); *Situation of Human Rights in Myanmar*, ¶ 2(a), U.N. Doc. A/RES/61/232 (2007); *Situation of Human Rights in Myanmar*, ¶ 2(a), U.N. Doc. A/RES/63/245 (2009).

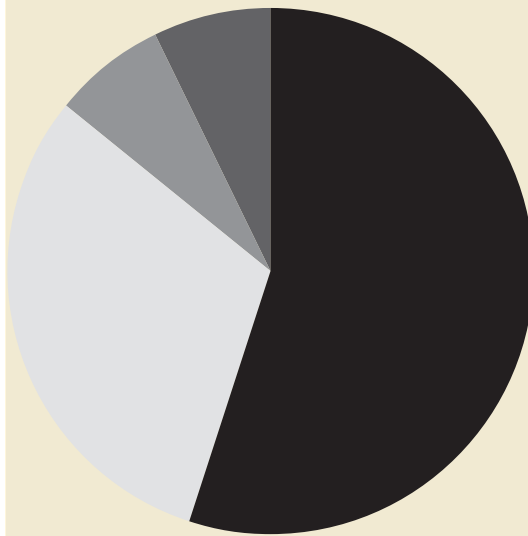
¹⁴⁴ "No person shall, except matters on precautionary measures taken for the security of the Union or prevalence of law and order, peace and tranquility in accord with the law in the interest of the public, or the matters permitted according to an existing law, be held in custody for more than 24 hours without the remand of a competent magistrate." Constitution, supra note 95, at art. 376. See also, "Nothing shall, except in accord with existing law, be detrimental to the life and personal freedom of any person." *Id.*, at art. 353.

¹⁴⁵ "Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life." U.N. Declaration on the Protection of all Persons from Enforced Disappearance, art. 1, 18 Dec. 1992, U.N. Doc. A/RES/47/133.

¹⁴⁶ *Situation of Human Rights in Myanmar*, ¶ 52, U.N. Doc. A/63/341 (5 Sep. 2008).

¹⁴⁷ *Id.*

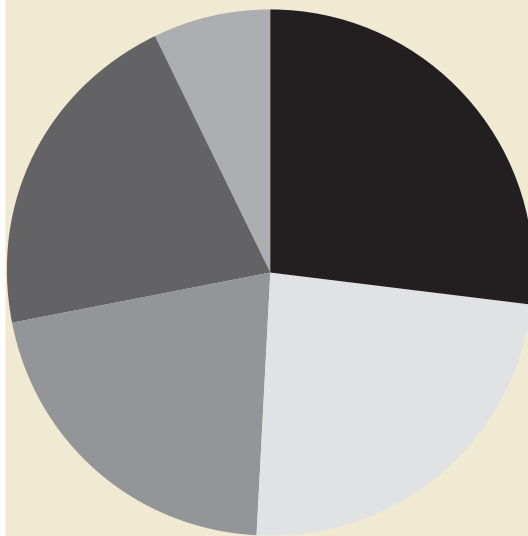
How were you / your family member(s) abducted?



Reported incidents of disappearances
in Chin State over 12 months:
2009 - 2010 (n=29)

- At gunpoint 55%
- By verbally threatening to harm 31%
- By physically harming 7%
- By verbally threatening to kill 7%

Why do you believe they abducted you / your family member(s)?



Reported incidents of disappearances
in Chin State over 12 months:
2009 - 2010 (n=29)

- To persecute us 27%
- Do not know 24%
- Because we are Chin 21%
- To kill us 21%
- Because they hate us 7%

Physicians for Human Rights spoke with a man in his mid-fifties, married and living with his nine-year-old and seven-year-old daughter in Paletwa Township.¹⁴⁸ Members of the police force physically abused one of his young children with a knife during the past year solely “because of our ethnicity,” he explained. When army troops came to his village, they physically threatened his household and abducted one member of his family, whose whereabouts are unknown.

His story is a litany of human rights abuses perpetrated by state authorities. Within the past year, he said that the army detained more than one family member under verbal threat of harm. More than one of his family members was wounded with a deadly weapon by SPDC soldiers, and he testified that his entire household had been the victim of group persecution at the hands of the tatmadaw. In what he interprets specifically as persecution, he shares that the Village Peace and Development Council forced him to conduct 28 days of forced labor during the preceding year.

SOUTHERN CHIN STATE ACCOUNTS FOR 94% OF REPORTED ARBITRARY ARRESTS

Quantitative data from our survey of 621 randomly selected households in Chin State reveal that 5.9% of families had at least one member of their household arbitrarily arrested or detained during the 12-month reporting period.¹⁴⁹ For the purpose of this study, we operationalized the definition of arbitrary arrest, detention, or imprisonment as the apprehension of a person and deprivation of that person’s personal liberty for more than 24 hours without a legal basis by a state authority.¹⁵⁰

Reports of arbitrary arrest come from five of the nine townships; however, 94% of these abuses that households reported occurred in Chin State’s three southern townships of Mindat, Kanpalet, and Paletwa – where all such abuses were carried out by Burmese soldiers against ethnic Chin civilians. Among our random sample, 36 heads of household said they had had at least one family member detained or imprisoned the preceding year. Nearly a third of these households had more than one family member arbitrarily detained. At least one out of six of these arbitrary arrests involved women, and one out of five were children under the age of 15 – all of whom were apprehended in Paletwa Township by tatmadaw soldiers. “Soldiers beat us when requesting to get back our son,” reported a parent of one child who had been arbitrarily detained.¹⁵¹

A 65-year-old grandfather from rural Paletwa told PHR that SPDC soldiers came to his home in August 2009, threatened to harm him, and took his young grandchild into custody for no reason, other than, he believed, because they are Christian and ethnic Chin.¹⁵² Fifty-six percent of all households reported being harmed or threatened with harm by Burmese soldiers when they came and took away their family members. A 35-year-old farmer and father of three recounted how in 2009, armed soldiers came to his home and arrested him at gunpoint merely because he is Christian, he reported.¹⁵³ One out of four households told PHR that family members had also been arbitrarily arrested at gunpoint and detained for more than 24 hours. A 48-year-old Chin man with seven people in his family said armed Burmese military arrested his under-15 child without warrant and threatened to kill him in June 2009.¹⁵⁴ One out of five households reported SPDC soldiers had arbitrarily arrested family members while threatening to kill them.

¹⁴⁸ Interview with household no. 097, in Chin State (16 Feb. 2010).

¹⁴⁹ The 12-month prevalence may be as high as 9.9% of households experiencing at least one family member being arbitrarily arrested or detained by state authorities (95% CI = 2.0-9.9%).

¹⁵⁰ Cf. U.N. Working Group on Arbitrary Detention, Fact Sheet No. 26, The Working Group on Arbitrary Detention 3-5, <http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf> (in which deprivation of liberty is defined and when it becomes arbitrary).

¹⁵¹ Interview with household no. 452, in Chin State (23 Feb. 2010).

¹⁵² Interview with household no. 099, in Chin State (17 Feb. 2010).

¹⁵³ Interview with household no. 100, in Chin State (17 Feb. 2010).

¹⁵⁴ Interview with household no. 620, in Chin State (27 Feb. 2010).

Asked why they believed the Burmese military detain or imprison Chin civilians, 97% of all heads of household believed it was because of their minority status: To persecute us (38%), to kill us (33%), because we are Chin (17%), because we are Christian (3%), or because they hate us (6%).

Anecdotal accounts of arbitrary arrest and detention in Chin State corroborate our findings of this widespread abuse.¹⁵⁵ As the United Nations expert group on this topic makes clear: “Since detention in itself is not a violation of human rights, international law has progressively endeavoured to define the limits beyond which a detention . . . would become arbitrary.”¹⁵⁶ When state authorities in Chin State arbitrarily arrest, detain, or imprison civilians, they violate both domestic¹⁵⁷ and international law.¹⁵⁸ Such violations may amount to crimes against humanity when conducted on a widespread or systematic basis.

In March 2009, Physicians for Human Rights listened to the story of a 36-year-old Chin husband and father of five in Paletwa Township.¹⁵⁹ SPDC troops raped more than one member of his family at knifepoint within the past year “because of our ethnicity,” he explained. The military also arbitrarily detained one member of his household at gunpoint. When asked about the army’s motivation for detaining his family, his answer was straightforward: “To kill us.”

More than one member of his family suffered other forms of torture at the hands of the SPDC soldiers. Burmese soldiers forcibly conscripted a member of his household into the tatmadaw army, and burned down the church that once stood in his village. He interpreted all of these actions as means to persecute him and his family.

¹⁵⁵ See, *Carrying the Cross*, supra note 77, at 3,30–31 for a discussion of arbitrary arrest and detention in Chin State and throughout Burma; *We are Like Forgotten People*, supra note 1, at 27–37; *Religious Persecution*, supra note 3, at 9.1, 9.2, 9.5, 9.8, Appendix 1.10; *All Quiet on the Western Front?*, supra note 77, at 21–22; *Visit to the India-Burma Border* (2007), supra note 77, at 5–16; See also the list of nine Chin individuals among 225 imprisoned ethnic minorities compiled by Assistance Association for Political Prisoners (Burma) at http://www.aappb.org/ethnic_list.html. For further accounts of arbitrary arrest and detention in Burma, see for example, *Torture, Political Prisoners and the Un-Rule of Law*, supra note 120; *Torture of Ethnic Minority Women*, supra note 104, at 2–3; *Bullets in the Alms Bowl*, supra note 37, at 112–115; *Visit to the India-Burma Border* (2009), supra note 24, at 6,11,16; Assistance Association for Political Prisoners (Burma), *Silencing Dissent: The ongoing imprisonment of Burma’s political activists in the lead up to the 2010 elections* (2010), http://www.aappb.org/SILENCING_DISENT_English.pdf; *Burma/Myanmar: International crimes committed in Burma*, supra note 77, at 7,17; *Crimes in Burma*, supra note 77, at 65,101. As noted by *Crimes in Burma*, the Special Rapporteur on the situation of human rights in Myanmar lists arbitrary arrest and detention as tactics employed by the tatmadaw to make Burmese citizens follow their orders. Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, ¶ 56, U.N. Doc A/58/219 (5 Aug. 2003).

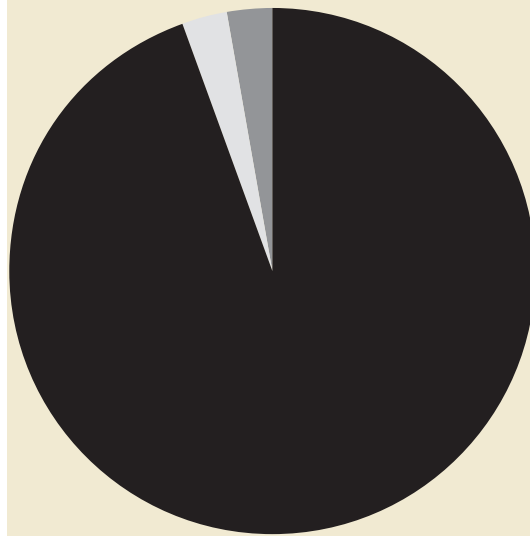
¹⁵⁶ Fact Sheet No. 26, supra note 150, at 2.

¹⁵⁷ “No person shall, except matters on precautionary measures taken for the security of the Union or prevalence of law and order, peace and tranquility in accord with the law in the interest of the public, or the matters permitted according to an existing law, be held in custody for more than 24 hours without the remand of a competent magistrate.” Constitution, supra note 95, at art. 376.

¹⁵⁸ Burma has acceded to the Convention on the Rights of the Child, which requires that “[n]o child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, [or] home. . . .” Convention on the Rights of the Child, supra note 122, at art. 16(1). “The child has the right to the protection of the law against such interference or attacks.” *Id.* at art. 16(2). Additionally, the Government “shall ensure that a child shall not be separated from his or her parents against their will”. *Id.* at art. 9(1).

¹⁵⁹ Interview with household no. 116, in Chin State (6 Mar. 2010).

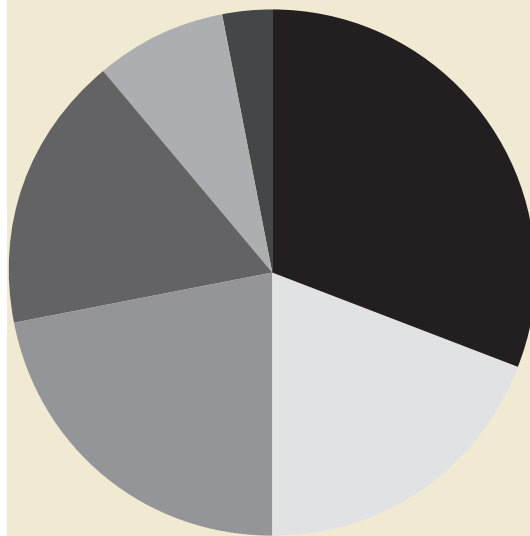
Who arrested or detained you / your family member(s)?



Reported incidents of arbitrary arrest or detention in Chin State over 12 months: 2009 - 2010 (n=36)

- Tatmadaw military 94%
- VPDC 3%
- Police 2.5%

Who in your household was arbitrarily arrested or detained?



Reported incidents of being detained in Chin State over 12 months: 2009 - 2010 (n=36)

- More than 1 family member 31%
- Other child family member 19%
- Myself - male 22%
- Myself - female 17%
- Other adult family member 8%
- Other 3%

ONE OUT OF EIGHT CHIN HOUSEHOLDS IS FORCIBLY DISPLACED – MOST TO FIND FOOD

Physicians for Human Rights estimates that 12.3% of all households in Chin State were forced to flee in 2009.¹⁶⁰ Among the 74 displaced households in our random sample, each family was forced to move on average twice during the 12-month reporting period for an average total of 12.5 days. The number of times households were displaced for at least a day ranges from one to ten. The heads of household whom PHR interviewed reported that the main reason for being displaced was to find food (83%) or work (9%). Displacement due to insecurity accounted for a minority of cases (4%). The southern townships of Paletwa and Kanpalet comprise 80% of all displaced households. Forced displacement from one's home violates both domestic¹⁶¹ and international law.¹⁶²

We spoke with one family of four who had been forced to move ten times over the past year. They moved, they said, primarily out of a need to find food.¹⁶³ Another family, caring for a newborn baby, was forced to move twice for a total of 12 days last year, similarly motivated by a lack of food.¹⁶⁴

¹⁶⁰ Based on a population of 530,000 in Chin State and an average household size of 5.29, the 12-month prevalence of 12.3% may be as high as 16.3% of households being forcibly displaced at least once over the 12-month reporting period (95% CI = 8.2-16.3%). We posit that this prevalence rate underestimates the true number of affected Chin households due to substantial outflows of civilians who have already fled Chin state.

¹⁶¹ "Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to the law." Constitution, *supra* note 95, at art. 355. Further, "[n]othing shall . . . be detrimental to the life and personal freedom of any person." *Id.* art. 353.

¹⁶² Burma has acceded to international human rights treaties that guarantee the right to be free from being forcibly displaced from one's home. For example, the Convention on the Rights of the Child stipulates that "[n]o child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, [or] home. . . ." Convention on the Rights of the Child, *supra* note 122, at art. 16(1). "The child has the right to the protection of the law against such interference or attacks." *Id.* at art. 16(2). The Government is also legally bound to "accord men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile." Convention on Women, *supra* note 108, at art. 15(4). In addition, all States "shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons." Guiding Principles on Internal Displacement, Principle 5, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Comm. Hum. Rts. res. 1998/50.

¹⁶³ Interview with household no. 106, in Chin State (21 Feb. 2010).

¹⁶⁴ Interview with household no. 089, in Chin State (26 Feb. 2010).

These statistics may be generalized to Chin State and corroborate other recent research, which found that the main factors leading Chin to flee Burma are forced labor, extortion, and food insecurity.¹⁶⁵ Many Chin have subsequently fled to neighboring countries. The United Nations High Commissioner for Refugees (UNHCR) has registered 37,700 Chin in Malaysia,¹⁶⁶ although Chin community-based organizations estimate that the number of Chin in that country is closer to 50,000.¹⁶⁷ Some 50,000 to 100,000 Chin have sought refuge in neighboring India.¹⁶⁸ The only available means for Chin in India to obtain protection and assistance is to travel 2,400 kilometers to New Delhi to register with the United Nations High Commissioner for Refugees (UNHCR). The distance and expense of this trip prohibits most Chin from making this journey from Mizoram, the northeastern State in India bordering Chin State.¹⁶⁹ According to the UNHCR, there are 8,500 refugees and asylum seekers from Burma in New Delhi,¹⁷⁰ the vast majority of whom are Chin. Chin community-based organizations estimate that the number is closer to 10,000.¹⁷¹ Fearing persecution if returned to Burma, the vast majority of these tens of thousands of displaced Chin are without protection, food, or assistance as Burma's neighboring countries do not accord them the rights granted to refugees.¹⁷²

¹⁶⁵ Among 53 Chin respondents, 84.9% said forced labor was a factor contributing to their flight from Burma, 81.1% food insecurity, and 75.5% forced labor. Forced Migration/Internal Displacement in Burma, *supra* note 77. Compare ICC definition of forcible displacement: "Deported or forcibly transferred is interchangeable with forcibly displaced." ICC Elements of Crimes, *supra* note 72, at fn.13.

¹⁶⁶ As of end October 2010, there are some 91,100 refugees and asylum-seekers registered with UNHCR in Malaysia. 83,700 are from Myanmar (Burma), comprising some 37,700 Chins, 19,800 Rohingyas, 8,300 Myanmar Muslims, 3,800 Mon, 3,500 Kachins and other ethnic minorities from Myanmar (Burma). UNHCR Malaysia, Statistics: Refugee and Asylum-seekers in Malaysia, <http://www.unhcr.org.my/cms/basic-facts/statistics> (last visited 18 Dec. 2010).

¹⁶⁷ The Chin Refugee Committee and the Alliance of Chin Refugees, two community-based organizations working in Malaysia, estimate that there are 50,000 Chin in the country.

¹⁶⁸ See e.g., Amy Alexander, Without refuge: Chin refugees in India and Malaysia, *Burma's Displaced People*, Forced Migration Review 30, 36-37 (Apr. 2008) (estimating 60,000-80,000); Refugees International, India: Close the gap for Burmese refugees, 1 (Dec. 9, 2009), (estimating 50,000-100,000); and We are Like Forgotten People, *supra* note 1, at 17 (estimating between 75,000-100,000).

¹⁶⁹ Chin Human Rights Organization. Waiting of the Margins: An Assessment of the Situation of the Chin Community in Delhi, India (Apr. 2009). <http://www.rcusa.org/uploads/pdfs/CHRO%20Margins,%20April%202009.pdf> [accessed 12 Mar. 2010].

¹⁷⁰ UNHCR Newsletter, New Delhi, Jul./Aug. 2010, <http://www.unhcr.org/4c98b2c89.pdf>

¹⁷¹ The Chin Refugee Committee in New Delhi estimates there are 10,000 Chin refugees and asylum seekers in the city.

¹⁷² Neither Malaysia, India, Bangladesh, nor Myanmar is state party to the 1951 Refugee Convention or its 1967 Protocol. Convention relating to the Status of Refugees, 28 Jul. 1951, 189 U.N.T.S. 137; Protocol relating to the Status of Refugees, 31 Jan. 1967, 606 U.N.T.S. 267.

In Paletwa Township, we met with a 57-year-old resident who lives with his wife and four of his seven children – one of whom was only three-months old when we spoke.¹⁷³ He is Chin, Christian, and, due to insecurity, his family was forced to move twice within the past year. They were displaced a total of ten days.

More than ten times during the past month, members of this household went a full day without eating anything for lack of food. More than ten times, family members ate smaller meals than they needed, ate fewer meals a day, ate food that they preferred not to eat because of a lack of resources, and went to sleep at night hungry. Rats destroyed 75% of the household crop, and this family never received humanitarian food aid.

During this same year, state authorities forced this respondent to grow jatropha under threat of death.

PERSECUTION OF ETHNIC CHIN CHRISTIANS IS WIDESPREAD

Our data reveal that 14.1% of surveyed households have experienced group persecution¹⁷⁴ based on their ethnicity (Chin) or religion (Christianity) during the preceding year.¹⁷⁵ Other reports describe a campaign to convert Chin Christians (a vital source of Chin national identity) to Buddhism. Government authorities have forced large numbers of Buddhist monks to move to Chin State, ordered construction of Buddhist pagodas in every major village, exacted forced labor to build Buddhist infrastructure, and implemented practices of forced conversion.¹⁷⁶

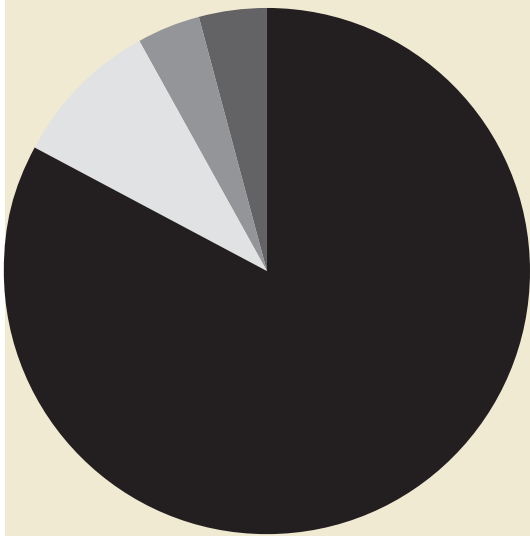
¹⁷³ Interview with household no. 589, in Chin State [23 Feb. 2010].

¹⁷⁴ For the purpose of this study, we define group persecution as “the intentional and severe deprivation of fundamental rights due to one’s religious, ethnic, or other identity.” Rome Statute of the International Criminal Court, *supra* note 59, at art. 174. As party to the U.N. Convention on the Elimination of All Forms of Discrimination against Women, Burma “affirms the principle of the inadmissibility of discrimination”, with discrimination defined as “any distinction, exclusion or restriction . . . which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise . . . of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Convention on Women, *supra* note 108, at art. 1.

¹⁷⁵ The prevalence may be as high as 20.1% of households being persecuted at least once over the 12-month reporting period (95% CI = 8.0-20.1%).

¹⁷⁶ Carrying the Cross, *supra* note 77, at 22; Religious Persecution, *supra* note 3, at 1; Individual Submission to the Universal Periodic Review of Burma, *supra* note 25. For further documentation of these and other discriminatory practices targeting Chin Christians, see also All Quiet on the Western Front?, *supra* note 77, at 16; We are Like Forgotten People, *supra* note 1, at 48-54.

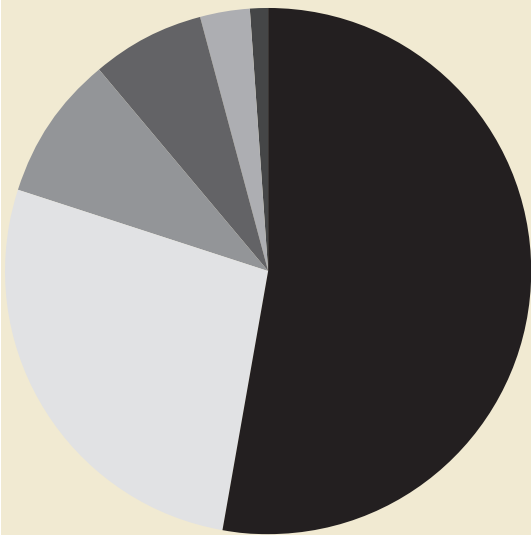
What was the main reason for being forcibly displaced?



Households reporting being forcibly displaced from their villages in Chin State over 12 months: 2009 - 2010 (n=74)

- Find food 83%
- Find work 9%
- Insecurity 4%
- Other 4%

Households forcibly displaced



Households reporting being forcibly displaced over the past 12 months by township: 2009 - 2010 (n=74)

- Paletwa 53%
- Kanpalet 27%
- Madupi 9%
- Hahka 7%
- Tedim 3%
- Thantlang 1%

Our study found the tatmadaw responsible for 94.2% of reported instances of ethnic or religious persecution, corroborating reports that Burma's military government leads systematic campaigns designed to Burmanize¹⁷⁷ ethnic and religious minorities.

Of the 86 households reporting instances of persecution, 51% experienced physical harm, which they ascribed to their Chin ethnicity or Christian faith. More than one-third of all offenses (37%) involved every member of the household, and 18% of the incidents happened at gunpoint. Other forms of persecution included government authorities threatening to destroy a family's home (16%) or village (2%), and threatening to harm (7%) or kill (3%) family members. In addition, 71 households from 13 of the 90 villages and towns sampled (14.4%) reported the destruction of their local church by government authorities.

When asked why respondents believed they were persecuted by state authorities, 23% of households answered simply, "because we are Chin." Another 15% replied, "because we are Christian." An additional 23% believed that the attacks were meant "to persecute us", 14% of respondents perceived the attacks as straightforward attempts to kill them, and 19% understood the persecution as a means to make them flee Burma. Nearly two-thirds (64%) of all violations reportedly occurred in Mindat and Paletwa townships.

In 2008, the U.N. General Assembly expressed grave concern at "discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar . . . leading to extensive forced displacements and serious violations and other abuses of the human rights of the affected populations."¹⁷⁸ Government policies that promote discrimination¹⁷⁹ directly contravene State obligations enshrined in domestic¹⁸⁰ and international law.¹⁸¹

¹⁷⁷ The Chin Human Rights Organization finds that "Burma's ruling military regime is systematically persecuting Chin Christians as part of a program to Burmanize the Chin", documenting practices of forced conversions, deliberate disruption of religious services, physical assault of religious leaders, destruction of churches and church property, forced construction of Buddhist pagodas, and forced conversion of children among other offenses. Religious Persecution, *supra* note 3, at 1. The United States Commission on International Religious Freedom's 2010 Annual Report presents "credible reports that government and military authorities continue efforts actively to promote Buddhism among the Chin and Naga ethnic minorities as part of its pacification program", documenting summary closings of churches and forced conversions among other discriminatory practices. United States Commission on International Religious Freedom, USCIRF Annual Report 2010 - Countries of Particular Concern: Burma (Myanmar) 5 (2010), http://www.fltn.dk/NR/rdonlyres/D05C75EE-861B-4026-A9BE-D3FB22E2B27B/0/22090178823BurmaUSCIRFAnnualReport201029042010pdf686968_1_1.pdf.

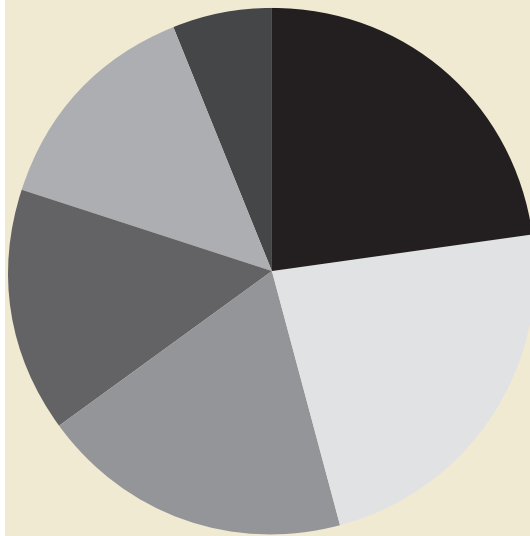
¹⁷⁸ U.N. General Assembly, Resolution adopted by the General Assembly 2[d], 28 Feb. 2008, A/RES/62/222. The Special Rapporteur on the situation of human rights in Myanmar notes "the systematic and endemic discrimination faced by the Muslim community in Northern Rakhine State" alongside "systematic violation of human rights which has been . . . originating from decisions by authorities in the executive, military, and judiciary at all levels." Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, U.N. Doc. A/HRC/13/48 (10 Mar. 2010).

¹⁷⁹ Every individual in Burma must carry an identification card noting the holder's religion and ethnicity. This contributes directly to a situation in which ethnic minority Christians are easily singled out, denied promotions when working in government, denied employment, and otherwise discriminated against. Religious Persecution, *supra* note 3, at 12. It is furthermore illegal in Burma to import Bibles written in minority languages, and Bibles translated into Burmese are subject to extreme state-censorship of content. Human Rights Documentation Unit, National Coalition Government of the Union of Burma, Burma: Human Rights Yearbook 2008 532 (2008), http://www.burmalibrary.org/docs08/HRDU_YB-2008/pdf/religion.pdf.

¹⁸⁰ The 2008 Burmese Constitution allows every citizen "the right to freely develop literature, culture arts, customs and traditions they cherish". Constitution, *supra* note 95, at art. 365; "The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth". *Id.* at art. 348; "Every citizen shall be at liberty . . . to develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths". *Id.* at art. 354(d).

¹⁸¹ As a member of the United Nations and signatory to the U.N. Charter, Burma has pledged to promote and encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". Charter of the United Nations art. 1.3, 24 Oct. 1945, 1 U.N.T.S. XVI. As party to the U.N. Convention on the Rights of the Child, Burma is obligated to "respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." Convention on the Rights of the Child, *supra* note 122, at art. 2.1. Burma is also state party to the U.N. Convention on the Elimination of All Forms of Discrimination against Women, which "affirms the principle of the inadmissibility of discrimination". Convention on Women, *supra* note 108.

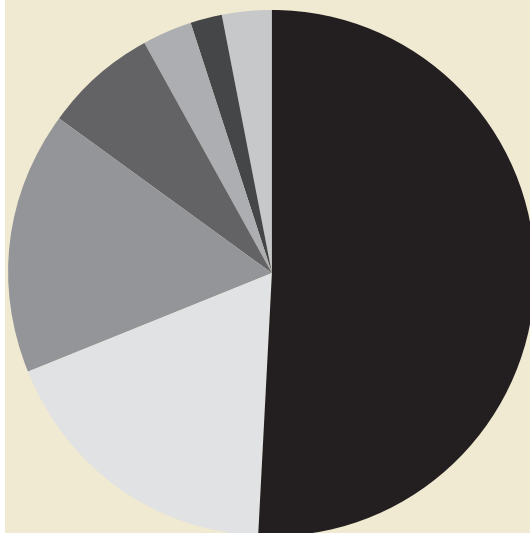
Why do you think they persecuted you / your family member(s)?



Reported incidents of being persecuted in Chin State over 12 months: 2009 - 2010 (n=86)

- To persecute us 23%
- Because we are Chin 23%
- To make us flee 19%
- Because we are Christian 15%
- To kill us 14%
- Because they hate us 6%

How were you / your family member(s) wounded?



Reported incidents of being persecuted in Chin State over 12 months: 2009 - 2010 (n=86)

- Physically harming 51%
- At gunpoint 18%
- Verbally threatening to destroy property 16%
- By verbally threatening to harm 7%
- By verbally threatening to kill 3%
- Verbally threatening to destroy village 2%
- Other 3%

ONE-THIRD OF ALL FORCIBLE CONSCRIPTIONS ARE CHILDREN UNDER 15

Among our randomized household survey, 2.8% of surveyed households reported a child under 15 years being forced to become a soldier in Burma's national army; an additional 5.7% of households reported an adult being forcibly conscripted.¹⁸² The tatmadaw military accounted for 92% of all forced recruitment, police at 6%, and local VPDC authorities at 2%. The southern townships of Kanpalet, Mindat, and Paletwa account for 95% of these cases. Ethnic forces (for example the Chin National Army) were not reported to have forcibly conscripted any children or adults.

One 37-year-old single mother in Falam Township explained how SPDC soldiers came to her village in June 2009 and physically threatened her family, forcibly taking away her young son. They took him away because the SPDC want "to persecute us," she believed.¹⁸³ Thirty-one percent of all households reported forced conscription of Chin men and boys into the Burmese army as a means to persecute them.

In Tedim Township, a 53-year-old widow, whose under-15 son was forcibly conscripted by SPDC forces last year, told how armed troops came to her village, threatened to harm her family, and took her child with them. This mother believed it was because of their Chin ethnicity that SPDC authorities target children and take them away from their families.¹⁸⁴ Eighteen percent of households cite ethnicity as the main reason Burmese military are forcibly conscripting adults and children.

Asked how each family member was forcibly recruited, 13% said at gunpoint, 9% were threatened to be killed, 20% were physically harmed, and 35% were threatened with harm. Once recruited, child soldiers are vulnerable to exploitation and abuse. High desertion rates, a lack of volunteers, and declining morale among the armed forces further demand for new recruits – even for boys as young as 11 years old.¹⁸⁵ A recent forced recruitment drive in Chin State aimed to bolster security measures for the junta ahead of the 2010 elections. The conscription sparked fear among Chin youth and forced dozens to flee.¹⁸⁶ According to Burma's 2008 Constitution, "[e]very citizen has the duty to undergo military training in accord with the provisions of the law and to serve in the Armed Forces to defend the Union."¹⁸⁷ Forced conscription of children under 15 years, however, is a violation of international law¹⁸⁸ and also constitutes a war crime.¹⁸⁹

¹⁸² The prevalence of affected households (2.8%) may be as high as 3.9% of households that have experienced at least one family member under 15 being forcibly conscripted into the military over the 12-month reporting period (95% CI = 1.6-3.9%). The prevalence of adults or children being conscripted is 8.5% (95% CI = 3.9-13.0).

¹⁸³ Interview with household no. 391, in Chin State (16 Feb. 2010). See also a United Nations report describing that "whole groups of children from 15 to 17 years old have been surrounded in their schools and forcibly conscripted". United Nations, Promotion and Protection of the Rights of Children: Impact of armed conflict on children, at 37, 26 Aug. 1996, U.N. Doc. A/51/150.

¹⁸⁴ Interview with household no. 133, in Chin State (24 Feb. 2010).

¹⁸⁵ Human Rights Watch estimated in 2002 that there were more than 70,000 child soldiers in Burma. *My Gun Was as Tall as Me*, supra note 20, at 3,40,44. See also YOMA 3 News Service, *Child Soldiers: Burma's Sons of Sorrow* (2009), <http://www.yoma3.org/bookmark/CSreport/Yoma3CSreport220709.pdf>; Human Rights Education Institute of Burma (HREIB), *Forgotten Future, Children and Armed Conflict in Burma* 12,13, 35,59 (2008), http://www.essex.ac.uk/armedcon/story_id/childrenandarmedconburma.pdf; Human Rights Watch, *Sold to Be Soldiers: The Recruitment and Use of Child Soldiers in Burma* (2007), at <http://www.hrw.org/en/reports/2007/10/30/sold-be-soldiers>; Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 240-244* (2008), http://www.childsoldiersglobalreport.org/files/country_pdfs/FINAL_2008_Global_Report.pdf; Human Rights Watch, *Coercion and Intimidation of Child Soldiers to Participate in Violence* 3 (2008).

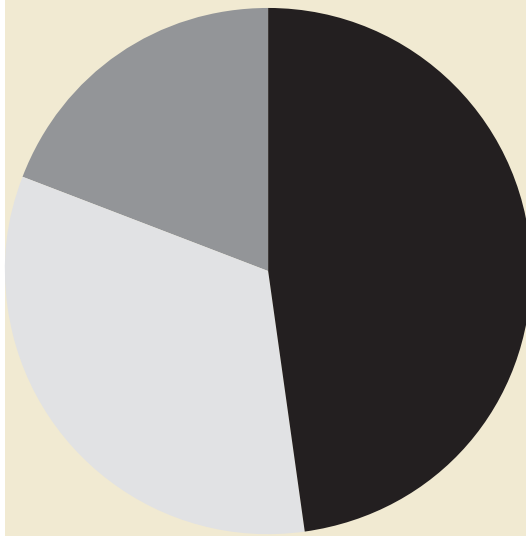
¹⁸⁶ Chin Human Rights Organization, *Dozens Flee as Junta Steps Up Conscription Drive* Rhododendron News: Volume XIII. No. I. Jan.-Feb. 2010 (30 Jan. 2010), <http://www.chro.ca/publications/rhododendron/76-rhododendron-2010/357-rhododendron-news-volume-xiii-no-i-january-february-2010.html>.

¹⁸⁷ Constitution, supra note 95, at art. 386. Although the Constitution does not explicitly prohibit forced conscription, it does "prohibit the enslaving and trafficking in persons" Id. at art. 358.

¹⁸⁸ As signatory to the U.N. Convention on the Rights of the Child, Burma is obligated to "take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities", Convention on the Rights of the Child, supra note 122, at art.38.2. Government authorities must also "refrain from recruiting any person who has not attained the age of fifteen years into their armed forces." Id. at art. 38.3. But see article 1 of the Convention, which defines a child as a "human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Id. at art.1.

¹⁸⁹ Using, conscripting or enlisting children under the age of 15 may constitute a war crime. ICC Elements of Crimes, supra note 72, at art. 8(2)(b)(xxvii).

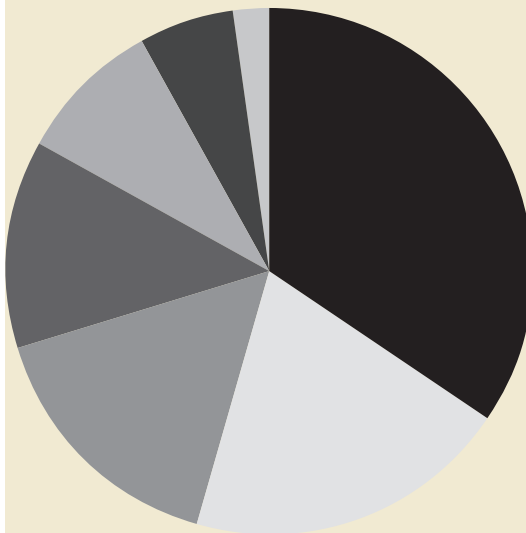
Who in your household was forcibly conscripted?



Reported incidents of forcible conscription into armed forces in Chin State over 12 months: 2009 - 2010 (n=52)

- Other adult family member 48%
- Other child family member under 15 33%
- Myself 19%

How were you / your family member forcibly conscripted?



Reported incidents of forcible conscription into armed forces in Chin State over 12 months: 2009 - 2010 (n=52)

- By verbally threatening to harm 35%
- By physically harming 20%
- Other 16%
- At gunpoint 13%
- By verbally threatening to kill 9%
- No response 6%
- By verbally threatening to destroy village 2%

MORE THAN HALF OF CHIN HOUSEHOLDS REPORT FOOD STOLEN AND LIVESTOCK KILLED

Physicians for Human Rights also documented widespread rights violations related to food security and livelihood destruction during the preceding year. Over half of the 621 surveyed households reported that government authorities demanded or stole food from them, 42.8% reported being forced to give money, and 52.5% reported having livestock killed or stolen. Additional violations included having one's home attacked or destroyed (4.8% of respondents) and having one's crops destroyed or food stores stolen (3.8% of respondents). Surveyed households also reported the destruction or attack of communal property, such as churches and schools (12.8%).

While patrolling Chin State, Burmese troops find their own means of subsistence,¹⁹⁰ leading to a systematic pillaging of food and resources from villagers.¹⁹¹ "They treat us as lower-level people,"¹⁹² said one respondent, referring to the Burmese military. Another head of household whom PHR interviewed reported: "Police seized my merchandise, and they want me to buy it back with money. It happened to me several times."¹⁹³

A former Special Rapporteur on the situation of human rights called attention to Government soldiers' practice of forcibly taking poultry, rice, and farm animals from ethnic minority areas across Burma, without payment.¹⁹⁴ Food theft in Chin State¹⁹⁵ severely inhibits the Chin population's ability to survive in conditions that are already food insecure.¹⁹⁶

¹⁹⁰ "Since 1998, Burmese troops deployed in Chin State never carried rations with them, depending only on villagers along their journey to supply them with rations and porters." Chin Human Rights Organization (CHRO), *Alleged Rebel Sympathizers Tortured by SPDC troops*, Rhododendron News Vol. IC, No. 1 (Jan.-Feb. 2006), <http://www.chro.ca/publications/rhododendron/65-rhododendron-2006/150-rhododendron-publication-volume-ix-no-i-january-february-2006.html>.

¹⁹¹ Guy Horton, *Dying Alive: An investigation and legal assessment of human rights violations inflicted in Burma*, Images Asia 238-239 (2005), <http://www.burmalibrary.org/docs3/Horton-2005.pdf>.

¹⁹² Interview with household no. 452, in Chin State (23 Feb. 2010).

¹⁹³ Interview with household no. 004, in Chin State (22 Feb. 2010).

¹⁹⁴ *Situation of Human Rights in Myanmar: Statement by Judge Rajsoomer Lallah, Special Rapporteur of the Commission on Human Rights* (26 Oct. 2000), <http://www.myanmarlibrary.org/reg.burma/archives/200010/msg00106.html>; see also *Dying Alive*, supra note 191, at 256.

¹⁹⁵ The Special Rapporteur on the situation of human rights in Myanmar Paulo Sérgio Pinheiro, speaking of rural areas across Burma has called attention to "allegations that villagers...have been subject to unlawful appropriation of their land, livestock, harvest and other property." *Human Rights Situations that Require the Council's Attention: Report of the Special Rapporteur on the situation of human rights in Myanmar*, Paulo Sérgio Pinheiro, U.N. Doc. A/HRC/7/18 (7 Mar. 2008). Numerous organizations have documented the military's theft of food from residents of Chin State specifically. See, e.g., *We are Like Forgotten People*, supra note 1, at 57-60; *Visit to the India-Burma Border* (2007), supra note 77, at 10,14.

¹⁹⁶ According to the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, "In Chin State, the evolving food crisis remains of great concern. According to information received, up to 100,000 people in more than 200 villages are in need of food aid, most urgently in the southern townships of Matupi and Paletwa." *Human Rights Situations that Require the Council's Attention: Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, Tomás Ojea Quintana 100, U.N. Doc. A/HRC/13/48 (10 Mar. 2010). The World Food Program estimates that severe and chronic food insecurity affects 213,000 people in Chin State. *Protracted Relief and Recovery Operations*, supra note 93, at 6. According to the Food and Agriculture Organization of the United Nations, Rome, "Chin State is the poorest state of Myanmar and is not self-sufficient in rice production; most of its population is chronically food insecure." *FAO/WFP Crop and Food Security Assessment*, supra note 93, at 28.

Physicians for Human Rights spoke with one 25-year-old male who testified that the VPDC demanded livestock, money, and food from him on three separate occasions during the past year. The army, he added, burned down the church that once stood in his village.¹⁹⁷ He believes these acts were explicit attempts to persecute his family and make them flee.¹⁹⁸ Another father of four shared that the army soldiers burned a church in his village as well, stole livestock from his household, and demanded food and money from his family.¹⁹⁹

In response to the report submitted by the U.N. Special Rapporteur on the situation of human rights in Myanmar, the U.N. General Assembly “expresse[d] grave concern at . . . the confiscation of arable land, crops, livestock and other possessions” in Burma.²⁰⁰ Burma’s 2008 Constitution²⁰¹ obliges the Burmese government to protect and preserve both private and communal property,²⁰² while international law prohibits interference with an individual’s family or home.²⁰³ Moreover, state-sponsored destruction of livelihood may constitute genocide when a government deliberately inflicts “conditions of life calculated to bring about . . . physical destruction [of a people] in whole or part.”²⁰⁴

At the time Physicians for Human Rights spoke with a 49-year-old man from Kanpalet Township in Chin State, he and his family had already experienced four days of forced displacement for lack of food.²⁰⁵ More than ten times in the past 30 days, household members ate nothing over the course of a day, went to sleep at night hungry, and worried about having enough to eat. Burmese soldiers demanded that this same family give money and food to troops while forcibly taking their livestock during the past year.

197 For documentation of personal and church property destruction by state forces in Chin State, see: *Carrying the Cross*, supra note 77; *We are Like Forgotten People*, supra note 1; *Religious Persecution*, supra note 3, at 66; *Chin Critical Point*, supra note 25.

198 Interview with household no. 586, in Chin State (21 Feb. 2010).

199 Interview with household no. 096, in Chin State (16 Feb. 2010).

200 G.A. Res. 61/232, at 2(a), U.N. Doc. A/RES/61/232 (13 Mar. 2007).

201 “The Union shall protect according to law movable and immovable properties of every citizen that are lawfully acquired.” Constitution, supra note 95, at art. 356; also, “The Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this Constitution.” Constitution, supra note 95, at art. 357. Enumerated citizen “duties” also include “the duty to assist the Union in carrying out the following matters...protection and preservation of public property.” Constitution, supra note 95, at art. 390(d).

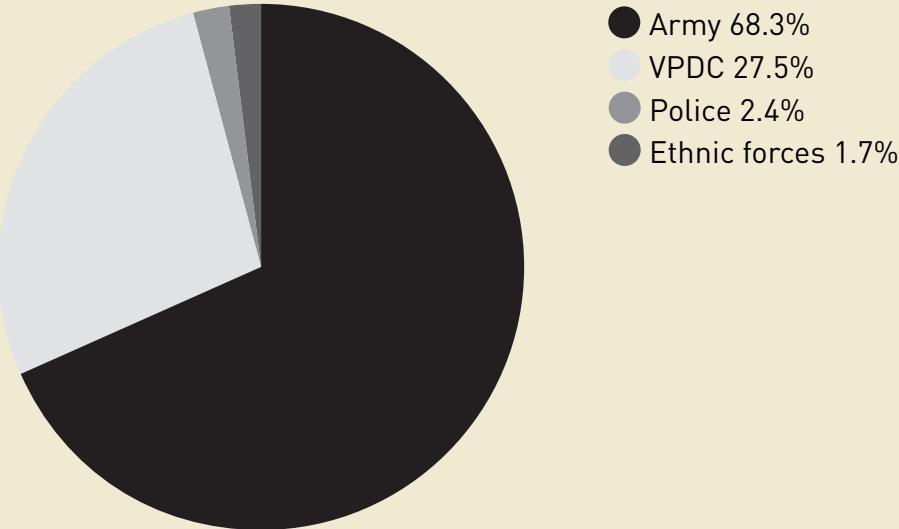
202 As signatory to the United Nations Convention Against Transnational Organized Crime, Burma agrees to the following definition of “property:” “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets”. United Nations Convention Against Transnational Organized Crime art. 2(d), 15 Nov. 2000, U.N. Doc. A/45/49 (Vol. I) (acceded Mar. 30, 2004).

203 The United Nations Convention on the Rights of the Child, to which Burma is party, states “No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, [or] home....” Convention on the Rights of the Child, supra note 122, at art. 16.1.

204 The United Nations Convention on the Prevention and Punishment of the Crime of Genocide, to which Burma is party, defines genocide as including the deliberate infliction of “conditions of life calculated to bring about its physical destruction in whole or part”. The United Nations Convention on the Prevention and Punishment of the Crime of Genocide art. 2(c), 9 Dec. 1948, 78 U.N.T.S. 277 (ratified Mar. 14, 1956). The International Criminal Tribunal for Rwanda (ICTR) interpreted this clause to include “methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction.” *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment, ¶ 505 (2 Sep. 1998). Methods of destruction have been understood to “include circumstances which will lead to a slow death, for example, lack of proper housing, clothing, hygiene and medical care or excessive work or physical exertion.” *Prosecutor v. Kayishema and Ruzindana*, Case No. ICTR-95-1-T, Judgment, ¶ 115 (21 May 1999).

205 Interview with household no. 049, in Chin State (18 Feb. 2010).

Proportion of reported crimes against humanity, by alleged perpetrator.



Conclusion and Recommendations

EVIDENCE OF CRIMES AGAINST HUMANITY

Our data reveal that Government authorities have perpetrated human rights violations against the Chin ethnic nationality in Western Burma. Although other researchers have posited that a *prima facie* case exists for crimes against humanity in Burma,²⁰⁶ the current study provides the first quantitative data on these alleged crimes. At least eight of the violations that we surveyed fall within the purview of the International Criminal Court and may constitute crimes against humanity.²⁰⁷ The ICC has jurisdiction over “the most serious crimes of concern to the international community,”²⁰⁸ which include genocide, war crimes, and crimes against humanity.²⁰⁹

The Rome Statute enumerates the following human rights violations as crimes against humanity: murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment in violation of international law principles, torture, sexual violence, persecution of any identifiable group or collectivity, enforced disappearance, apartheid, other inhumane acts intentionally causing great suffering or serious injury to body, mental, or physical health.²¹⁰ For the ICC to determine whether such violations constitute a crime against humanity, however, three common elements generally must be established: First, prohibited acts (“attacks”) took place after 1 July 2002 when the ICC treaty entered into force; second, such prohibited acts were committed by government authorities as part of a widespread or systematic attack directed against a civilian population; and third the perpetrator intended or knew that the conduct was part of the attack.²¹¹ Applying our data to the definition of crimes against humanity in the Rome Statute indicates that the crimes in Chin State meet these necessary elements.

1. Prohibited attacks took place after 1 July 2002.

All human rights violations reported by households in this study occurred during the immediate 12 months prior to interview (March 2009 – February 2010) and thus fall within the temporal jurisdiction of the Court.

- 2a. Government forces reportedly commit human rights violations as part of a widespread and systematic attack.

PHR surveyed households throughout Chin State in both rural and urban areas. Data on self-reports of human rights violations reveal that the 1,768 alleged attacks took place in all of Chin State’s nine townships. Although there is no threshold definition of what constitutes “widespread,” these data provide evidence that these reported abuses occurred on a large scale with numerous victims (Table 1). Moreover, 98.3% of all attacks were committed by government agents: SPDC soldiers (68.3%), VPDC authorities (27.5%), police (2.4%), and NaSaKa border forces (0.1%). Coupled with qualitative information that PHR investigators gathered, this quantitative data reveal patterns of abuse that constitute systematic targeting and executing of human rights violations against an ethnic and religious nationality. Results from 32 qualitative interviews among ethnic Chin further reveal a consistent pattern of attack among Burmese SPDC military forces, who systematically patrol villages for recruitment of forced laborers, pillage food and livestock, and persecute individuals and groups based on religion (Christianity) and ethnicity (Chin).

²⁰⁶ Crimes in Burma, *supra* note 77; Threat to the Peace, *supra* note 105.

²⁰⁷ Murder (art. 7.1.a), torture (art. 7.1.f), rape (art. 7.1.g-1), imprisonment (art. 7.1.e), enforced disappearance (art. 7.1.i), group persecution (7.1.h), forced displacement (art. 7.1.d), and other inhumane acts, e.g., forced labor (art. 7.1.k). Rome Statute of the International Criminal Court, *supra* note 59.

²⁰⁸ *Id.*, at art. 5(1).

²⁰⁹ *Id.*, at art. 7(2).

²¹⁰ *Id.*, at art. 7(1).

²¹¹ ICC Elements of Crimes, *supra* note 72.

2b. Attacks in Chin State target civilians.

Our data show that the 1,768 attacks were directed against a relatively large body of civilian victims. Among our sample of 621 households representing 3,281 individuals, 49.9% are male, and 50.1% are female. The mean age is 25.5 years (95% CI 24.6–26.3 years) ranging from newborn to 98 years with the following proportions: <5 years 10.6%, <15 years 35.5%, and >65 years 3.5%. It is unlikely that targeting of armed groups could account for our findings, as there is currently no active armed conflict between ethnic armed forces and the Burmese military in Chin State. Given the lack of evidence of sustained armed conflict and the large numbers of civilians harmed in government attacks, our evidence demonstrates that the attacks were indeed illegally targeting civilians.

3. Attacks in Chin State were committed with knowledge of the attack.

Our data imply knowledge of the attack, but further investigation must determine individual culpability. To meet the third element of the definition of crimes against humanity, the perpetrator must know the wider context in which his acts occur and know that his acts are part of the attack.²¹² The sheer numbers and evidence of a systematic plan of attacks revealed through our research imply that those who carried out attacks on civilians in Chin State knew that the acts were part of an attack and that the individual acts did not occur in isolation. Our study does not, however, address the specific element of individual culpability (*mens rea*) related to perpetrator intent. Thus, further evidence would be needed to establish the third element of individual culpability for these abuses, and this evidence would likely stem from a U.N. Commission of Inquiry or another thorough investigation.

U.N. COMMISSION OF INQUIRY

The United Nations has established several ad hoc commissions of inquiry to investigate genocide,²¹³ killings,²¹⁴ as well as other violations of human rights and humanitarian law.²¹⁵ Either the U.N. General Assembly, U.N. Security Council, or U.N. Human Rights Council has the authority to pass a resolution establishing such a commission. (The U.N. Secretary General could also establish a COI under his own good offices mandate.) The U.N. body that establishes each COI determines its specific mandate, composition of expert members, and reporting mechanism. PHR endorses the call for an official Commission of Inquiry on Burma²¹⁶ whose mandate should be to investigate reports of widespread violations of human rights and humanitarian law and to identify perpetrators of such abuses.

BUILDING A CULTURE OF ACCOUNTABILITY

The prevailing system of impunity in Burma leaves victims without any recourse to justice through the domestic legal system. The ICC was designed to prosecute individuals in countries where impunity, codified or not, establishes domestic roadblocks to justice. The ICC is a court based on the principle of complementarity, meaning that it will admit cases only when domestic courts are unwilling or unable to do so.²¹⁷

²¹² Prosecutor v. Kunarac, Kovac, & Vukovic, Case No. IT-96-23 & IT-96-23/1A, ICTY, Judgment, ¶ 85 [12 Jun. 2002].

²¹³ On the Former Yugoslavia: U.N. Security Council Resolution 780, Oct. 6, 1992, S/RES/780; On Darfur: U.N. Security Council Resolution 1564, 18 Sep. 2004, S/RES/1564.

²¹⁴ On Burundi: U.N. Security Council Resolution 1012, 28 Aug. 1995, S/RES/1012 (1995); On Lebanon: UN Human Rights Council, Resolution S-2/1: The grave situation of human rights in Lebanon caused by Israeli military operations, 11 Aug. 2006, Resolution S-2/1.

²¹⁵ On Darfur: U.N. Security Council Resolution 1564, 18 Sep. 2004, S/RES/1564.

²¹⁶ Countries that support a UN-led Commission of Inquiry on Burma include: Australia, Canada, Estonia, France, Hungary, Ireland, Lithuania, Netherlands, New Zealand, the Czech Republic, Slovakia, the United Kingdom, and the United States. U.S. Campaign for Burma, Countries Supporting a UN-led Commission of Inquiry on Burma, <http://uscampaignforburma.org/countries-supporting-commission-of-inquiry-on-burma> (last visited 8 Dec. 2010).

²¹⁷ Rome Statute of the International Criminal Court, *supra* note 59, at art. 17(1).

Prosecution at the international level is an important step to ending impunity for perpetrators of serious crimes. Action from the ICC not only would provide a measure of justice to victims, but would also deter future crimes – an essential step in establishing the foundation for a peaceful future. The Office of the Prosecutor of the ICC cannot initiate its own investigation of the situation in Burma, because Burma has not ratified the Rome Statute. The U.N. Security Council could, however, use its power under Chapter VII of the U.N. Charter to pass a resolution referring the situation to the ICC.

High-level prosecutions at the ICC are but one step to forming a legal system in Burma that is based on accountability and respect for the rule of law. Any investigation or prosecution must be matched by thorough domestic legal reform. A full investigation into alleged crimes against humanity would lay the groundwork not only for future prosecution of offenders, but also for the creation of a legal and judicial system well-equipped to ensure accountability domestically. Institutional reform is essential to replacing impunity with accountability and to bringing justice and stability to the people of Burma.

RECOMMENDATIONS

Based on our findings and in consultation with our partners, Physicians for Human Rights recommends:

TO THE GOVERNMENT OF BURMA:

- Stop human rights violations against individuals and communities in Chin State and throughout Burma including but not limited to forced labor, killings, beatings, sexual assault, and arbitrary detention.
- Cease the persecution of ethnic groups and religious minorities.
- Conduct a thorough investigation of human rights violations documented in this report.
- Remove provisions of the 2008 Constitution that provide immunity for human rights violations.
- Allow United Nations agencies, officials, and international humanitarian and human rights organizations unrestricted access to provide essential services, and to monitor and conduct investigations into alleged human rights violations throughout the country, especially in remote areas such as Chin State.

TO THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN):

- Call on the Government of Burma to conduct an investigation into human rights violations in the country.
- Ensure that any engagement with Burma centers on human rights and accountability.
- Demand that Burma adhere to its commitments under the ASEAN Charter.
- Work with the United Nations and others in the international community to protect human rights in Burma and end impunity. Support efforts from the United Nations to investigate alleged crimes in Burma.
- Encourage the ASEAN Intergovernmental Human Rights Commission (AICHR) to protect human rights in Burma.

TO CHINA, INDIA, BANGLADESH AND OTHER KEY REGIONAL PARTNERS:

- Exert pressure on the Burmese authorities to respect human rights and promote accountability.
- Ensure access to protection and essential services to those fleeing persecution, human rights violations, and food insecurity in Burma.

TO THE UNITED NATIONS:

- Establish a Commission of Inquiry to investigate reports of human rights and humanitarian law violations in Burma, through the mechanisms of the Human Rights Council, the Security Council, the General Assembly, or the office of the Secretary General.

TO MEMBERS OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL:

- Use Burma's Universal Periodic Review in January 2011 to discuss the human rights violations committed by the authorities in Chin State. Develop recommendations for the government that reflect the information contained in this report. Make public statements calling for an end to human rights violations and impunity.
- Include calls for accountability in official statements and reports of the Human Rights Council.

TO THE UNITED STATES GOVERNMENT:

- Work to build consensus within the international community to support a Commission of Inquiry to investigate crimes against humanity and war crimes in Burma, and press for public support from the EU, ASEAN, and key regional countries.
- Continue to press for national reconciliation, including dialogue incorporating human rights issues, between the government, democratic opposition, and the leaders of ethnic groups, including the Chin.

TO THE OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT:

- Continue monitoring the situation in Burma and liaising with local, regional, and international groups who are trying to end impunity in Burma.
- Encourage open communication between human rights documentation groups and the Office of the Prosecutor, so that the Court can remain informed about human rights violations in Burma.
- Build the capacity of human rights organizations documenting human rights violations in Burma to facilitate future complementary forms of justice, including truth commissions and/or local prosecutions.

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