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“I Thought They Would Kill Me”
Ending Wartime Torture in Northern
Myanmar

June 2014

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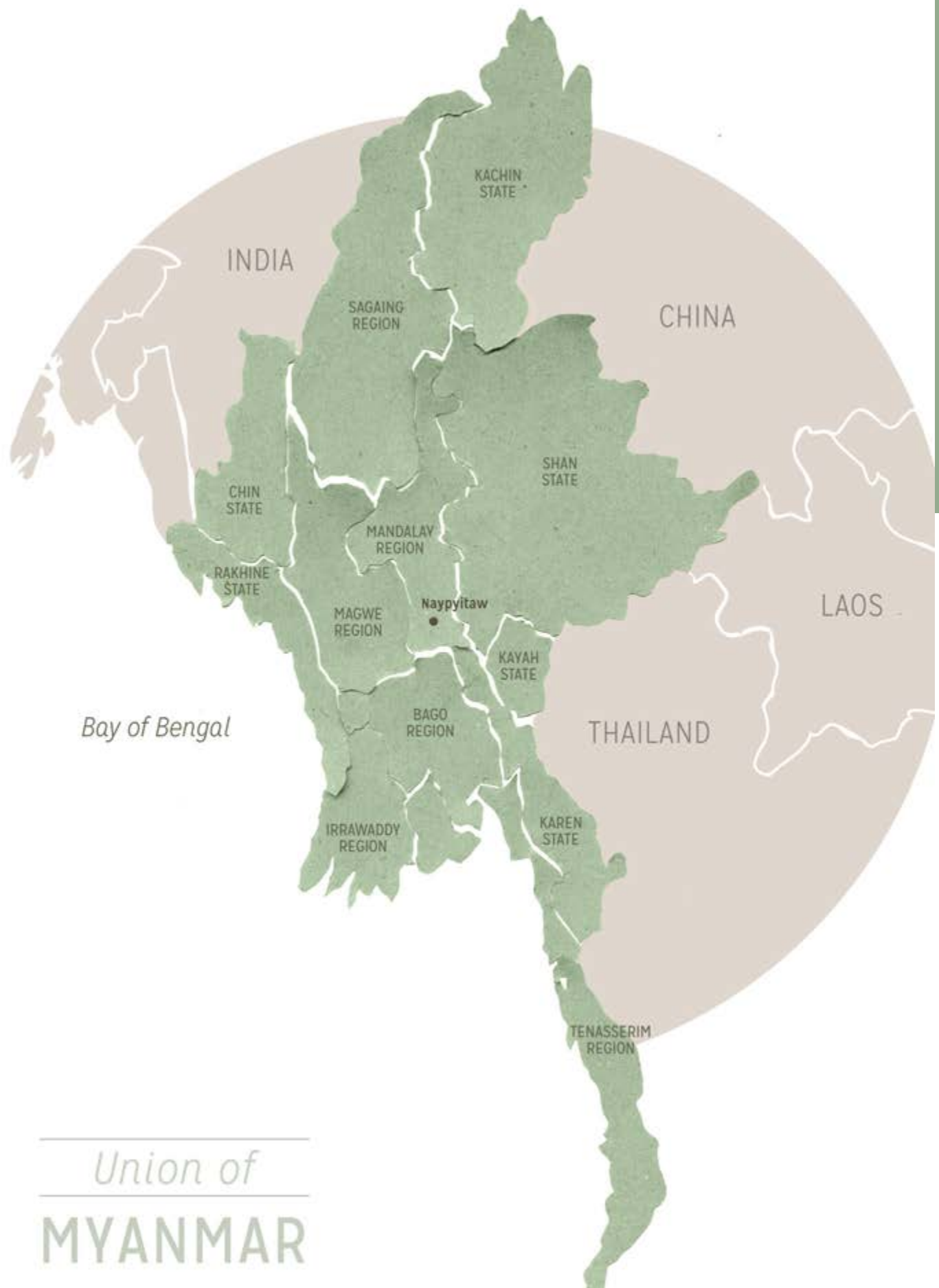


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A lush valley of rice fields in contested territory controlled by the Kachin Independence Army; the site of Myanmar Army attacks in 2013.

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A Roman Catholic Church in Bhamo Township, Kachin State where displaced Kachin join members of the local community to worship. Survivors explained to Fortify Rights how soldiers, police officers, and Military Intelligence officers verbally denigrated the Kachin ethnicity and Christian religious identity during torture sessions. ©Fortify Rights, 2013





Summary

The renewed civil war in Myanmar's Kachin State has displaced more than 100,000 people and involved killings, forced labor, rape, and sexual violence—and it ostensibly began with an alleged case of torture.

On June 8, 2011, near the remote village of Sang Gang in Momauk Township, Kachin State, three fully armed Myanmar Army soldiers entered unannounced into territory controlled by the third brigade of the Kachin Independence Army (KIA), violating the terms of a ceasefire agreement between the two parties that had been in place for 17 years. The KIA—Myanmar's second largest non-state ethnic army—arrested the incoming soldiers, and in a tit-for-tat, the Myanmar Army apprehended 31-year-old KIA Lance Corporal Chang Ying. A prisoner swap was quickly negotiated. On June 10, the KIA released the three Myanmar Army soldiers unharmed. Chang Ying's dead body was returned to the KIA the following day, showing signs he had been severely beaten.

The KIA subsequently released a statement saying that Chang Ying appeared to have been tortured and killed in detention, and photographs of his dead body quickly spread online and throughout Kachin State. In the days that followed, the Myanmar Army attacked KIA outposts in Sang Gang, near the site of the Chinese-investor-led Taping hydropower dam, and beyond. This led to KIA counter attacks, guerilla-style ambushes, and destruction of infrastructure such as railroads, roads, and bridges throughout contested areas. It was not long before the conflict spread to areas controlled by the KIA in neighboring northern Shan State.

A simmering civil war that had plagued Kachin State for 33 of the previous 50 years had thus reignited. Today, three years later, the war continues and the human toll mounts.

“I Thought They Would Kill Me”: Ending Wartime Torture in Northern Myanmar documents the systematic use of torture by Myanmar authorities against Kachin civilians in Kachin State and northern Shan State from June 2011 to April 2014. It chronicles the torture and other cruel, inhuman, and degrading treatment or punishment (“ill treatment”) of more than 60 civilians by members of the Myanmar Army, Military Intelligence, and the Myanmar Police Force.

This report is based largely on 78 interviews conducted by Fortify Rights with survivors and witnesses of torture and abuse, and their family members, in Kachin State and

northern Shan State, as well as with aid workers and KIA officials. Fortify Rights conducted interviews in KIA and government-controlled territory, in towns and villages affected by the conflict, and in numerous internally displaced person (IDP) camps.

Fortify Rights believes the abuses documented in this report may constitute war crimes and crimes against humanity under international law, and at the time of writing the Myanmar government and military authorities have failed to credibly investigate and prosecute the perpetrators of these crimes. The similarities in incidents of torture documented in disparate locations during a three-year period indicate that torture was carried out as part of a widespread and systematic attack against the civilian population with the backing of the state. Civilians were systematically tortured in rural villages, areas of armed conflict, government facilities, and places of detention.

Kachin civilians described to Fortify Rights how Myanmar authorities tied rope or wire around their necks, hands, and feet, in some cases cutting off circulation over extended periods of time, resulting in loss of movement and sensation. Many were subjected to severe beatings during prolonged interrogation sessions, and some reported having metal rods or bamboo rolled on their shins. In some cases, the authorities tied or laid bamboo across the shins and heads of their victims, and stood or jumped on it.

Myanmar Army soldiers forced civilian detainees to dig graves, telling them these were intended for them, only to release them afterward. Eight Kachin farmers were forced to lick pools of their own blood off the ground after prolonged blunt-force beatings. Myanmar authorities deprived detainees of food, water, and normal sensory stimulation, such as access to sunlight. Two torture survivors reported to their families and lawyers that they were sexually assaulted in detention, where they remain at the time of writing. Others were burned with hot blades, stabbed repeatedly in non-lethal, pain-inducing locations, and forced to assume execution-style physical positions while under interrogation.

Fortify Rights also collected evidence of two Kachin civilians who were tortured in the period leading up to their alleged killing by Myanmar Army soldiers, in addition to the torture and killing of KIA Lance Corporal Chang Ying. Photographs of the bodies of these individuals are on file with Fortify Rights and indicate severe beatings to the face and head.

Fortify Rights documented systematic patterns of unlawful forced labor exacted by the Myanmar Army that invariably featured instances of torture.

Myanmar authorities routinely resorted to torture to retaliate against civilians with a perceived sympathy for the KIA. In nearly every case documented by Fortify Rights, the authorities used the agony and indignity of torture to attempt to elicit information from Kachin civilians about the locations, weapons, and movements of KIA soldiers. While Military Intelligence and Myanmar Police Force officers also tortured Kachin civilians in detention, Myanmar Army soldiers committed most of the torture documented in this report, largely in the context of forced displacement, village occupation, or during roving patrols through contested territory.

In some cases, the Myanmar Army tortured Kachin civilians as retribution for battlefield casualties inflicted by the KIA. “After the [Myanmar Army] soldiers were defeated elsewhere, they came back to the village, and that’s when we were tortured,” 27-year-old farmer “Naw Din” told Fortify Rights. “They hit me with the long part of their guns. Sometimes they hit me in the forehead.”

Torture sessions were also typically infused with elements of ethnic and religious discrimination. Survivors explained to Fortify Rights how soldiers, police officers, and Military Intelligence officers verbally denigrated the Kachin ethnicity and Christian religious identity during torture sessions. In several cases, these statements included threats that the authorities would destroy the Kachin ethnicity. A Kachin survivor described the threats he received from an army official during an interrogation session where torture was employed: “You [Kachin] are our soldiers’ leftover kids, the products of our military expeditions. We will eliminate all you Kachin.” Another survivor was told, “We will kill you, and we will burn the children in the fire and then crush them”; and another was told, “You are Kachin, and we will kill all the Kachin. Even if the women are pregnant, we will kill them.”

All instances of torture documented by Fortify Rights were perpetrated against Kachin males suspected of involvement with the KIA or perceived to be sympathetic to the KIA. Myanmar civil society organizations, however, have documented widespread rape and sexual violence directed at women in Kachin State and northern Shan State since the outbreak of hostilities in June 2011. International criminal tribunals have held that rape and sexual violence can constitute torture under international law in the context of armed conflict. Credible reports of sexual violence in northern Myanmar factored into a March 13, 2014, report to the UN Security Council by UN Secretary General Ban Ki-moon, “Conflict-Related Sexual Violence,” in which he called on the government of Myanmar to “fully investigate and respond to current and historical human rights violations and abuses, including crimes of sexual violence.”

Since 2011, at least ten Myanmar Army combat divisions, each with ten battalions, have been deployed in the war in Kachin State and northern Shan State. Through interviews with torture survivors, Fortify Rights identified eight Myanmar Army infantry and light infantry battalions and divisions with soldiers who committed torture since June 2011. Many more units were likely involved in committing torture. The list compiled by Fortify Rights is limited by unaccommodating conditions of research in situations of armed conflict, and by limitations in survivors' knowledge of the identities of their perpetrators. Most survivors and villagers were unable to identify offending battalions.

With respect to rights abuses perpetrated by the KIA, Fortify Rights shares concerns expressed by the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, regarding allegations of the KIA's ongoing use of child soldiers, forced labor, and antipersonnel landmines. The investigation by Fortify Rights did not reveal instances of torture committed by KIA authorities."

* * *

In October last year, "Maru Seng," a 45-year-old Kachin farmer from Nam Phu village, Mansi Township, Kachin State, was tied with wire around his neck, hands, and feet, denied food and water, and beaten severely by Myanmar Army soldiers from a unit he identified as number 21. He attempted to escape and was shot in the head by a Myanmar Army soldier, only to survive to endure more torture.

"I thought they would kill me," he said.


Maru Seng is the only torture survivor interviewed by Fortify Rights who reported having seen a medical professional after he was tortured—he received a quick injection of antibiotics by military-affiliated medical personnel upon his release. Many survivors reported confusion as to whether and how they might access medical care. The general understanding among the displaced Kachin population is that health care is not a right but rather an out-of-reach privilege.

Survivors of torture interviewed by Fortify Rights demonstrated symptoms suggestive of anxiety disorders and other psychological impacts of trauma. All reportedly endured untreated physical pain and complications as a direct result of the torture inflicted upon them by Myanmar authorities.

A 29-year-old Kachin man living in an IDP camp in government-controlled territory told Fortify Rights: “Sometimes when I breathe I feel a sharp needle-like pain in my side. I think it is from when they hit me with the butts of their guns. I haven’t seen any doctors. I don’t know where I would go to see a doctor.”

In addition to enduring torture, all survivors interviewed by Fortify Rights were forcibly displaced—in some cases enduring multiple displacements—and also witnessed or suffered additional human rights violations, which are a part of an ongoing investigation by Fortify Rights. These experiences compound the social, psychological, and physical harms resulting from torture, indicating the extent of medical needs of torture survivors.

Protection shortfalls and gaps in aid were particularly striking in government-controlled territory, where United Nations agencies and humanitarian organizations are currently present and have had access for nearly three years. Existing gaps in livelihoods in IDP camps have led civilians to take risky journeys back to their abandoned villages in attempts to tend to their land, or to embark on other potentially dangerous work-related travel. In several cases documented by Fortify Rights, Kachin men in these circumstances encountered Myanmar Army soldiers and were tortured.



Torture survivor and father of three, Brang Shawng, 26, at a camp for displaced persons in government-controlled territory. “I was laid on the ground and they put bamboo across my shins and my head, and they stood on it. They also rolled the rods down my shins. ‘Admit you are a KIA soldier!’ they said.”

See page 38.

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* * *

International law bans torture in every context. Torture is defined as the intentional infliction of “severe pain or suffering, whether physical or mental,” for specific purposes such as obtaining “information or a confession,” as punishment, as intimidation or coercion, “or for any reason based on discrimination of any kind.” Cruel, inhuman, and degrading treatment or punishment (“ill-treatment” or “outrages upon personal dignity”) involves the infliction of “significant” physical or mental pain or suffering.

Myanmar authorities had victims within their control, inflicted severe suffering upon them, and did so in the context of an attack against a civilian population. As such, incidents documented by Fortify Rights appear to meet pertinent statutory requirements of torture as a crime against humanity.

Myanmar authorities carried out these acts in the context of a non-international armed conflict; they caused “severe” physical and mental harm to the survivor, and they engaged in such activities in order to elicit information, force confessions, or otherwise humiliate or degrade the dignity of the survivor. In all instances, perpetrators were aware of the factual circumstances of the armed conflict and the victims’ civilian status. As such, incidents documented by Fortify Rights appear to meet the statutory requirements of torture as a war crime.

Fortify Rights found that Myanmar Army soldiers are operating within a permissive environment with respect to the use of torture, and torture appears to be carried out with the knowledge and consent of senior military officers. The widespread perpetration of torture—in many cases in front of commanding officers—demonstrates the implausibility that military commanders were unaware of the abuses being carried out by their subordinates. Reporting by local human rights defenders, nongovernmental organizations, journalists, and the UN Special Rapporteur on the situation of human rights in Myanmar likewise documents the use of torture in the conduct of the war, providing further basis for the knowledge of superior officers. Commanders—including senior military officers—could be held liable for torture under a theory of command responsibility.

States have an obligation to hold accountable individuals who commit torture in the conduct of armed conflict, and perpetrators can face criminal prosecution for war crimes and crimes against humanity in domestic or international courts.

* * *

The dead body of Sumlut La Gun, 38, discovered July 30, 2013, in Hka Len, northern Shan State, after Myanmar Army Infantry Battalion 242 brought him into custody. Photographs of his body indicate severe beatings to his face and head.

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Since 2011, the government of Myanmar and the KIA have held several peace talks in China, Thailand, and Myanmar. Nevertheless, armed conflict and human rights abuses continue at the time of writing. The ongoing torture of Kachin people by Myanmar authorities further alienates the civilian population from the peace process and poses a significant obstacle to reconciliation.

However, there are some positive developments in the area of combatting torture in Myanmar. Officials at the highest levels of the government of Myanmar have expressed to UN officials a desire for the government to ratify the UN Convention against Torture in order to continue the process of political reform that began in earnest in 2010. District and high court judges are now reportedly using their powers to conduct prison inspections and send recommendations to the Cabinet of the government of Myanmar, and the authorities are continuing to cooperate with the International Committee of the Red Cross, which resumed prison visits in Myanmar in January 2013. The Myanmar Police Force has also reportedly implemented measures to combat torture by police officers, including the strategic installment of CCTV cameras in police facilities.

While these are all positive developments, they have not led to a decrease in the use of torture in northern Myanmar, and they are not designed to hold perpetrators of torture accountable or to change the behavior of the Myanmar Army, which is responsible for the majority of the instances of torture described in this report.

A comprehensive legal and ground-level effort led by the government of Myanmar and informed by the concerns of people in Kachin State, Shan State, and other areas affect-

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An internally displaced person (IDP) camp on the Myanmar-China border. More than 100,000 civilians have been forcibly displaced to 165 IDP camps since June 2011 due to the armed conflict and threats of abuse.

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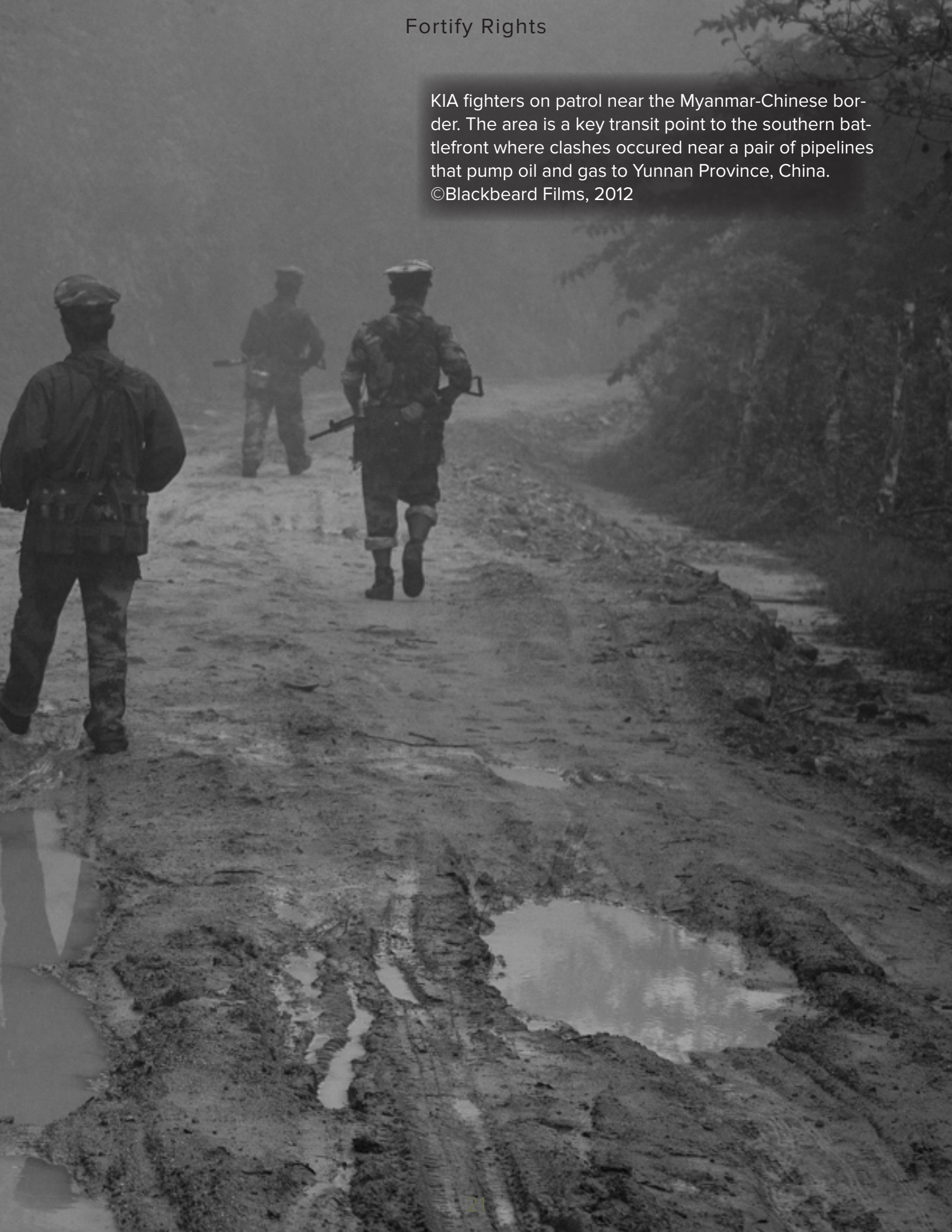
Key Recommendations to the Government of Myanmar

- Make all efforts to end the use of torture and other cruel, inhuman, and degrading treatment or punishment in the conduct of the war in Kachin State and northern Shan State, and in the rest of Myanmar. Publicly condemn the use of torture and other cruel, inhuman, and degrading treatment or punishment and communicate the illegality of torture specifically to the Myanmar Army, the Myanmar Police Force, and Military Intelligence.
- Investigate credible allegations of torture, and ensure that perpetrators are held accountable, regardless of rank or position, and are provided with due process rights and trials that meet international fair trial standards.
- Provide United Nations and national and international humanitarian agencies with safe, sustained, and unfettered access to all areas with internally displaced populations in Kachin State and northern Shan State, and make an explicit long-term commitment to authorize relief, recovery, and eventual development support to populations in need in all conflict-affected areas.
- Ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol.



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KIA fighters on patrol near the Myanmar-Chinese border. The area is a key transit point to the southern battlefield where clashes occurred near a pair of pipelines that pump oil and gas to Yunnan Province, China.
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Methodology

Fortify Rights conducted research for this report in accordance with the methods and ethical standards outlined in the *Istanbul Protocol*, which provides international guidelines for the effective investigation and documentation of torture and other cruel, inhuman, or degrading treatment or punishment.¹

Fortify Rights staff worked closely with Kachin human rights defenders to conduct this research and continues to provide technical support to strengthen local responses to abuse.

This report is based primarily on 78 interviews conducted from September 2013 to April 2014 with survivors and witnesses of human rights violations, including 42 interviews in government-controlled territory in Kachin State and 36 interviews in KIA-controlled territory in Kachin State and Northern Shan State. In addition, Fortify Rights conducted several formal and informal focus group interviews with internally displaced persons (IDPs) and Kachin aid workers, and maintained communications with various actors in Kachin State through June 2014.

In armed conflict zones, IDP camps, and other settings, Fortify Rights staff conducted in-person interviews with witnesses and survivors of abuse, and local and international aid workers. Staff also interviewed two senior KIA representatives and one mid-level KIA official. In KIA territory, Fortify Rights visited four IDP camps (Hpare; Nhkawng Pa; Pan Khatung; Maijayang town) and four boarding houses for displaced students, and in government-controlled territory, staff visited seven of the largest IDP camps in Myitkyina, Bhamo, Momauk, and Mansi townships. Fortify Rights also met with international aid workers, diplomats, journalists, and others familiar with the situation of human rights in Kachin State.

Most interviews were conducted in Kachin languages with English interpretation, and in some cases, interviews were conducted in English. None of the interviewees received compensation and all were informed of the purpose of the interview, its voluntary na-

1 Office of the United Nations High Commissioner for Human Rights, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Professional Training Series No. 8/Rev. 1 (New York and Geneva, 2004), available at <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>.

ture, and the ways in which the information they shared might be used. All provided informed consent. Interviews with people who demonstrated high levels of distress were stopped.

In the interest of the security of people who spoke to Fortify Rights, locations of interviews in Myanmar have been generalized to the state-level, and other identifying information has been withheld. We have used pseudonyms or random initials for all Kachin civilians named in this report, unless otherwise indicated.

Fortify Rights documented incidents involving more than 60 victims of torture committed by Myanmar Army soldiers, Military Intelligence, and the Myanmar Police Force, occurring from June 2011 to April 2014. Testimonial evidence includes direct testimony from 19 survivors of torture, 15 witnesses of torture, and several family members, acquaintances, and lawyers of torture survivors. Several survivors of torture witnessed scores of other instances of torture and ill treatment, often in the context of other human rights abuses, such as forced labor and killings.

Myanmar is now home to a dynamic civil society, including grassroots organizations working on human rights issues. Nevertheless, the government of Myanmar still does not fully allow independent nongovernmental organizations to freely monitor human rights issues inside its borders. Many international organizations that are operational in Myanmar risk losing their authorization to work in the country if they speak freely about human rights violations, and many community-based organizations focusing explicitly on human rights still face challenges, such as difficulties in obtaining legal registration, while also coping with well-founded fears of persecution. Human rights defenders in Kachin State and Shan State are at particular risk of persecution for their work. This context creates challenges in conducting human rights work in Myanmar.

The Kachin Independence Organization (KIO) and the Kachin Independence Army (KIA) allow independent nongovernmental organizations to monitor human rights issues within territory under their control. The government of Myanmar, however, does not allow independent nongovernmental organizations—particularly international organizations—to travel freely to KIO/KIA territory.

Due perhaps to high levels of Kachin nationalism, few Kachin will speak critically about the KIO or KIA—even if abuses are known to have occurred—which makes it difficult to obtain and verify credible information regarding human rights issues. The KIO has been

willing, however, to speak freely with Fortify Rights about human rights issues in Kachin State, including alleged abuses by KIA. Fortify Rights did not document torture by the

KIA and did not receive reports of torture by KIA authorities.

This research is not exhaustive. It was restricted to certain geographic areas due to the nature of the conflict, security concerns, and other logistical constraints. Nevertheless, the findings of the report indicate a pervasive use of torture by Myanmar authorities against Kachin civilians over a three-year period that appears to reflect a broader trend in the use of torture and ill treatment in the conduct of the war.

I. Background

The Kachin people are a predominantly Christian ethnic nationality of Myanmar living mainly in Kachin State, with smaller pockets throughout the country and in border regions of China and India.² They are a highland indigenous people with unique customs, rich traditions, and age-old social practices.³

Myanmar is one of the world's most diverse countries. Its seven states and seven regions are largely separated on ethnic grounds, with the country's ethnic nationalities located primarily in natural resource-rich states forming a periphery around the ethnic-Burman majority lowland regions. The Burman, or Bama, majority represents roughly 60 percent of the population while scores of ethnic nationalities, including the Kachin, comprise the rest.⁴

From 1824 to 1948, Myanmar was under British colonial rule, which left an indelible mark on its internal borders and exacerbated ethnic divisions. Prior to independence, democracy leader Aung San—father of Nobel laureate Aung San Suu Kyi—engineered the historic Panglong Agreement of February 12, 1947, which was meant to ensure greater ethnic rights and autonomy for ethnic states in a federal union.⁵ Its prospects crumbled upon the assassination of Aung San and six of his cabinet ministers on July 19, 1947, and the promises of Panglong were never realized. These political developments laid the groundwork for numerous ethnic wars that remain unresolved today.

Following independence in 1948, the Kachin and other ethnic nationalities felt increasingly marginalized by what they interpreted as a failure by the ethnic-Burman led central

² The government of Myanmar controversially recognizes 135 ethnic nationalities, several of which comprise the collective ethnicity known as “Kachin.”

³ See Bertil Lintner, *The Kachin: Lords of Burma's Northern Frontier* (New Zealand: Sollo Development, 1997).

⁴ The government of Myanmar controversially recognizes 135 ethnic nationalities and it used its categorizations to conduct a deeply flawed census in 2014, with support from the UN Population Fund (UNFPA), the UK government, and others.

⁵ The Panglong Agreement involved the Kachin, Chin, and Shan ethnic groups.

government to ensure their rights and autonomy. In 1960, Myanmar General Nu negotiated with the Chinese government in Beijing to determine the geographic boundaries of territories along the shared border with China, including Kachin State. Nu allegedly failed to consult the Kachin public or leadership before the new border split Kachin communities along the border, with some in China and others in Myanmar.⁶ Around the same time, he decreed Buddhism to be Myanmar's state religion, making Myanmar a non-secular Buddhist state. Ethnic leaders interpreted these developments as affronts to their culture and political aspirations.⁷

In February 1961, Kachin nationalists formed the Kachin Independence Organization (KIO) and the Kachin uprising against the central government of Myanmar—then called “Burma”—began. The following year, Myanmar underwent a bloodless military coup d'état by Burmese General Ne Win, marking the beginning of a repressive, xenophobic, and durable military dictatorship that would last nearly fifty years.

Unsurprisingly, the military coup added intensity to the pre-existing ethnic rebellions, particularly among the KIA, which proceeded to hold influence over large swaths of Kachin State and areas of northern Shan State. Far from a “clear-cut battle between government forces and the rebels,” however, at the time the non-state ethnic armies “clashed frequently with each other, and sometimes even with units from the same group.”⁸ The KIA and the Communist Party of Burma (CPB), in particular, battled each other until 1976, when they joined forces against the military regime. All sides to the conflict were reportedly responsible for human rights violations.

The Burmese-led military junta evolved into a durable military dictatorship and was indiscriminate in its abuses, targeting ethnic Burmans and ethnic nationalities alike, imprisoning thousands of dissidents and using violence in response to challenges to its iron-fisted rule. The military leadership seized upon the existence of nearly twenty non-state armies in ethnic states as justification for its authoritarian conduct, arguing that the military's role in the political life of the nation was essential to hold the country together, an idea that still holds sway in Myanmar's present-day political capital, Naypyidaw. Brutal, lawless counterinsurgency campaigns by the Myanmar Army ensued and lasted decades.⁹

⁶ There are at least 130,000 Kachin citizens of China in Yunnan Province, according to China's 2010 population census.

⁷ See Lian H. Sakhong, *In Search of Chin Identity: A Study in Religion, Politics, and Ethnic Identity in Burma* (Copenhagen: NIAS Press, 2003).

⁸ Lintner, *The Kachin: Lords of Burma's Northern Frontier*, p. 131.

⁹ For extensive documentation of these, conducted over the course of 23 years, see generally Karen Human Rights Group, “Reports,” www.khrg.org/reports (accessed May 20, 2014). See Harvard Law School International Human Rights Clinic, *Crimes in Burma*, May 2009, http://www.law.harvard.edu/news/2009/05/28_burma.html (accessed May 20, 2014); Harvard Law School International Human Rights Clinic, Policy Memorandum

Over the years, the KIO developed a parallel state with its own systems of education, justice, development, social welfare, health, and so forth. The KIA had grown to be Myanmar's second largest non-state ethnic army, garnering widespread moral support among Kachin people.

From the 1960s to the 1990s, the war in Kachin State featured severe human rights violations, including torture by Myanmar authorities. Several Kachin explained to Fortify Rights how they endured torture in earlier phases of the conflict. A 60-year-old farmer, whom Myanmar Army soldiers suspected to be affiliated with the KIA, told Fortify Rights about torture he endured in 1987:

They tied me up and put me in the bullet store room and they kept me there for two days with no food. They hit, punched, kicked and smashed me with their guns. I was bleeding and wounded on my head. And with the knife they cut my throat [shows scars]. They kicked and broke my ribs.¹⁰

Another Kachin man explained to Fortify Rights how he was apprehended by the Myanmar Army and tortured in 1989:

They tied me up naked. I was 19 years old. They tied my hands and hung me above the ground for one full day. After that, for one year I couldn't feel my left hand. Even if you bit it, I wouldn't feel it. From 8:00 a.m. to 6:00 p.m. they hung me. After 6:00 p.m. they let me down and said no matter where I go, I have to report to them. I didn't go back, I just fled to this area [in China] back then.¹¹

Following unsuccessful peace talks over the years and the disbandment of the CPB in 1989, the Myanmar Army and the KIA signed a ceasefire agreement in 1994. The 1994 ceasefire brought an end to the fighting but did not adequately address impunity for human rights abuses, and thus violations continued.¹²

dum: Preventing Indiscriminate Attacks and Willful Killings of Civilians by the Myanmar Military, March 2014, <http://hrp.law.harvard.edu/arms-and-armed-conflict/clinic-calls-on-myanmar-military-to-reform-policies-to-prevent-unlawful-attacks-on-civilians/> (accessed May 20, 2014); Human Rights Watch, *"Untold Miseries": Forced Displacement and Wartime Abuses in Burma's Kachin State*, March 2012, <http://www.hrw.org/reports/2012/03/20/untold-miseries> (accessed May 20, 2014); Human Rights Watch, *Burma: "We are Like Forgotten People": The Chin People of Burma: Unsafe in Burma, Unprotected in India*, January 2009, <http://www.hrw.org/de/reports/2009/01/27/we-are-forgotten-people-0> (accessed May 20, 2014); Human Rights Watch, *Burma: "They Came and Destroyed Our Village Again": The Plight of Internally Displaced Persons in Karen State*, June 2005, <http://www.hrw.org/reports/2005/06/09/they-came-and-destroyed-our-village-again> (accessed May 20, 2014).

10 Fortify Rights interview with B.E.Z, Kachin State, Myanmar, August 3, 2011.

11 Fortify Rights interview with E.F.Z., Yunnan, China, August 10, 2011.

12 Fortify Rights documented abuses that occurred during the ceasefire period of 1994-2011, including forced

In 2010, the ruling military dictatorship began transitioning from five decades of direct military rule to a quasi-civilian government, undergoing significant political changes. Between 2010 and 2013, the government of former military general President Thein Sein freed more than one thousand political prisoners and increased media freedoms. Civil society throughout the country began to operate relatively freely, openly focusing on previously taboo subjects such as human rights, corruption, and land confiscation. Exiled activists returned to the country en masse, with some taking positions advising President Thein Sein.

These changes are often cited as representative human rights reforms. Significant and lasting improvements in the situation of human rights, however, have yet to take hold throughout the country.¹³ In Kachin State, the human rights situation has worsened considerably during Myanmar's period of political transition.

In June 2011, after months of rising tensions between the Myanmar authorities and the KIA, the Myanmar Army allegedly detained, tortured, and killed KIA Lance Corporal Chang Ying in an area surrounding the Taping Dam, a Chinese-investor-led hydropower dam. The Myanmar Army battalions 437 and 348 subsequently attacked the KIA's Third Brigade base at Bum Seng near Sang Gang village, Momauk Township, forcibly displacing local Sang Gang villagers and in some cases opening fire on civilians.¹⁴ Each party to the conflict claimed the other was responsible for the breaking of the ceasefire and resumption of the conflict.¹⁵

Today, more than 110,000 civilians have been forcibly displaced to 165 internally displaced person (IDP) camps in Kachin State and northern Shan State.¹⁶ Tens of thousands of others have fled back and forth to Yunnan Province, China. At the time of writing, fighting continues between the Myanmar Army and the KIA, as well as with the Shan

labor and land confiscation by the Myanmar Army and Myanmar Army-affiliated parties, as well as the use of child soldiers by the KIA. Fortify Rights interviews, Kachin State, Myanmar, 2013.

13 The government of Myanmar has not ratified major human rights conventions, problematic laws used to arrest dissidents remain in effect, and a wide variety of human rights violations continue to be perpetrated throughout the country.

14 The proximate events preceding the conflict included a reference to the KIA as a "terrorist organization," as opposed to a "ceasefire organization," printed in the state-run newspaper, and the torture and killing of KIA soldier Chang Ying by Myanmar Army soldiers at Bum Seng, near Sang Gang village in Momauk Township, Kachin State. Many Kachin interviewed by Fortify Rights interpreted the killing of Chang Ying as a deliberate provocation to war. For information on the Myanmar Army targeting civilians in Sang Gang, see Human Rights Watch, *"Untold Miseries,"* pp. 37-38.

15 See "KIA Denies Starting War with Burmese Army," *Kachin News Group*, June 24, 2011, <http://www.kachin-news.com/news/1957-kia-denies-starting-war-with-burmese-army.html> (accessed May 20, 2014).

16 At the time of writing, there are 141 IDP camps in Kachin State and 21 IDP camps in northern Shan State. Myanmar Shelter Cluster, "Cluster Report," March 1, 2014, on file with Fortify Rights.

State Army-North and the Ta'ang (Palaung) National Liberation Army.

* * *

Torture has been a problem in Myanmar for decades. During the 1962-2010 period of direct military rule, state security forces and government officials committed torture with impunity in prisons, detention facilities, and throughout conflict-affected ethnic territory. Authorities used torture in attempts to elicit information, compel false confessions, and instill fear in broader networks of political dissidents, journalists, human rights activists, and anyone suspected of criticizing the state.

Thousands of former political prisoners, released in recent years through amnesties issued by President Thein Sein, endured ruthless torture and other cruel, inhuman, and degrading treatment or punishment in detention. The Assistance Association for Political Prisoners (Burma) has consistently documented physical, psychological, and sexual abuse of political prisoners in Myanmar.¹⁷ Myanmar's late human rights and democracy leader U Win Tin, jailed in 1989 and released in 2011, chronicled torture he endured in his 2010 memoir, *What's That? A Human Hell*. U Win Tin was confined in inhuman conditions, denied medical treatment and adequate food and water, and tortured by security officials.¹⁸

More recently, research by the Network for Human Rights Documentation—Burma (ND-Burma) documented 83 cases of torture throughout Myanmar from January to December 2011, showing a pattern of widespread torture in places of detention as well as in ethnic areas.¹⁹

Many of Myanmar's most notorious officials and former officials responsible for widespread and systematic torture walk free in the country, secure in the knowledge the state lacks both the capacity and will to prosecute them.²⁰ Today, Myanmar's long tradition of impunity continues.

This report is the first to focus exclusively on torture in Kachin State and northern Shan State. However, Fortify Rights is not alone in documenting torture in the conduct of the

17 See Assistance Association for Political Prisoners (Burma), *The Darkness We See: Torture in Burma's Interrogation Centers and Prisons*, December 2005, http://www.aappb.org/tortour_report.pdf (accessed May 20, 2014).

18 See "Burma: A Tribute to U Win Tin," Human Rights Watch, April 22, 2014, <http://www.hrw.org/news/2014/04/22/burma-tribute-u-win-tin> (accessed April 22, 2014).

19 See Network for Human Rights Documentation—Burma, *Extreme Measures: Torture and Ill Treatment in Burma Since the 2010 Elections*, May 2012, http://www.burmalibrary.org/docs13/Extreme_Measures-en-red.pdf (accessed May 20, 2014).

20 See "They Must Apologize to the People," *Irrawaddy*, April 23, 2014, <http://www.irrawaddy.org/interview/must-apologize-people.html> (accessed May 20, 2014).

war. National and international organizations, the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, and others have documented and reported on numerous cases of torture and ill treatment in Kachin and northern Shan states since June 2011.²¹

In March 2014, Minister of Home Affairs Lieutenant-General Ko Ko informed the UN Special Rapporteur on the situation of human rights in Myanmar that Myanmar was using closed-circuit television (CCTV) cameras in all city police stations as a means to tackle the practice of torture.²² District and high court judges are now reportedly using their powers to conduct prison inspections and send recommendations to the Cabinet.²³ The government has also continued to cooperate with the International Committee of the Red Cross, which resumed prison visits in Myanmar in January 2013.²⁴

However, in response to the UN Special Rapporteur's final report to the UN Human Rights Council, which documented the use of torture in detention, Myanmar did not concede that torture is occurring or acknowledge it as a problem, but instead reported to the UN Human Rights Council: "By using CCTV cameras, families and communities can watch interrogations and it would be able to record and use in courts as evidences [sic] if necessary."²⁵ Fortify Rights was unable to confirm the use of CCTV cameras in city police stations throughout Myanmar or Kachin State.

Myanmar has not ratified the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.²⁶

21 A June 2012 unpublished report by the Human Rights Action Group, a network of Kachin activists, documented numerous cases of torture in 2011 and 2012 (see Human Rights Action Group, *Dignity Uprooted: Denied Human Rights in the Armed Conflict in Kachin State and Northern Shan State*, June 2012, unpublished report on file with Fortify Rights); The Asian Human Rights Commission (AHRC) likewise documented 36 cases of arrest, detention, torture, and extortion in 2012 in Kachin State (see "Burma: Dossier of Cases from Kachin State Released," AHRC press release, January 21, 2013, <http://www.humanrights.asia/news/press-releases/AHRC-PRL-002-2013> (accessed May 31, 2014)); The Shan Human Rights Foundation (SHRF) documented torture in the context of a Myanmar Army offensive in March 2014 in northern Shan State (see "Spreading Burma Army attacks and abuses against civilians in Shan State undermine nationwide ceasefire negotiations," *SHRF Action Update*, March 28, 2014, http://www.shanhumanrights.org/index.php?option=com_content&view=article&id=398:28-march2014&catid=75:action-updae (accessed May 31, 2014)); and a 2012 report by Human Rights Watch documented several cases of torture by the Myanmar Army, including torture of Kachin boys as young as 14 (Human Rights Watch, *Untold Miseries*, pp. 34-25, 40-43).

22 UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, A/HRC/25/64, April 2, 2014, <http://www.ohchr.org/en/countries/asiaregion/pages/mmin-dex.aspx> (accessed May 24, 2014), pp. 4, 5.

23 Ibid.

24 Ibid.

25 Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, Addendum, Comments by the State, A/HRC/25/64/Add.1, March 12, 2014, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-64-Add1_en.doc (accessed May 24, 2014).

26 The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT),

II. Torture and III-Treatment in Kachin State and Northern Shan State

“They forced us to lick our own blood. We had to lick our own blood off the ground. After that, they sent us to another place and they started the routine again—the routine of beating us, again and again. We were tied up the entire time.”

—“Tun Din,” 30, Namlimpa village, Kachin State, Myanmar, November 23, 2013

“After the Bama [Myanmar Army] soldiers were defeated elsewhere, they came back here to the village, and that’s when we were tortured.”

—Kachin man, 27, Kah Wa Bang village, Kachin State, Myanmar, November 21, 2013

Fortify Rights documented torture by the Myanmar Army in rural villages and remote areas of active armed conflict, and by the Myanmar Police Force and Military Intelligence in government facilities and detention centers. Incidents documented by Fortify Rights occurred between June 2011 and April 2014; most incidents involved torture and ill treatment by Myanmar Army soldiers.

Since 2011, more than 100 Myanmar Army battalions have been deployed to Kachin State and northern Shan State. Through interviews with torture survivors, Fortify Rights identified eight Myanmar Army infantry and light infantry battalions and divisions with soldiers who committed torture since June 2011, identified by the numbers 21, 37, 99, 242, 271, 437, 438, and 567. Many more units were likely involved in committing torture. This list compiled by Fortify Rights is non-exhaustive, limited by research restrictions due to the armed conflict and by limitations in survivors’ knowledge of the identities of their perpetrators. Most survivors and villagers were unable to identify an offending battalion.

All instances of torture and ill treatment documented by Fortify Rights were committed against Kachin men suspected of harboring sympathy for or having affiliation with the KIA. Extensive work by Myanmar civil society organizations, however, has documented rape and sexual violence of women in Kachin State and northern Shan State since the outbreak of hostilities in June 2011.²⁷ International criminal tribunals have held that sex-adopted by the UN General Assembly, Res. 39/46, 10 December 1984, not ratified by Myanmar.

²⁷ See Women’s League of Burma (WLB), *Same Impunity, Same Patterns: Sexual Abuses by the Burma Army Will Not Stop Until There Is a Genuine Civilian Government*, January 2014, http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf (accessed May 25, 2014). The WLB report includes information provided by the Kachin Women’s Association of Thailand (KWAT), which documented 59 women victims of sexual violence by Myanmar Army soldiers since the conflict began, and information provided by the Shan Women’s Action Network (SWAN), which documented 30 cases of sexual violence involving 35 women and girls since June 2011.

“I Thought They Would Kill Me”

ual violence perpetrated in the context of armed conflict can constitute torture under international law.²⁸ Credible reports of rape and sexual violence in northern Myanmar factored into a March 13 report to the UN Security Council by UN Secretary General Ban Ki-moon, “Conflict-Related Sexual Violence,” in which he calls on the government of Myanmar to “fully investigate and respond to current and historical human rights violations and abuses, including crimes of sexual violence.”²⁹

With respect to rights abuses perpetrated by the KIA, Fortify Rights shares concerns expressed by the UN Special Rapporteur on the situation of human rights in Myanmar regarding allegations of the KIA’s ongoing use of child soldiers, forced labor, and anti-personnel landmines.³⁰ The investigation by Fortify Rights did not reveal instances of torture committed by KIA authorities.

* * *

Fortify Rights documented several trends in the torture of Kachin civilians by Myanmar authorities. In several disparate cases, roving Myanmar Army soldiers apprehended able-bodied men in response to chance encounters, tied them with rope or wire, used them for forced labor between villages, beat them severely while questioning them about the KIA, and denied them food and water.

For instance, in October 2013, Myanmar Army soldiers entered the predominantly ethnic Kachin village of Mung Ding Pa, where the only remaining residents were a few Kachin men working their farms. Women, children, and elderly villagers had already fled, fearing violence or abuse from Myanmar Army soldiers. At the time, “Nhkum La,” 31, was

walking a narrow dirt road in Mung Ding Pa, returning from his farm with his elder brother when they unexpectedly stumbled upon several hundred well-armed Myanmar Army soldiers. Nhkum La told Fortify Rights:

28 *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* (Foca case), International Criminal Tribunal for the former Yugoslavia, Case No. IT-96-23 and IT-96-23/1, Judgment (Appeals Chamber), June 12, 2002, <http://www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf> (accessed June 1, 2014), para. 150. “Generally speaking, some acts establish per se the suffering of those upon whom they were inflicted. Rape is obviously such an act.” For comprehensive analysis of rape as torture, consider paras. 142-156.

29 Nyein Nyein, “UN Chief Calls for Burma to Investigate Military Rape Claims,” *Irrawaddy*, April 24, 2014, <http://www.irrawaddy.org/burma/un-chief-calls-burma-investigate-military-rape-claims.html> (accessed May 25, 2014).

30 See “Statement by UN Special Envoy on Human Rights, Tomás Ojea Quintana,” *Mizzima*, February 21, 2014, <http://www.mizzima.com/opinion/commentary/item/10928-statement-by-un-special-envoy-on-human-rights-tomas-ojea-quintana/10928-statement-by-un-special-envoy-on-human-rights-tomas-ojea-quintana> (accessed May 30, 2014); for more information on rights abuses by KIA authorities, see also Human Rights Watch, “*Untold Miseries*,” <http://www.hrw.org/node/105662/section/8> (accessed May 30, 2014).

The soldiers came along a small path from the main road. They confronted us and told us to show them the way. That's when they detained us and tied us up. They tied our hands behind our backs. These are the wounds I got from guiding the soldiers [shows wounded wrists]. They beat us harshly. They accused us of being a part of the KIA. We said we didn't belong to any armed groups but they beat us anyway, again and again. They punched our chests, our faces, and kicked us.³¹

Over the course of three days, the soldiers compelled Nhkum La and his brother to perform forced labor, making them serve as guides for the troops as they traveled to Man Da and Han Htet villages. In each place the Kachin men were denied food and water and suffered beatings by Myanmar Army soldiers during periods of questioning about the KIA. Their answers precipitated more beatings:

They beat us severely and asked us questions. Again we answered we do not belong to KIA, but they just kept beating us. They beat us and threatened us, beat us and threatened us, and so on. They said they would kill us. They kept us tied and kept asking questions, and they kept threatening us that they will kill us. [...] They didn't give us water or food. They allowed us to go to the toilet but we had to ask permission. It was three days and three nights. We had no food or water. They took everything we had—our warm coats, our knives, our batteries for our flashlight, and they took my money.³²

After three days, Nhkum La and his brother were released. They have since reunited with their families and now reside in an IDP camp in Bhamo Township.³³ Despite the risks of abusive encounters with Myanmar Army soldiers, these men continue to visit their farms because of the lack of livelihood and basic necessities in the IDP camps.³⁴

A similar case involves “Tun Din,” a 30-year-old male Kachin farmer from Namlimpa village. Namlimpa has been the site of heavy armed conflict on multiple occasions since the war in Kachin State reignited in 2011.³⁵ Following months of sporadic violence, kill

31 Fortify Rights interview with E.J., Kachin State, Myanmar, November 22, 2013.

32 Ibid.

33 Ibid.

34 Ibid.

35 In October 2011, Partners Relief and Development documented a single offensive in Namlimpa village beginning October 8, 2011, finding evidence of torture, extrajudicial killing, the specific targeting of civilians, human shielding, unlawful arrest, unlawful detention, forced labor, forced relocation, displacement, property theft and property destruction committed by Myanmar Army battalions 74 and 276. Partners Relief and Development, *Crimes in Northern Burma: Results from a Fact-finding Mission to Kachin State*, November 2011, http://www.partnersworld.org/files/partnersworld.org/crimes_in_northern_burma.pdf (accessed May 31, 2014).

ings, and clashes between the Myanmar Army and the KIA in areas surrounding the village,³⁶ Myanmar Army soldiers entered Namlimpa on Sunday, November 11, 2012, for what would be the first of several more sizable clashes in and around the village. Tun Din told Fortify Rights:

I was on the road. My friend wanted to check his water buffalo so we just turned to the left into the forest and we heard the sound of walking, and immediately the soldiers came from the forest and grabbed us. It was impossible to escape.³⁷

The Myanmar Army forced Tun Din to work for the army in combat zones, where he was tortured repeatedly. He told Fortify Rights:

They tied me up and they questioned me and when they didn't get what they wanted from me, they beat me. [...] They wanted to know about the Kachin soldiers around the village. I replied that I didn't know how many soldiers were in the village. They beat me again and again.³⁸

Tun Din was eventually herded into a group of 20 other “forced porters”—villagers forced to carry materials for the army, in this case in combat zones. Most of the other forced porters were ethnic Burmans.³⁹ Tun Din was moved from location to location in Namlimpa, finally arriving at a village headman's house occupied by Myanmar Army soldiers, where soldiers tied him up in the kitchen. He told Fortify Rights:

In the morning a soldier blindfolded La Ye [another detained man], made him kneel in front of the house, and asked him where the KIA soldiers were. La Ye said he didn't know where they were, and then the soldier hit him on the head with a big bottle until it was broken into pieces. His whole head was covered in blood.

36 See Physicians for Human Rights, *Under Siege in Kachin State, Burma*, November 2011, <http://physicians-forhumanrights.org/library/reports/under-siege-in-kachin-state-burma.html> (accessed May 25, 2014); Partners Relief and Development, *Crimes in Northern Burma: Results from a Fact-finding Mission to Kachin State*, November 2011, http://www.partnersworld.org/files/partnersworld.org/crimes_in_northern_burma.pdf (accessed May 31, 2014); Human Rights Watch, “*Untold Miseries*”, pp. 34-59.

37 Fortify Rights interview with E.D., Kachin State, Myanmar, November 23, 2013.

38 Ibid.

39 The Myanmar Army has a history of using “convict porters”—prison inmates forced to serve their sentences on the front lines of armed conflict against their will. The instance of twenty ethnic Burman porters on the front lines of the war in Kachin State raises questions about whether the men were convicted prisoners forced to work for the Myanmar army in a situation of armed conflict. For more information on the use of convict porters as a war crime in Myanmar, see Human Rights Watch, *Dead Men Walking: Convict Porters on the Frontlines in Eastern Burma*, July 13, 2011, <http://www.hrw.org/news/2011/07/12/burma-war-crimes-against-convict-porters> (accessed May 9, 2014).

Then they came to me and brought me to another corner in the house. They asked me the same questions and I didn't know the answers. They used the butt of a pistol and hit me in the head, near my left ear.⁴⁰

Immediately following this incident, there was an armed clash between the Myanmar Army and the KIA in the village. The Myanmar Army retreated straightaway, bringing Tun Din to Tsi-khan Kyi village and Je Hkan village, the location of the nearest Myanmar Army outpost. Among the group of detainees at that point were five other Kachin men from Namlimpa and three ethnic Shan men from Khawng Lun village. Tun Din told Fortify Rights:

When we arrived in Tsi-khan Kyi, after three days they started beating us. They stopped questioning us. They were saying, "You are Kachin, you are Christian, but you are surrounded by Buddhists. Why are you so different from us!" They beat us one by one. Many soldiers came and beat us with a large spotlight, hitting us. My face was swollen and I could barely see anything. There was so much blood. And there was so much blood on the ground. The soldiers ordered us to lick the blood off the ground. There were eight of us, and several soldiers. They forced us to lick our own blood. We had to lick our own blood off the ground. After that, they sent us to another place and they started the routine again—the routine of beating us, again and again. We were tied up the entire time.⁴¹

Tun Din was held for 17 days and says soldiers from battalion 271 were responsible for his detention and torture: "It was Battalion 271 that did this. I saw the number on the butts of their guns."⁴² Tun Din and other detainees were released from the custody of the Myanmar Army in the evening of November 27, 2012.

* * *

In other cases documented by Fortify Rights, Myanmar Army soldiers entered and occupied villages, apprehending able-bodied men and subjecting them to torture while they remained in the village. These detainees were tied with rope or wire, beaten severely, and denied food and water.

40 Fortify Rights interview with E.D., Kachin State, Myanmar, November 23, 2013.

41 Ibid.

42 Ibid.

For instance, on October 13, 2013, Myanmar Army soldiers from a battalion described as number 21—likely Myanmar Army Infantry Battalion 21—entered Nam Phu village, Mansi Township, Kachin State, with 26 civilians who were forced porters or guides, two of whom were tied around their feet, necks, and hands. Upon entering the village, soldiers from the battalion detained Mayat Gam Seng, the Nam Phu village secretary, villager Gam Seng, and villager Hka Ma Naw Din. Soldiers tied rope around their necks and feet, tied their hands behind their backs, and separated them. Another Kachin man, “Maru Seng,”⁴³ was detained and accused of being a soldier in the KIA and tortured. He told Fortify Rights:

They tied my hands and legs together, and my legs were tied to a chair. They didn’t give me food or water and I couldn’t use a latrine. The whole night I was tied up. I thought they would kill me. At 6:00 a.m. I ran away from there. I untied the ropes myself. There were some soldiers sitting there but I ran around them, toward the house where the commander was staying.⁴³

As Maru Seng fled, Myanmar Army soldiers opened fire, shooting him in the head but not killing him.⁴⁴ He collapsed and was subsequently beaten severely on-the-spot by several soldiers, and then dragged back to the soldiers’ makeshift outpost:

After that, they tied my neck and arms and hands and feet and they brought me to another place, farther from the center of the village. They tied bamboo to my shins, kicked my chest, and screwed a sharp stick into my side. Two soldiers jumped on the bamboo that was tied to the front and back of my shins. They said I had weapons and had to show them [where the weapons were located]. “If you don’t bring the weapons to us, we’ll kill you,” they said. After they finished beating me, they tied me up for the whole day and ordered the other soldiers to not give me food or water. They tied me with a wire and tied me to a support beam in the house. They tied my neck, my hands behind back, arms, and feet. It was tighter than before. It hurt so much, it was so tight and it felt like my whole body would explode.⁴⁵

Eventually, the Commander of the battalion, Han Htoon Naing, took a photo of Maru Seng, released him, and ordered him not to flee the village.⁴⁶

⁴³ Fortify Rights interview with “Maru Seng,” or D.A., Kachin State, Myanmar, November 19, 2013.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

Maru Seng also witnessed three Kachin civilians from his village bound by the army:

They arrested three people and asked questions. It was Mayat Gam Seng, the village secretary, and Hka Ma Naw Din, a villager, and Gam Seng, who they arrested in the fields. I saw that they were asking questions at mayor Hkawng Bauk San's house. They [Myanmar Army soldiers] suspected they were KIA. They tied up the three men. Their hands were tied behind their backs, the rope was connected to their necks, and their feet were tied. After they tied them up, the three were separated.⁴⁷

Fortify Rights was unable to determine the whereabouts or condition of these three civilians.

* * *

Displaced Kachin told Fortify Rights that Myanmar Army soldiers committed torture and beatings after battalions suffered casualties in battles with the KIA, indicating the torture was retributive and based on ethnicity: a wartime collective punishment. A 42-year-old Kachin woman from Da Lo village witnessed Myanmar Army soldiers torture Kachin men in July 2011. She told Fortify Rights:

Two Myanmar soldiers had been shot and the Myanmar soldiers were angry. They wanted to take revenge against the KIA but they couldn't, so they came into the village and captured some men and tortured them. They asked, where is the KIA? Are you affiliated with the KIA? [...] The soldiers were beside the road. The [dead Myanmar Army soldiers] were beside the road. It was obvious they were getting very angry. They were accusing all Kachin men.⁴⁸

In a similar case, in October 2011, the Myanmar Army tortured "Naw Din," a 27-year-old male Kachin farmer from Kah Wah Bang village, and two other Kachin villagers after returning from a battle with the KIA. Naw Din told Fortify Rights:

After the Burmese soldiers were defeated elsewhere, they came back to the village, and that's when we were tortured. [...] The first time we encountered the soldiers they didn't do anything to us. They went [through the jungle] on their own. I think they had a map. But when they came back from the fighting [with the KIA], they tortured us. When they came back to the village they arrested and beat us in many different ways.⁴⁹

⁴⁷ Ibid.

⁴⁸ Fortify Rights interview with C.E., Kachin State, Myanmar, November 17, 2013.

⁴⁹ Fortify Rights interview with "Naw Din," or D.G., Kachin State, Myanmar, November 21, 2013.

Myanmar Army soldiers detained Naw Din from 4:00 a.m. to 7:00 a.m. the next morning. At approximately 6:00 p.m., Naw Din suffered significant distress when he witnessed Myanmar Army soldiers kill a male Shan civilian, Thein Htun, by shooting him in the head.⁵⁰ Fortify Rights interviewed two eyewitnesses to this killing.⁵¹

Describing the torture he endured, Naw Din told Fortify Rights:

I told them I was a villager and we had to feed the chickens and pigs. They didn't believe us. They said, "Where is your insurgent base?" At the time, he [a Myanmar Army soldier] pointed a knife at me, in my chest and in my leg. He was shorter than me and reached up and stabbed my chest, and he stabbed my leg maybe twenty times. I have scars now. When another battalion arrived, they hit me with the butts of their guns. And they hit me in my head like a drum. They hit me with the long part of their guns. Sometimes they hit me in the forehead. There was blood but they didn't touch our faces because we couldn't look up at them. They told us, "Don't look at us, you have to bow your head." I don't know why, they just said "Don't look up!" I think they are afraid we will memorize their faces.⁵²

"Zau Gam," 29, was with Naw Din when he too was tortured. Zau Gam described how approximately ten Myanmar Army soldiers beat him and Naw Din:

They pointed their guns at my friend [Naw Din] and me and said, "Do not run," so we just followed them. We were on the road. It's not very far from my house. They said they wouldn't lay a finger on me and told me not to worry. When we arrived at the exit of the village they told me to sit with my hands behind my back and they hit me on my back with the butt of their guns. When they hit me, I fell over and rolled on the ground. When they beat me, I thought I would die.⁵³

⁵⁰ At the time of the killing, Thein Htun was driving a motorbike and unexpectedly encountered Myanmar Army soldiers on the road. Startled, he quickly turned around and attempted to drive in the opposite direction. Naw Din told Fortify Rights: "He was only 12 to 18 feet away from me. When he saw the soldiers, the soldiers told him to stop, and at that time he changed the gear of the motorcycle and fled. Three soldiers fired their weapons. They shot their weapons maybe five times. After they shot him, they just dragged his body to the side of the farmland fence. Then they called the three of us over, told us to stand next to the body, and they took a photo. I don't know the purpose of that. I was afraid. [...] It was around 6:00 p.m. In front of our eyes they shot him and he just fell down. After he was shot he fell and the soldiers pulled him to the fence and then they took our picture. [...] After they took the picture, they took us and tortured us one by one." Fortify Rights interview with "Naw Din," or D.G., Kachin State, Myanmar, November 21, 2013.

⁵¹ Both eyewitnesses claimed Thein Htun was unarmed and wearing civilian clothing. Fortify Rights interviews with "Zau Gam," or D.F., and "Naw Din," or D.G., Kachin State, Myanmar, November 21, 2013.

⁵² Fortify Rights interview with "Naw Din," or D.G., Kachin State, Myanmar, November 21, 2013.

⁵³ Fortify Rights interview with "Zau Gam," or D.F., Kachin State, Myanmar, November 21, 2013.

Naw Din and Zau Gam were eventually released and fled their village. They now reside with their families in an IDP camp in Bhamo Township. They continue to make risky journeys back to their farms in the area of their village, out of economic necessity.

* * *

In several cases, the Myanmar Army forcibly displaced villagers—either through fear of abuse or by opening fire on the village—and tortured those who either stayed in the village or were unable to evade detention.

“Naw Aung” is a 28-year-old male Kachin farmer from Namsai village in Momauk Township, Kachin State. He fled to the jungle with a small group of men when Myanmar Army soldiers from Light Infantry Division [LID] 99 entered his village in 2011.⁵⁴ After three hours in hiding, a local villager misinformed the group that all soldiers had vacated the village, when in fact some Myanmar Army soldiers had remained in the village. Naw Aung told Fortify Rights:

Five of us returned [to the village]—my father, three friends, and me. They [Myanmar Army soldiers] arrested three of us. They beat us and asked us questions. I can’t properly speak the Burmese language so they beat me more and a lot of blood came out of my mouth. There were about 100 soldiers around me, but there were approximately 200 at the entrance of the village. The captain and lieutenant were asking me questions. They were from [LID] 99. They asked if I had seen any KIA soldiers. They tied my hands behind my back. They didn’t tie my father or the other person, but they tied my neighbor [name withheld] and [name withheld]. Initially, they just pointed their guns at us and sent us to another place. The person in charge [the captain] said for them to tie us with a rope and then they asked us many questions.⁵⁵

Following the first round of questioning, Naw Aung and the others were sent on foot to another location, approximately one mile away, where they endured more beatings:

54 Fortify Rights believes the military unit in question to be LID 99, as opposed to Infantry Battalion 99, as additional documentation by other organizations places Division 99 in Kachin State in 2011. See “Kachin State—Burma Army Burns and Loots Homes in Wai Maw District, Kachin State, Burma,” Free Burma Rangers Report, November 15, 2011, <http://www.freeburmarangers.org/2011/11/15/kachin-state-burma-army-burns-and-loots-homes-in-wai-maw-district-2/> (accessed May 25, 2014).

55 Fortify Rights interview with “Naw Aung,” or D.I., Kachin State, Myanmar, November 21, 2013.

The lieutenant hit me with his pistol on the back at least five times and on the back of my neck. At the time I couldn't move my head backwards. I just kept my head bowed forward. The pain prevented me from moving my head back. He said, "Are you KIA?" I said, "We are not KIA!" but they just kept beating me.⁵⁶

In October 2013, when the Myanmar Army entered Mung Ding Pa village, troops opened fire on the village, in what appeared to be an effort to forcibly displace villagers.⁵⁷ Nevertheless, a sizable group of villagers remained in the occupied village for five days, living in the local Christian church amidst soldiers. A 66-year-old displaced Kachin woman from Mung Ding Pa told Fortify Rights:

One day, they [Myanmar Army soldiers] arrested one person from our village, and they tied him by the throat and led him around. They tortured and beat him. He was scared and afraid and said, "This person was involved, and that person was involved [with the KIA]." I saw that case. They tied his arms behind his back and tied his body and tied the rope around his neck. They had a rope around his neck and led him around the whole village, showing him to everyone. They were calling to the whole village, "Who are the KIA soldiers! In which homes do they live?" I was in the church compound and I saw him in front of the church, we saw from the church, they entered one house and then called to others. We heard a sound that they opened doors but we couldn't see inside. They were searching.⁵⁸

In a similar case involving torture occurring in the context of forced displacement, in June 2011, there was fighting between the Myanmar Army and the KIA in Dabak village. Villagers in the area fled into the jungle, and after several days in hiding, traveled to what ultimately became an IDP camp in Waimaw. In September 2012, due to food and livelihood shortages in the IDP camp in Waimaw, "Gum Maw," 64, and three other villagers returned to Dabak to harvest corn. They requested permission to return to their village from the Myanmar Army battalion in the area, assuming their transparency would bring a measure of security. Permission was granted. On their way back to Waimaw the small group encountered two Myanmar Army soldiers on the road. Gum Maw told Fortify Rights:

⁵⁶ Ibid.

⁵⁷ Fortify Rights interviews with D.B., D.C., D.D., E.J., E.A., E.F., E.G., F.G., and F.I., November 20-22, 2013.

⁵⁸ Fortify Rights interview with F.I., Kachin State, Myanmar, November 22, 2013.

One soldier asked, “What are you doing in this place?” I said, “We already said that we harvest corn. We already informed you.” They hit me twice. [...] When he slapped me across the face, my ears were ringing. He whacked the side of my head with his open hand. I stumbled backwards but didn’t say anything. I was too afraid to speak back. I was afraid if I talked more, there would be more beatings. Then they looked through our baskets. They didn’t take anything out, they searched through and said, “You are militia, you are militia.”⁵⁹

Gum Maw told Fortify Rights the soldier hit him again before letting the group pass.⁶⁰

* * *

Fortify Rights also documented torture committed in detention by Military Intelligence and the Myanmar Police Force.

Brang Shawng, a 26-year-old farmer and father of three children, is perhaps Kachin State’s most well-known recent survivor of torture and arbitrary detention. His case rose to prominence in 2013 when details of his arbitrary detention and torture were the subject of public protest in Kachin State. His situation was publicized nationwide and internationally, subsequently leading senior government official Aung Min to promise he would be freed. Brang Shawng was released from Myitkyina Prison on July 23, 2013 in a presidential pardon that freed 73 political prisoners.⁶¹ He now resides in an IDP camp with his wife in government-controlled territory.

Brang Shawng is from Inpon village. On June 16, 2011, he fled his village due to the armed conflict and traveled to Myitkyina, where he stayed with relatives until he moved to Janmai Kawng IDP camp in Myitkyina. At 9:00 p.m. on June 17, 2012, several members of Myanmar’s Military Intelligence (MI) arrived in the IDP camp, handcuffed Brang Shawng, and brought him into detention at the MI compound in Myitkyina, where he was accused of being a senior-ranking official in the KIA and was tortured. He told Fortify Rights:

When I arrived in the detention center, the MI was asking if I was a captain in the KIA. I said, “No, I am very young. I don’t know anything about military ranks.” The

⁵⁹ Fortify Rights interview with “Gum Maw,” or F.F., Kachin State, Myanmar, November 18, 2013.

⁶⁰ Ibid.

⁶¹ See “Kachin IDP Turned Political Prisoner Brang Shawng Freed in Amnesty,” *Kachin News*, July 24, 2013, <http://www.kachinnews.com/news/2542-kachin-idp-turned-political-prisoner-brang-shawng-freed-in-amnesty.html> (accessed April 22, 2014); Saw Yan Naing, “Christians decry torture and detention,” *The Media Project*, July 27, 2012, <http://themediaproject.org/article/burmas-christian-minority-calls-justice?page=full> (accessed May 20, 2014); Nyein Nyein, “Kachin Farmer Brang Shawng Imprisoned 2 Years,” *Irrawaddy*, July 19, 2013, <http://www.irrawaddy.org/kia/kachin-farmer-brang-shawng-imprisoned-2-years.html> (accessed May 20, 2014).

MI beat me in my face, on my eye, and they started to beat me everywhere. [...] Sometimes they came in groups of four or five and they beat me. [...] They beat me a lot on my legs, my chest, and they stabbed me with a knife.⁶²

Brang Shawng endured numerous instances of torture over a three-day period. He explained:

They put stones in my mouth. They cut my legs with knives, burned me with fire, and they put the knife on the fire and put it on me. It was in a dark room. They also dug a hole. “If you do not tell the truth, we will put you in a hole in the ground and bury you with soil,” they said. They put small stones on the ground and made me kneel. It was maybe a half hour. I was bleeding. They also put a knife in my backside and on my legs. Seven or eight people were there. I was laid on the ground and they put bamboo across my shins and my head, and they stood on it. They also rolled the rods down my shins. “Admit you are a KIA soldier!” they said. [...] Finally I confessed I was KIA even though it was untrue, and the torture stopped.⁶³

Brang Shawng was accused of involvement with the KIA and of involvement in a bomb plot, and he was charged under Section 3 of the Explosive Substance Act and Article 17/1 of Unlawful Associations Act, a law that has been commonly used to arbitrarily detain and prosecute able-bodied Kachin men suspected of affiliation with the KIA.

Following public protest, widespread outrage among Kachin civil society, and press coverage, Brang Shawng was visited by Myanmar government Minister Aung Min and released from prison by an amnesty from President Thein Sein.⁶⁴ Many other Kachin men have not been as fortunate and remain in prison at the time of writing. Brang Shawng’s record has not been cleared.

Another case of torture in detention by Military Intelligence and the Myanmar Police Force involved a 53-year-old Kachin man from the state capital city Myitkyina, in government-controlled territory. Military Intelligence (MI) arrested him in November 2011 on suspicion he was associated with the KIA. He was put in a small, dark room at MI offices in Myitkyina. He told Fortify Rights:

⁶² Fortify Rights interview with Brang Shawng, filed as C.F., Kachin State, Myanmar, November 18, 2013.

⁶³ Ibid.

⁶⁴ Ibid.

They beat me in different ways, using elbows, and different ways. Even now I feel pain in my back. They beat my shins with their rubber sticks. I was there from 7:00 a.m. on November 15 to 8:00 a.m. on November 16, with no water and no food. I was beaten between 11:00 a.m. to around 2:45 a.m. [...] I didn't have a watch but I listened to their clock tower. They came in one after another and asked me questions. They asked questions like, "Are you the director of those who detonate bombs around Myitkyina? Aren't you the one who organized the bombings? And you send information to the KIA, don't you? Aren't you the one?"⁶⁵

Members of this man's family were also arbitrarily arrested, prosecuted, sentenced, and imprisoned. All were eventually released through a presidential amnesty in 2013.⁶⁶ Fortify Rights must keep confidential certain details of this family's case due to security concerns and threats of additional persecution from the Myanmar authorities. The family expressed a well-founded fear of persecution and returning to prison.⁶⁷

* * *

Fortify Rights spoke to several family members of victims of torture, many of whom remain in prison and were tortured by both the Myanmar Army and the Myanmar Police Force.

One such case involves a Kachin male farmer who was herding cows from Myitkyina to Laiza and areas along the Kachin-China border on June 12, 2012, with three other men and a Kachin businesswoman.⁶⁸ The families of the members of this group were living in IDP camps in Myitkyina, where their humanitarian needs were unmet. The income earned from the cow trade was critical, despite the risks of traveling by foot.

While driving the cows through a remote area, the group encountered Myanmar Army

⁶⁵ Fortify Rights interview with D.E., Kachin State, Myanmar, November 19, 2013.

⁶⁶ See The Assistance Association for Political Prisoners—Burma, "The Ongoing Arrests of Political Activists in Burma," March 27, 2014, www.aappb.org (accessed May 31, 2014); Myanmar released more than 200 political prisoners in amnesties in 2013. See Human Rights Watch, World Report 2014, (New York: Human Rights Watch, 2014), Burma chapter, <http://www.hrw.org/world-report-%5Bscheduler-publish-yyyy%5D/world-report-2014-burma> (accessed May 31, 2014); The presidential amnesties of 2011, 2012, and 2013 were conditional and were all general prisoner amnesties; none served as an admission of the existence of political prisoners. All prisoners released on amnesty can be returned to prison to serve the remainder of their original sentence for minor infractions, and their "criminal" records have not been removed.

⁶⁷ Fortify Rights interview with D.E., Kachin State, Myanmar, November 19, 2013.

⁶⁸ Fortify Rights interview with C.B., Kachin State, Myanmar, November 17, 2013.

soldiers from Light Infantry Battalion 37. The soldiers demanded money and released the woman and the cows, but detained the four men. The four men were beaten and tortured for three days, accused of association with the KIA, and subsequently transferred to detention facilities in Myitkyina, where they were again tortured and charged with violating the Unlawful Associations Act and for plotting to detonate explosives.⁶⁹

Fortify Rights spoke with a 45-year-old mother of four children and wife of one of the four imprisoned Kachin men. She has visited her husband in prison on multiple occasions. She told Fortify Rights:

When the military arrested him in the jungle he was beaten, and then they were separated. They separated the four men and tortured them. My husband had to put wood on his back. And they used water torture. In the police station there was a lot of torture and he was kept in a very small and dark room with no light. They forced him to have a sexual relationship with another man. He spoke to me about this. He suffers diseases now, stomach diseases. And they rolled irons on his shins.⁷⁰

A 26-year-old man was also detained while trading cows and later tortured and imprisoned. His wife, an IDP and mother of three children, told Fortify Rights:

The police beat him before he faced trial. A variety of torturing was given to him. He had so many wounds on his body and arms. [...] And he was tortured before he was transferred to the jail by the military, and after being arrested, by the police. They were forced to take their clothes off. They said, “you are a Christian, show me Christ on the cross.” The soldier forced them to take off clothes and show signs like Christ. They were forced to do homosexual acts.⁷¹

This case has been reported in the news media and by other human rights organizations.⁷² On September 20, 2013, an attorney for the men sent letters to President Thein Sein, the Northern Regional Command of the Myanmar Army, and also the UN Human Rights Council demanding an investigation into the abuses against his clients in detention.⁷³ At the time of writing, no response had been received.

⁶⁹ Ibid.

⁷⁰ Fortify Rights interview with C.B., Kachin State, Myanmar, November 17, 2013.

⁷¹ Fortify Rights interview with C.D., Kachin State, Myanmar, November 17, 2013.

⁷² See Christian Solidarity Worldwide, *Burma: Visit Report*, April 2013, <http://dynamic.csw.org.uk/article.asp?t=report&id=175> (accessed April 22, 2014), pp. 23-24;

⁷³ Fortify Rights communications with Kachin lawyers, Kachin State, Myanmar, November 2013; See also Lawi Weng, “Kachin Silence to Avoid Worsening Crisis: Suu Kyi,” *Irrawaddy*, September 24, 2012, <http://www.irrawaddy.com>

A 28-year-old man was detained while transporting cows for trade. His attorneys and family members explained to Fortify Rights that Myanmar Army soldiers, Military Intelligence, and members of the Myanmar Police Force tortured him. A family member who visited him multiple times in Myitkyina prison told Fortify Rights:

When soldiers in the jungle arrested him, he was kicked in the face and he broke a rib. And they beat his head with a piece of iron. [...] He was detained in a dark room with no light. The police got drunk and accused him of being in the KIA and beat him. Now he suffers a lot.⁷⁴

The fourth man who was detained, tortured, arrested and sentenced to prison has since been released from prison.⁷⁵ The other three men remain in prison.⁷⁶

* * *

Fortify Rights documented several cases that illustrate the impunity with which torture and ill treatment is occurring in the conduct of the war.

For instance, as discussed in this report, on July 30, 2013, the body of Sumlut La Gun, a 38-year old Kachin farmer, was found in a shallow grave by a group of fellow villagers in Hka Len, allegedly tortured and killed by soldiers of Myanmar Army battalion 242—the battalion that took him into custody when he was last seen alive.⁷⁷ Upon discovering his body in a shallow grave, several villagers went to the local police, demanding justice. A local Kachin woman told Fortify Rights:

We went to the police and reported what we had found and said we wanted to press charges [against Myanmar Army soldiers]. The police told me that nothing would happen if we pressed charges. Something similar happened last year and the police said nothing came of it. They told me that I should take the body to the hospital and let them take care of it. By then the body had already begun to decompose so we asked the Army for permission to bury the body. We didn't get permission but Battalion 567 left that night [July 30, 2013] so the next day we cremated the body in the field and had a brief service.⁷⁸

dy.org/suu-kyi/kachin-silence-to-avoid-worsening-crisis-suu-kyi.html (accessed April 22, 2014).

74 Fortify Rights interview with C.C., Kachin State, Myanmar, November 17, 2013.

75 Fortify Rights communications with Kachin human rights defender, April 29, 2014.

76 Ibid.

77 See chapter III of this report, "Torture in the Context of Killings."

78 Fortify Rights interview with A.C., Kachin State, Myanmar, August 6, 2013.

Fortify Rights was unable to obtain information about whether or not this case has been investigated by the Myanmar Police Force, the Myanmar Army, or other governmental authorities. Fortify Rights believes it highly unlikely that any action has been taken to hold the perpetrators of these abuses to account.

In another case described in this report, Brang Shawng, 26, was tortured in detention by Military Intelligence and sentenced to prison before being released due to public pressure. Brang Shawng made his first court appearance on June 28, 2013. He was charged under Section 3 of the Explosive Substance Act and Article 17/1 of Unlawful Associations Act. Members of MI coerced him not to reveal any details of his pre-trial torture, or of the true source of his injuries. Instead, he was ordered to confess in court to the alleged crimes, under threat of additional torture.⁷⁹ Government officials physically taped a recording device to his badly bruised torso before he appeared in court, presumably to record his testimony, instill fear, and force the false confession:

The captain [of Military Intelligence in the area] said, “If the court asks what happened to your body, you will tell them it was a motorbike accident.” I don’t know what would have happened if I told the court the truth, but I was really afraid because they beat me a lot on my body and head. That is why I lied. On June 28, 2013, I got a remand from the court, and the MI put a recorder on my body. MI officers said to me: “Don’t say anything about the beatings or marks on your body.” I went to the court and met with the judges and they asked what was on my face and body. I said the injuries happened on a motorbike accident.⁸⁰

The initial judge who presided over Brang Shawng’s case was concerned that Brang Shawng appeared seriously wounded. After asking Brang Shawng to lift his shirt, he discovered Brang Shawng was wounded and wearing a recording device. As a result, he refused to accept his plea of guilty.⁸¹ The following day, the judge was replaced and Brang Shawng again delivered a coerced confession to the alleged crimes, and he was sentenced to two years in prison. While in prison, he was denied medical care for injuries sustained during torture sessions.⁸²

79 Fortify Rights interview with Brang Shawng, filed under C.F., Kachin State, Myanmar, November 18, 2013; Fortify Rights communications with Kachin lawyers, November 2013.

80 Fortify Rights interview with Brang Shawng, filed under C.F., Kachin State, Myanmar, November 18, 2013.

81 See “Kachin IDP Turned Political Prisoner Brang Shawng Freed in Amnesty,” *Kachin News*, <http://www.kachinnews.com/news/2542-kachin-idp-turned-political-prisoner-brang-shawng-freed-in-amnesty.html>.

82 Fortify Rights interview with Brang Shawng, filed under C.F., Kachin State, Myanmar, November 18, 2013.

III. Torture in the Context of Killings

“His head was swollen and black. His eyes were swollen. He had been shot in the chest.”

—Kachin woman, on the killing of Sumlut La Gun, Kachin State, Myanmar, August 6, 2013

The renewed conflict in Kachin State ostensibly began in June 2011 with a case of torture in the context of a killing. On June 8, 2011, three Burmese soldiers entered KIA territory near Sang Gang in Momauk Township, Kachin State, fully armed and contrary to the ceasefire agreement. According to a 21-year-old KIA soldier:

The day [June 8] before the fighting started, at the KIO post at Bum Seng, three Burmese soldiers came into our camp without permission and they said things like, “give us your guns.” They were acting very crazy. We said, “don’t come in here, this isn’t your territory.” They didn’t listen and just came in. So we arrested them.⁸³

The following day, Myanmar Army battalions 437 and 438 opened fire on the KIA in nearby Sang Gang village and arrested KIA Lance Corporal Chang Ying, 31, from the local KIA liaison office. A prisoner exchanged was subsequently negotiated—Chang Ying for the three Myanmar soldiers. The KIA returned the three soldiers unharmed, and on June 11, the Myanmar Army returned Chang Ying to the KIA, dead and apparently the victim of severe beatings. The Myanmar Army claimed he sustained mortal injuries in battle. The KIA, in turn, issued a statement claiming Chang Ying was apprehended from the local liaison office and that his body appeared to have been tortured in custody.⁸⁴ Graphic photographs of the body emerged and were circulated widely on the Internet and throughout Kachin State. Fortify Rights viewed printed photos of Chang Ying’s wounds at local civil society offices in various locations throughout KIA-controlled territory.

Lama Doi, 73, Chang Ying’s grieving mother who is now displaced because of the fighting, confirmed the state of Chang Ying’s body. She told Fortify Rights:

⁸³ Fortify Rights interview with C.H., Kachin State, Myanmar, August 6, 2011.

⁸⁴ “Press Release on Chronology of Events of Armed Conflicts in Kachin Conflict,” Kachin Independence Organization press release, June 20, 2011, reproduced in unofficial English translation by Burma Partnership, <http://www.burmapartnership.org/2011/06/press-release-on-chronology-of-events-of-events-of-armed-conflicts-in-kachin-state/> (accessed May 31, 2014).

On June 9, when the fighting started, the Bama [Myanmar Army] soldiers arrested Chang Ying. [...] On June 10, I went to the [KIA] district office and talked to them. The captain said they couldn't get the body. [...] We returned to Mung Hkaw village. A nurse saw us and asked if I was the mother of Chang Ying. The nurse told me they already had the body, and when I heard that, I returned to Pranghkudum. [...] I saw my son's body and we buried him at 9:00 p.m. [...] My eldest son died before the ceasefire agreement, in 1994. He was also a soldier. And now my second son died when the fighting started again.⁸⁵

A 25-year-old KIA soldier who was present during the initial attack claims that after Chang Ying was apprehended, the Burmese army brought approximately 200 soldiers to Sang Gang and opened fire on his small regiment: "On June 11, when we saw the body, we saw [Chang Ying] had been tortured a lot and we were very angry. We wanted to fight but we had no orders to fight. But the next day the Burmese attacked again and we fought back."⁸⁶

Following these attacks, Chang Ying's case came to represent the already deep anger directed at the Myanmar Army throughout Kachin State. The armed conflict quickly escalated.

In another case documented by Fortify Rights, on June 14, 2013, at approximately 3:00 a.m., an unknown Myanmar Army battalion detained Lum Awng, a Kachin man from Nawng Heng in northern Shan State, and forced him to guide the battalion to an area outside the village.⁸⁷ Kachin villagers from Nawng Heng and Mung Seng Yang in northern Shan State told Fortify Rights that that Lum Awng was tortured around 8:00 a.m. and then killed by Myanmar Army soldiers. Fortify Rights was unable to independently verify who killed Lum Awng.

A Kachin man and community leader, 35, told Fortify Rights:

Everyone around the area could hear it. He [Lum Awng] was making terrible noises and screaming and crying. Everyone heard it. They [Myanmar Army soldiers] killed him and left the body there but nobody could go and take the body because it was near the army. After 3 days, the KIA was able to take the body and bury it. He was tied with a string and beaten very badly.⁸⁸

⁸⁵ Fortify Rights interview with C.A., Kachin State, Myanmar, August 5, 2011.

⁸⁶ Fortify Rights interview with A.D., Kachin State, Myanmar, August 3, 2011.

⁸⁷ This type of forced labor by the Myanmar army has been common during the conflict in northern Myanmar since June 2011, and in previous decades. Fortify Rights has documented numerous cases since June 2011.

⁸⁸ Fortify Rights interview with B.C., Kachin State, Myanmar, September 12, 2013.

In another case documented by Fortify Rights, on July 30, 2013, the body of Sumlut La Gun, a 38-year old Kachin farmer, was found in a shallow grave by a group of fellow villagers in Hka Len, a village of more than 200 predominantly Kachin households in northern Shan State. Fortify Rights obtained photographs of La Gun's body and interviewed La Gun's widow and two others who recovered his body.⁸⁹ The photos show signs of severe injuries, including bruising, and a bullet hole in the left side of his chest. There was a KIA uniform placed over his clothing and the body was covered in plastic.

La Gun was last seen alive on the afternoon of July 28, 2013, when Myanmar Army soldiers from battalion 242 allegedly stopped him on his motorbike and took him into custody.⁹⁰ Local villagers asked and were granted permission from the army to search for La Gun's body, so they fanned out in groups around the area he was last seen. One of the women who found his body told Fortify Rights she first spotted La Gun's coat on the ground:

Beneath the coat was a small mound covered with some plastic and dirt. After removing the plastic we found his body. He had been buried in a KIA uniform over the top of his clothes. His raincoat was missing. His head was swollen and black. His eyes were swollen. He had been shot in the chest. There was a bullet hole through his shirt but not through the KIA uniform. It was clear to me that he had been tortured before he was shot. Initially we didn't recognize him and thought it had been a soldier who was buried there. Only after seeing his clothes under the uniform did we realize it was La Gun. His right leg had also been broken.⁹¹

Following the discovery of La Gun's body, villagers and family members were convinced he was tortured and killed by Myanmar Army soldiers. Photographic evidence and eyewitness testimony indicates a bullet-sized hole punctured La Gun's clothing and chest, but not the external layer of the KIA uniform, which is believed to have been placed over his body postmortem.⁹²

89 Photographs on file with Fortify Rights.

90 Days later, La Gun's motorbike was seen by villagers in the possession of Myanmar Army soldiers from battalion 242, departing the town with the motorbike. A local villager told Fortify Rights: "This was unusual. They are usually on foot or with horses. We all saw the motorbike. They went with seven horses and one motorbike. There were around 100 army soldiers. We know the motorbike was La Gun's motorbike. ... We know the Burmese army would never take a motorbike with them because they always stay in the forest and walk through the hills. They arrived on foot and none of the other motorbikes in the village were missing. Only La Gun's motorbike was missing." Fortify Rights interview with A.B., Kachin State, Myanmar, September 9, 2013.

91 Fortify Rights interview with A.C., Kachin State, Myanmar, August 6, 2013.

92 Fortify Rights has received similar allegations of KIA uniforms being placed over dead bodies of three men who were killed in Namlimpa village. Fortify Rights communications with foreign correspondent and Kachin aid workers, May 5, 2014.

IV. Psychological Torture and Ill Treatment: Simulated Executions and Violent Threats of Collective Punishment

“This is a place for you when we kill you,’ they said. ‘You have to dig deeply. If you don’t dig deeply the animals will eat your hands and legs.’”

–“Zau Gam”, Kachin State, Myanmar, November 21, 2013

Under international law, the distinction between physical and psychological torture is immaterial. Any act that deliberately causes severe pain and suffering—whether mental or physical—to elicit information constitutes torture, and any act that deliberately causes significant pain and suffering can constitute ill treatment.⁹³ These types of acts can amount to war crimes and crimes against humanity.⁹⁴

Acts of torture generally are considered “a means of attacking an individual’s fundamental modes of psychological and social functioning.”⁹⁵ Studies indicate victims of psychological torture report as much mental anguish as victims of physical torture, with equally severe long-term effects.⁹⁶

93 Under the Rome Statute of the International Criminal Court, neither the crime against humanity of torture nor that of “other inhumane acts” requires a particular purpose. Rome Statute of the International Criminal Court (Rome Statute), A/CONF.183/9, July 17, 1998, entered into force July 1, 2002, arts. 7(1)(f) & 7(1)(k). While both torture and ill treatment are prohibited under CAT, the distinction between the two categories risks reinforcement of a misconception that physical torture causes greater harm than cruel, inhuman, and degrading treatment or punishment. In fact, the two have been shown to cause comparable harm. See Metin Basoglu et al., “Torture versus other cruel, inhuman and degrading treatment: Is the distinction real or apparent?” *Archives of General Psychiatry*, vol. 64 (2007), pp. 1-9; Metin Basoglu, “A multivariate contextual analysis of torture and cruel, inhuman, and degrading treatments: Implications for an evidence-based definition of torture,” *American Journal of Orthopsychiatry*, vol. 79, no. 2 (2009), pp. 135-145; Metin Basoglu, “Rehabilitation of traumatised refugees and survivors of torture – After almost two decades we still do not use evidence based treatments,” *British Medical Journal*, vol. 333 (2006), pp. 1230-1231.

94 Under international humanitarian law, state and non-state actors violate the laws of war when they commit acts that constitute torture and “outrages upon personal dignity” during non-international armed conflicts. See chapter VI of this report “The International Legal Framework and Analysis.” Under International Criminal Law, perpetrators must have victims under their control for acts to constitute torture, but this is not a requirement for the crime against humanity of other inhumane acts. See Rome Statute of the International Criminal Court, *Elements of Crimes* (2011), arts. 7(1)(f), 7(1)(k). Available at: <http://icc-cpi.int/NR/rdon-lyres/336923D8-A6AD-40EC-AD7B45BF9DE73D56/0/ElementsOfCrimesEng.pdf> (accessed May 30, 2014) (hereinafter *Elements of Crimes*).

95 Istanbul Protocol, p. 45.

96 Metin Basoglu et al., “Torture versus other cruel, inhuman and degrading treatment,” *Archives of General Psychiatry*, pp. 1-9; Metin Basoglu, “A multivariate contextual analysis,” *American Journal of Orthopsychiatry*, pp. 135-145; Metin Basoglu, “Rehabilitation of traumatised refugees,” *British Medical Journal*, pp. 1230-1231.

The threat of physical harm, torture, future violence or killing can be identified as torture under international law.⁹⁷ Acts or threats intended to spread terror among the civilian population are also prohibited under international law.⁹⁸

Fortify Rights documented incidents of Myanmar authorities making genocidal threats against Kachin men during interrogation sessions in villages and situations of detention, causing mental anguish and distress. In November 2011 Military Intelligence (MI) officials tortured in detention—in unknown MI facilities in Myitkyina—a 53-year-old Kachin man from Myitkyina whose case is discussed previously in this report.⁹⁹ He told Fortify Rights:

They asked questions related to Kachin identity, like, “Where do Kachin come from?” I answered, “It’s a long story, it will take time to answer that question.” The one who interrogated me said it was just a short story. He said, “You Kachin are just leftovers from our soldiers. When they go to visit the land, they leave kids there. You are our soldiers’ leftover kids, the products of our military expeditions. We will eliminate all you Kachin.”¹⁰⁰

Several of this survivor’s family members had recently died in circumstances withheld here for security purposes. He told Fortify Rights that an MI agent said to him: “Even though some of your family members died, we are not satisfied. We will send all your family to jail and kill you all.”¹⁰¹ This man informed Fortify Rights that he feared arrest, detention, and torture by the authorities in the future.¹⁰²

Zau Gam, 29, whose testimony is mentioned in the previous chapter of this report, recalled soldiers issuing similarly menacing threats against him while he was being tortured in Kah Wah Bang village in October 2011:

After they hit me they said, “You are Kachin, and we will kill all the Kachin. Even if the women are pregnant, we will kill them. If we don’t kill the pregnant women, the babies will be born and if they grow up they will also become soldiers.”¹⁰³

⁹⁷ See chapter VI of this report, “The International Legal Framework and Analysis.”

⁹⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, art. 13(2), <http://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=A366465E238B1934C12563CD0051E8A0> (accessed May 25, 2014).

⁹⁹ See references in this report to Fortify Rights interview with D.E., Kachin State, Myanmar, November 21, 2013.

¹⁰⁰ Fortify Rights interview with D.E., Kachin State, Myanmar, November 21, 2013.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Fortify Rights interview with “Zau Gam,” or D.F., Kachin State, Myanmar, November 21, 2013.

Myanmar authorities have issued similar threats to destroy the Kachin ethnicity in the past. In 2007, Myanmar Commander-General Ohn Myint, who is now Minister of Agriculture and Irrigation, reportedly told a group of Kachin students, “[...] I’ll kill you now! You Kachin are going to disappear.”¹⁰⁴

Fortify Rights also documented threats of collective punishment by Myanmar Army soldiers. In May 2012, a 32-year-old Kachin mother of three children from Sumpra Bum Township fled from the Myanmar Army to the jungle, only to later encounter threats from Myanmar Army soldiers in Mai Htawng village. She told Fortify Rights:

Many soldiers came and spoke to us. They asked about the [nearby KIA] base. They asked, “Where do the KIA live?” They told me, “We will kill you, and we will burn the children in the fire and then crush them. If there is any gun shooting [from the KIA], we will kill you.” Three soldiers said these things. They had one star, and two stars [on their uniforms denoting their ranks].¹⁰⁵

In 2011, a 40-year-old Kachin woman who fled from the Myanmar Army to Yunnan Province, China said:

They said that we villagers are KIA, and that the KIA are villagers, and that’s why they shot at us. The Burmese soldiers said for us not to cross a certain area or they’ll shoot us. “We’ll shoot everyone, young or old, man or women, we don’t care,” they said. “If your grandparent is a KIA, we will kill the parents and grandchildren too,” one soldier said. “We will kill three generations.”¹⁰⁶

A 38-year-old Kachin woman in northern Shan State told Fortify Rights:

They [Myanmar Army soldiers] asked me, “Did the KIA come through the village? Did they pass through?” I felt very scared. The last time I met them, there were 30 soldiers. They asked if I had any information about KIA. “What did they do? Did they eat? Why were they here?” They threatened us all, saying, “If we find the KIA in your village, we will burn down the village and shoot everywhere!” We were very scared.¹⁰⁷

104 “Commander Ohn Myint Lambasts Kachin Students for Poster Movement,” *Kachin News Group*, September 14, 2007, <http://www.kachinnews.com/news/447-commander-ohn-myint-lambasts-kachin-students-for-poster-movement> (accessed May 9, 2014).

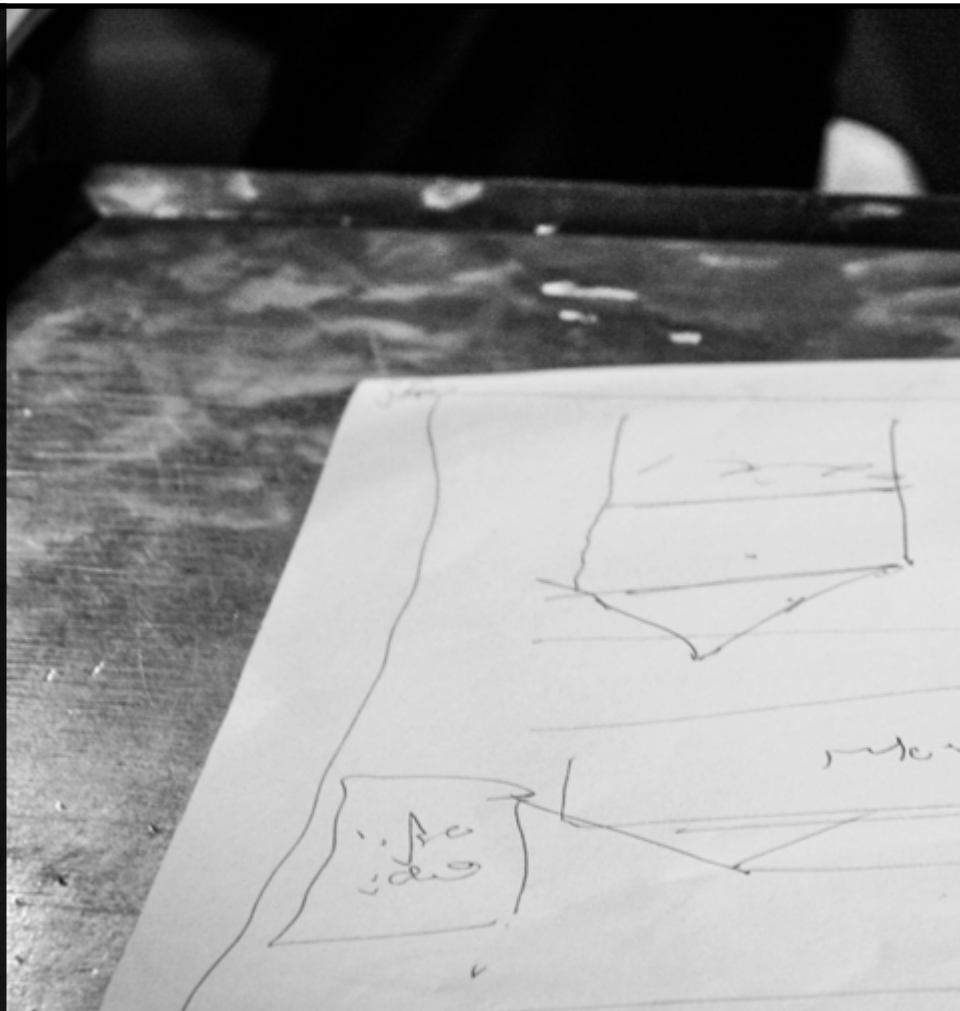
105 Fortify Rights interview with F.D., Kachin State, Myanmar, November 18, 2013.

106 Human Rights Watch, “*Untold Miseries*”, p. 39. An ethnic Maru villager reported to Human Rights Watch similar threats, p. 39.

107 Fortify Rights interview with B.B., Shan State, Myanmar, September 12, 2013.

Torture survivor in Myitkyina, Kachin State, draws the Myitkyina Prison where he was tortured by Military Intelligence and imprisoned from 2011 to 2013.

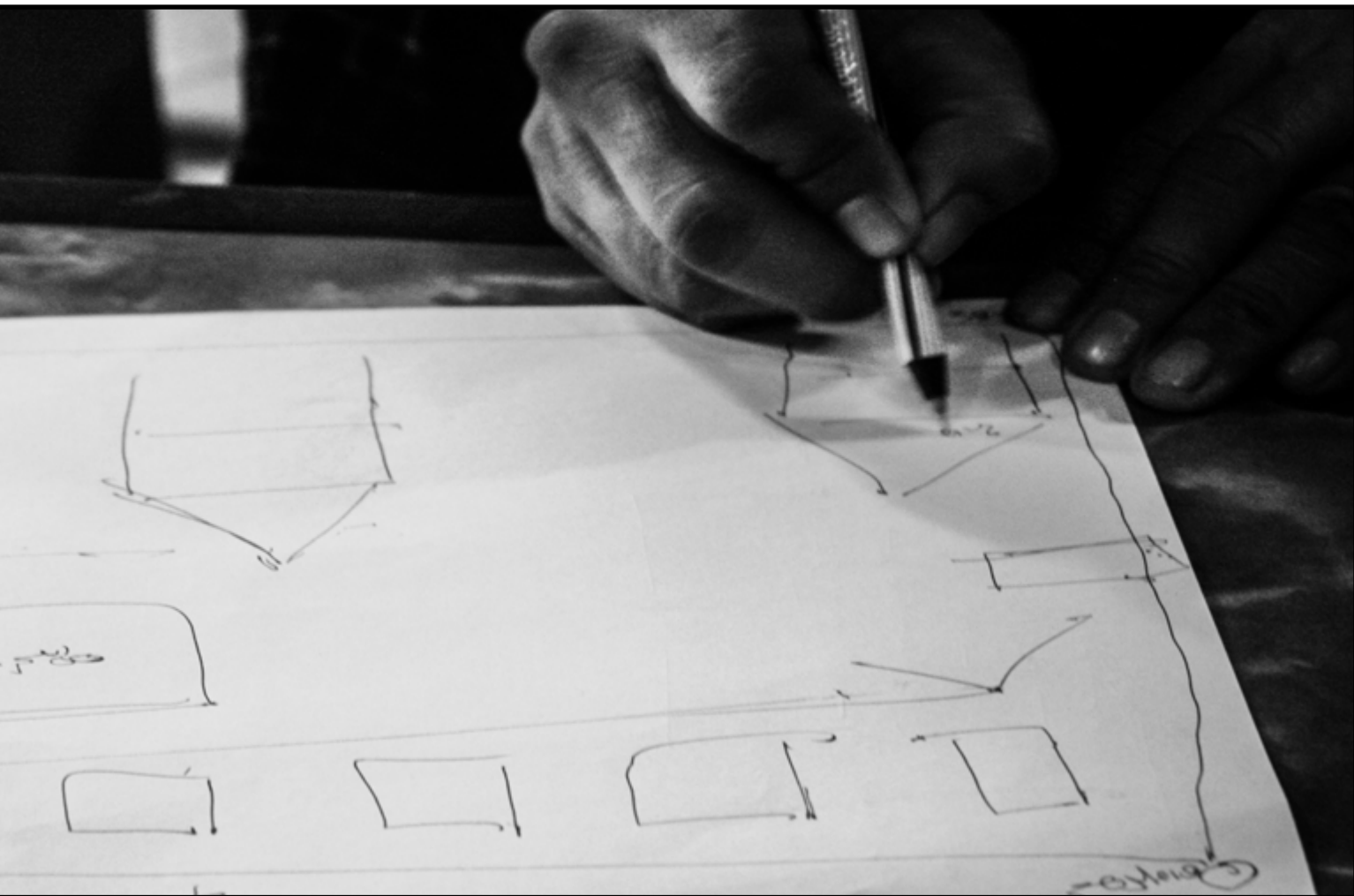
©Fortify Rights, 2013



Fortify Rights also documented other varieties of psychological torture, including simulated executions. The Myanmar Army forced Kachin detainees to dig their own graves, only to be released. For instance, following beatings with bamboo sticks, Myanmar Army soldiers forced Zau Gam, mentioned above, to dig a grave they said would be his, only to later release him from custody. He told Fortify Rights:

They beat me on my head with their guns and then put me in the water. They beat me with a giant-sized bullet. It was a big size and fanned out at the bottom [like a mortar]. My face was bleeding. [...] At 6:00 a.m. they put me into the water. The water was beside the paddy field. It was a drain canal. They tied my hands behind my back. And I had to sit at the water and just keep my head above water. They said they would kill me at 12:00 p.m. and then they forced me to dig a hole. After I got out they said they would kill me. At first they gave me a knife and when they saw I couldn't dig a deep hole with it, they gave me a piece of wood used to make a fence, and then I had to dig the hole with that. "This is a place for you when we kill you," they said. "You have to dig deeply. If you don't dig deeply the animals will eat your hands and legs."¹⁰⁸

108 Fortify Rights interview with "Zau Gam," or D.F., Kachin State, Myanmar, November 21, 2013.



In another case of simulated executions, on April 21, 2014, the Myanmar Army detained seven internally displaced men following the death of a Myanmar Army soldier from a bomb blast near Man Wan Gyi, Kachin State. Two of the detainees were soon released, and five—three Kachin students, one Rakhine man, and one elderly Chinese man—were allegedly blindfolded and left in the sun for hours.¹⁰⁹ The soldiers told the detainees they would be killed. Soldiers took the Rakhine man out of sight and fired their weapons within earshot of the remaining detainees, simulating an execution and instilling fear and distress in the other detainees.¹¹⁰

Local community leaders eventually negotiated their release from detention and on April 23, at 5:00 p.m., the Myanmar Army released the men.¹¹¹

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¹⁰⁹ Fortify Rights communications with Kachin aid workers in Kachin State, April 23, May 2014.

¹¹⁰ Ibid.

¹¹¹ Ibid.

V. Protecting Survivors of Wartime Torture

“Here in the [IDP] camp so many things are imperfect.”

–H. Awng, 27, Kah Wah Bang, November 2014

Myanmar has a legal obligation to prevent torture and to respect, protect, and fulfill the right of torture survivors to rehabilitation and compensation for abuse endured, and to provide legal avenues for survivors to seek redress.¹¹²

Several survivors of torture interviewed by Fortify Rights for this report demonstrated symptoms associated with anxiety disorders, and all suffered untreated physical pain and other complications as a direct result of the torture they endured by the Myanmar authorities. Several survivors expressed a desire to seek treatment from and consult medical professionals.

Only one survivor of torture interviewed by Fortify Rights reported having seen a medical professional, and some reported confusion about whether they would be able to access medical attention. The general understanding among the displaced Kachin population is that medical care is not a right but rather an out-of-reach privilege. IDPs in camps located in government-controlled territory, in particular, explained to Fortify Rights significant unmet humanitarian needs in the IDP camps in the areas of health, water and sanitation, shelter, protection, livelihoods, and education.¹¹³

A 29-year-old Kachin man who survived torture and ill treatment by the Myanmar Army in 2011, and is now living in an IDP camp in government-controlled territory, told Fortify Rights:

Here [motions to his head] they [Myanmar Army soldiers] hit me with the bullet [mortar shell casing]. There is still a bump. Sometimes when I breathe I feel a sharp needle-like pain in my side. I think it is from when they hit me with the butts of their guns. I haven’t seen any doctors. I don’t know where I would I would go to see a doctor. [...] Now I am young and I don’t know the effects of these beatings. I worry that as I get older I will feel serious effects from these injuries.¹¹⁴

112 See chapter VI of this report, “The International Legal Framework and Analysis.” See for example CAT, art. 2(1). See also CAT, art. 14; International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, not ratified by Myanmar, art. 2(3)(b).

113 Fortify Rights interviews with J.B., J.E., J.F., A.J., A.B., A.E., A.F., B.A., B.F., B.G., B.I., C.B., C.C., C.E., C.F., D.F., D.G., E.B., E.C., E.E., E.F., F.J., F.C., F.E., Kachin State, Myanmar, September 2013-January 2014.

114 Fortify Rights interview with D.F., Kachin State, Myanmar, November 21, 2013.

Despite receiving nationwide notoriety for the torture he endured, Brang Shawg, 26, told Fortify Rights he has still not seen a doctor or medical professional:

I really feel the effects in my head still. Sometimes I am dizzy. Also, I feel pain on my neck. I have had no chance to see a doctor. Now I drink traditional medicine. Doctors have come to the camp but I haven't spoken to them. I have no way to talk to a doctor now. I want to get an x-ray or an ultrasound, but they do not have that here, so I am drinking traditional medicine. If it is not effective, I hope to get an x-ray. There are no counselors here either."¹¹⁵

Naw Din, a 27-year-old male from Kah Wah Bang village, was tortured by the Myanmar Army in October 2011, witnessed the killing of a Shan villager by the Myanmar Army, and has still not seen a medical professional, despite living in a UN-supported IDP camp in government-controlled territory. He told Fortify Rights:

I have scars on my shoulders and hip. It still hurts to breathe. My eyesight is not right. I watched a Shan man die. [...] My ribs still hurt from when they hit me with the gun. I have a problem when I breathe. When they hit me with the butt, there was some bleeding."¹¹⁶

In October 2013, a Myanmar Army unit identified as number 21 detained Maru Seng, 45, accused him of being a soldier in the KIA, and brutally tortured him:

After they finished beating me, they tied me up for the whole day and ordered the other soldiers to not give me food or water. They tied me with a wire ... to a support beam in the house. They tied my neck, my hands behind back, arms, and feet. It was tighter than before. It hurt so much, it was so tight and it felt like my whole body would explode. Some parts of my body still feel like the blood doesn't flow, especially my legs and hands."¹¹⁷

Maru Seng's experience is the only case documented by Fortify Rights that involved military-affiliated health workers providing treatment to a detainee after Myanmar Army soldiers tortured him, though he has not since seen any medical professionals. Explaining when the soldiers released him from custody, he told Fortify Rights:

¹¹⁵ Fortify Rights interview with Brang Shawng, or C.F., Kachin State, Myanmar, November 18, 2013.

¹¹⁶ Fortify Rights interview with "Naw Din," or D.G., Kachin State, Myanmar, November 21, 2013.

¹¹⁷ Fortify Rights interview with "Maru Seng," or D.A., Kachin State, Myanmar, November 19, 2013.

The soldier came and untied me and said I had to go downstairs but I couldn't walk. Two soldiers helped me go downstairs. They had beaten me so much. My feet were swollen and I couldn't walk. After that, the two soldiers brought me to my home and when I arrived to my room, two of the medical workers from the military came and injected me with antibiotics and they gave me some pills. My family was crying for me. They said I would be fine and get better and then they left.¹¹⁸

Government-appointed health professionals were not present in the other cases of torture documented by Fortify Rights, nor did they intervene afterwards.

In addition to providing testimonial and medical evidence of torture, many survivors interviewed by Fortify Rights also witnessed or suffered other human rights violations, such as forced labor, killings, and other alleged war crimes, such as the targeting of civilians by the Myanmar Army.¹¹⁹ All of the survivors interviewed by Fortify Rights experienced forced displacement—and in some cases multiple displacements—inadequate humanitarian aid, and protection gaps in IDP camps. These “coexisting stressors” could, in some cases, compound the adverse physical, psychological, and social impacts of torture and should be considered in the course of any future humanitarian interventions in response to torture.

¹¹⁸ Ibid.

¹¹⁹ These abuses are the subject of an ongoing investigation by Fortify Rights. Fortify Rights interviews, Kachin State, Myanmar, September 2013-April 2014.

VI. The International Legal Framework and Analysis

International law bans torture unequivocally. Torture is defined and proscribed by three interrelated, and at times overlapping, bodies of international law. First, international human rights law forbids torture.¹²⁰ While states may suspend some provisions of international human rights law in emergencies or situations of armed conflict, the proscription on torture is a peremptory norm—meaning it is a fundamental principle under international law from which no derogation is permitted—and applies with equal force in times of war as well as peace.¹²¹ Second, in situations of armed conflict, torture is prohibited under international humanitarian law, and constitutes a grave breach of the Geneva Conventions, which serve as the foundation of the laws of war.¹²² Finally, torture constitutes a violation of international criminal law. It is enumerated in the Rome Statute of the International Criminal Court as both a war crime, which forbids torture in situations of international¹²³ and non-international¹²⁴ armed conflict, and as a crime against humanity,¹²⁵ when occurring within the context of a widespread or systematic attack on a civilian population.

The elements of torture in all relevant international legal regimes are present in the evidence presented in this report, including state actor involvement as required by international human rights law and adopted by international criminal tribunals prior to the advent of the International Criminal Court.¹²⁶ In each instance of torture described in this report, the severity of suffering imposed appears to meet the threshold required to constitute torture within each international legal framework. The circumstances of the conduct, namely that it was perpetrated against civilians in order to elicit information, fulfill the elements of torture as it is defined by each body of law.

¹²⁰ See for example CAT, art. 1; ICCPR, art. 7; Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), <http://www.un.org/en/documents/udhr/index.shtml#a21> (accessed May 19, 2014), art. 5.

¹²¹ For an explanation of this point, see discussion under International Human Rights Law in this section; *Prosecutor v. Anto Furundzija*, ICTY, Case No. IT-95-17/1-T, Judgment (Trial Chamber), December 10, 1998, paras. 143-146; and CAT, art. 1.

¹²² See for example International Committee of the Red Cross (ICRC), “How “grave breaches” are defined in the Geneva Conventions and Additional Protocols,” ICRC Resource Centre, <http://www.icrc.org/eng/resources/documents/misc/5zm9f9.htm> (accessed May 31, 2014); Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY Statute), S.C. Res. 827, U.N. Doc. S/RES/827 (1993), as amended, <http://www.un.org/icty/legaldoc-e/index.htm> (as codification of customary IHL); Rome Statute, arts. 7(1)(f), 7(1)(k), 8(2)(a)(ii), 8(2)(c)(i).

¹²³ Rome Statute, art. 8(2)(a)(ii).

¹²⁴ Rome Statute, art. 8(2)(c)(i).

¹²⁵ Rome Statute, art. 7(1)(f).

¹²⁶ See for example *Prosecutor v. Anto Furundzija*, ICTY, Case No. IT-95-17/1-T, Judgment (Trial Chamber), December 10, 1998, <http://www.refworld.org/docid/40276a8a4.html> (accessed May 20, 2014), para. 162.

International Human Rights Law

The right to be free from torture and other cruel, inhuman, and degrading treatment or punishment is one of the most widely codified human rights. International human rights law defines and forbids torture by treaties and custom.¹²⁷ Myanmar is not a party to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), but this does not mean proscriptions on torture do not apply to Myanmar. Under customary international law, the prohibition of torture is a peremptory norm, from which no derogation is permitted.¹²⁸ International criminal tribunals have gone a step further, noting that the definition of torture in CAT “reflects customary international law.”¹²⁹ CAT is a particularly sensible lens through which to consider torture by Myanmar authorities because UN bodies, the international community, international and domestic civil society, and even some actors within the Myanmar government, routinely urge Myanmar to ratify CAT to continue its reform process.¹³⁰

CAT defines torture as “severe pain or suffering, whether physical or mental,” inflicted by a state actor for specific purposes such as obtaining “information or a confession,” as punishment, as intimidation or coercion, “or for any reason based on discrimination of any kind.”¹³¹ Under CAT, cruel, inhuman, and degrading treatment or punishment (“ill-treatment”) is proscribed conduct comprising acts that “do not amount to torture.”¹³² Such treatment is not precisely defined within the treaty or within codified international human rights law.¹³³ Torture and ill treatment are prohibited in all circumstances.

127 For in-depth discussion of torture as a violation of customary international human rights law, see Prosecutor v. Anto Furundzija, ICTY, Case No. IT-95-17/1-T, Judgment (Trial Chamber), December 10, 1998, paras. 143-146.

128 See for example UDHR, art. 5; ICCPR, art. 7; CAT, art. 1.

129 Prosecutor v. Anto Furundzija, ICTY, Case No. IT-95-17/1-A, Judgment (Appeals Chamber), July 21, 2000, <http://www.icty.org/x/cases/furundzija/acjug/en/fur-aj000721e.pdf> (accessed June 1, 2014), para. 111.

130 See for example UN General Assembly, Report of the Special Rapporteur on the Situation of human rights in Myanmar, A/68/397, September 23, 2013, para. 12; “Burma: Ratify the UN Convention Against Torture,” Assistance Association for Political Prisoners – Burma press release, June 26, 2013, <http://www.burmapartnership.org/2013/06/burma-ratify-the-un-convention-against-torture/> (accessed May 31, 2014); Janet Benshoof, “It’s time for the int’l community to address Burma’s constitution,” DVB, February 20, 2013, <http://www.dvb.no/analysis/its-time-for-the-int%E2%80%99l-community-to-address-burma%E2%80%99s-constitution/26505> (accessed May 31, 2014); Human Rights Watch, *Untold Miseries*, p. 78.

131 CAT, art. 1(1). Under CAT, torture is committed “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.”

132 CAT, art. 16.

133 World Organisation Against Torture, Interpretation of the Definition of Torture or Cruel, Inhuman or Degrading Treatment or Punishment in the Light of European and International Case Law: the Need to Preserve Legal and Jurisprudential Evolutions and Acquis, October 30, 2004, <http://www.refworld.org/docid/46c190b20.html> (accessed May 20, 2014).

International Humanitarian Law

International humanitarian law applies in situations of armed conflict and is composed of treaty-based and customary law, both of which proscribe torture and are binding on Myanmar.¹³⁴ Myanmar is a party to the Geneva Conventions, the treaties that serve as the foundation of international humanitarian law. In non-international armed conflicts, such as the war in Kachin State, Common Article 3 of the Geneva Conventions prohibits cruel treatment and torture¹³⁵ as well as “outrages upon personal dignity, in particular humiliating and degrading treatment”¹³⁶ with respect to civilians and persons hors de combat.¹³⁷ Parties to non-international armed conflicts are further required to protect civilians and other non-combatants.¹³⁸ As part of this protection, acts or threats intended to spread terror among the civilian population are prohibited.¹³⁹

The Myanmar Army, the KIA, and other non-state ethnic armies involved in the armed conflict in Kachin State and northern Shan State are obligated to abide by international humanitarian law, which proscribes torture.¹⁴⁰

134 For a comprehensive list of international humanitarian law treaties to which Myanmar is a party, see ICRC, “Myanmar,” *Treaties and States Parties to Such Treaties*, http://www.icrc.org/applic/ihl/ihl.nsf/vwTreatiesBy-CountrySelected.xsp?xp_countrySelected=MM (accessed May 20, 2014); for authoritative discussion of customary international law governing torture, see ICRC, “Rule 90. Torture and Cruel, Inhuman or Degrading Treatment,” *Customary IHL*, http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule90 (accessed May 20, 2014).
 135 Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21, 1950, ratified by Myanmar August 25, 1992, art. 3 [Common Article 3] (1)(a).

136 Common Article 3(1)(c).

137 See Common Article 3(1), clarifying that “persons hors de combat” refers to anyone in any manner removed from hostilities, including opposition soldiers who have surrendered, been wounded, been taken captive, or otherwise been removed from the field of battle.

138 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125

U.N.T.S. 609, entered into force December 7, 1978, not signed by Myanmar. Though Myanmar is not a party to Protocol II, this principle is considered part of customary international law and is thus binding on all states (see for example Human Rights Watch, “Entrenching Impunity: Government Responsibility for International Crimes in Darfur,” *Failing Darfur*, http://www.hrw.org/sites/default/files/features/darfur/fiveyearson/report9.html#_ftn202 (accessed May 27, 2014), chapter IX. Culpability of Individuals under International Law.

139 Protocol II, art. 13(2).

140 See generally the discussion of the applicability of international humanitarian law to non-state armed groups in International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge: Cambridge Univ. Press, 2005), pp. 497-98.

International Criminal Law

The Rome Statute of the International Criminal Court (ICC) codifies torture as both a war crime and a crime against humanity. Although the ICC does not have jurisdiction over Myanmar,¹⁴¹ its governing statute is the most persuasive source of international criminal law,¹⁴² in part because the UN Security Council has the power to refer to the Court situations that would otherwise lie outside its jurisdiction.¹⁴³

Fortify Rights believes that the Myanmar authorities' use of torture against civilians in Kachin State and northern Shan State in the conduct of the war constitutes crimes against humanity.

To constitute torture¹⁴⁴ or other inhumane acts¹⁴⁵ as crimes against humanity, conduct must be "committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."¹⁴⁶ Abuses perpetrated against ethnic Kachin civilians in Kachin State and northern Shan State¹⁴⁷ constitute a widespread attack as evidenced by the sheer number of civilian victims.¹⁴⁸ The systematic nature

141 The scope of ICC jurisdiction is limited to when a crime is committed within a country or by a national of a country that is a State Party to the Rome Statute, when a state agrees to ICC jurisdiction, or when a situation is referred to the Office of the Prosecutor by the UN Security Council. See Rome Statute, arts. 5(2), 12(b), 12(3), 13(b).

142 Although Myanmar is not a state party to the Rome Statute, the Statute provides authoritative definitions of the most serious crimes, particularly because 122 countries have acceded to its terms, making it the most persuasive source of international criminal law. For a complete record of states parties, see International Criminal Court, "States Parties," http://icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx (accessed June 1, 2014).

143 Rome Statute, art. 13(b).

144 See Rome Statute, art. 7(1)(f).

145 See Rome Statute, art. 7(1)(k).

146 Rome Statute, art. 7(1).

147 See Human Rights Watch, "*Untold Miseries*," <http://www.hrw.org/reports/2012/03/20/untold-miseries>; Physicians for Human Rights, *Under Siege in Kachin State*, Burma, <http://physiciansforhumanrights.org/library/reports/under-siege-in-kachin-state-burma.html>; Partners Relief and Development, *Crimes in Northern Burma*, http://www.partnersworld.org/files/partnersworld.org/crimes_in_northern_burma.pdf; Women's League of Burma, *Same Impunity, Same Patterns*, http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf; Kachin Women's Association Thailand (KWAT), "Ongoing Burmese Army atrocities in Kachin State are undermining the peace process," October 31, 2013, <http://www.kachinwomen.com/publications/press-release/37-press-release/112-ongoing-burmese-army-atrocities-in-kachin-state-are-undermining-the-peace-process.html> (accessed June 1, 2014).

148 The term "widespread" is not defined in the Rome Statute and case law has established there is no benchmark requirement for number of victims, but the high number of reported victims in Kachin State is persuasive that the "widespread" prong of the Rome Statute would be met here. To consider how tribunals have construed "widespread" in the context crimes against humanity, see for example *Prosecutor v. Akayesu*, International Crimi-

of this attack is revealed in this report by the pattern and distinct similarity of abusive conduct by Myanmar Army soldiers despite the commission of particular criminal acts by different individuals, at different times, in different places separated by considerable distance.¹⁴⁹ While either would have satisfied the Rome Statute requirement for crimes against humanity, torture of Kachin civilians appears both widespread and systematic.

Within such a context, the ICC's definition of torture as a crime against humanity requires victims to be under the control of a perpetrator, and to be subjected to "severe physical or mental pain or suffering" not related to lawful sanctions.¹⁵⁰ The testimony of Kachin civilians shared throughout this report shows they endured severe mental and physical suffering while in the custody of Myanmar authorities. The crime of other inhumane acts does not require a perpetrator to have control of a victim, but does stipulate that a perpetrator must have "inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act"¹⁵¹ upon the victim. While certain treatment inflicted by Myanmar Army soldiers upon Kachin civilians does appear to meet the requisite severity threshold for "torture," particular aspects like limitations on latrine access or forcing victims to lick their own blood might be categorized as "inhumane acts," if considered in isolation.

The acts committed against Kachin civilians by Myanmar authorities meet the requirements of torture and inhumane acts as crimes against humanity because Myanmar authorities had victims within their control, inflicted severe suffering upon them, and did so in the context of an attack against a civilian population that appears to meet the statutory requirements. Neither the crime against humanity of torture nor that of other

nal Tribunal for Rwanda, Case No. ICTR-96-4-T, Judgment, September 2, 1998, <http://www.unict.org/Portals/0/Case/English/Akayesu/judgement/akay001.pdf> (accessed February 17, 2014), para. 580; *Prosecutor v. Mikaeli Muhimana*, ICTR, Case No. ICTR-95-1B-T, Judgment and Sentence, April 28, 2005, <http://www.unict.org/Portals/0/Case/English/Muhimana/decisions/muhimana280505.pdf> (accessed February 17, 2014), para. 257; *Prosecutor v. Juvénal Kajelijeli*, ICTR, Case No. ICTR-99-44A-T, Judgment (Appeals Chamber), December 1, 2003, <http://www.refworld.org/docid/404466007.html> (accessed February 17, 2014), para. 871; *Prosecutor v. Dario Kordic, Mario Cerkez*, ICTY, IT-95-14/2-A, Judgment (Appeals Chamber), Dec. 17 2004, <http://www.refworld.org/docid/47fd53d.html> (accessed February 17, 2014), para. 94.

149 "Systematic" is read as a qualitative requirement indicating "the organized nature of the acts of violence and the improbability of their random occurrence," *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* (Foca case), ICTY, Case No. IT-96-23 and IT-96-23/1, Judgment (Appeals Chamber), June 12, 2002, para. 94. For analysis of the terms "widespread" and "systematic" as they pertain to crimes against humanity in the Rome Statute, see Leila N. Sadat, "Crimes Against Humanity in the Modern Age," *American Journal of International Law*, vol. 107 (2013), <http://law.wustl.edu/scholarshipspotlight/documents/sadat-AJIL.pdf> (accessed Feb. 16, 2014), pp. 352-355.

150 See Elements of Crimes, art.7(1)(f)(1)-(5).

151 Elements of Crimes, art. 7(1)(k).

inhumane acts requires a purpose. That is, the law does not require the perpetrator's conduct to have been designed to elicit information from the victim or fulfill any particular objective.¹⁵²

Fortify Rights also believes that the Myanmar authorities' use of torture against civilians in Kachin State and northern Shan State in the conduct of the war constitutes the war crimes of torture and outrages upon personal dignity.

Under the Rome Statute, conduct rises to the level of torture as a war crime in the context of a non-international armed conflict whenever six key conditions are met: (1) a "perpetrator inflicted severe pain or suffering upon one or more persons"; (2) "for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind;" (3) the victim was a civilian or otherwise *hors de combat* and (4) "the perpetrator was aware of the factual circumstances that established this status;" (5) "the conduct took place in the context of and was associated with" a non-international armed conflict; and, (6) "the perpetrator was aware of the factual circumstances that established the existence of the armed conflict."¹⁵³

The acts perpetrated by Myanmar authorities meet the criteria of torture as a war crime because they were perpetrated in the context of the ongoing non-international armed conflict in Kachin State and northern Shan State; authorities caused "severe" physical and mental harm; and the acts were performed to elicit information, force confessions, or otherwise humiliate or degrade the dignity of the survivor. In all instances, perpetrators were aware of the factual circumstances of the armed conflict and the victims' civilian status.¹⁵⁴

Within the same context, the International Criminal Court defines the war crime of "outrages upon personal dignity" as conduct by which a "perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons"¹⁵⁵ and the "severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity."¹⁵⁶ The offense is distinguished from torture by the absence of a requirement that the treatment be inflicted for a specific purpose.¹⁵⁷ Degrading treatment imposed by Myanmar Army soldiers upon Kachin civilians outside of interrogation contexts appears to fulfill these elements.

¹⁵² See Elements of Crimes, arts. 7(1)(f), 7(1)(k).

¹⁵³ Elements of Crimes, art. 8(2)(c)(i)-4(1)-(6).

¹⁵⁴ Perpetrators need not have known definitively that victims themselves were civilians; it would be sufficient that they were aware of the factual circumstances that civilian IDPs were in the area.

¹⁵⁵ Elements of Crimes, art. 8(2)(c)(ii)(1).

¹⁵⁶ Elements of Crimes, art. 8(2)(c)(ii)(2).

¹⁵⁷ Ibid.

As codified by the Rome Statute, neither the war crimes of torture and outrages upon personal dignity nor the crimes against humanity of torture and other inhumane acts hinge upon action by a state official. Both individuals who commit acts of torture and the military commanders who order or condone such acts in the conduct of armed conflict can be prosecuted for war crimes and crimes against humanity before the ICC.¹⁵⁸

Justice, Remedies, and Treatment for Survivors

International law requires that states not only prevent torture,¹⁵⁹ but that they respect, protect and fulfill the right of torture survivors to compensation for abuse endured and provide legal avenues for survivors to seek redress.¹⁶⁰ Myanmar has an obligation to provide torture survivors with an appropriate legal pathway to pursue a remedy as well as to end impunity for perpetrators.¹⁶¹

Only one survivor of torture interviewed by Fortify Rights had seen a medical professional at the time that he was interviewed. The UN Guiding Principles on Internal Displacement set forth authoritative standards for governments to provide protection and humanitarian aid to internally displaced persons. Under the principles, the authorities should provide displaced people with essential medical services and sanitation, “at a minimum.”¹⁶² None of the survivors of torture interviewed by Fortify Rights had consulted with or received treatment from a medical professional working with the United Nations or an international nongovernmental organization.

158 See generally the discussion of the applicability of international humanitarian law to non-state armed groups in ICRC, *Customary International Humanitarian Law*, pp. 497-498; see also Rule 158, citing the 1949 Geneva Conventions and other international treaties (*Ibid.*, p. 607). See also Rome Statute, art. 25, discussing individual criminal responsibility and art. 28, addressing command responsibility.”

159 See for example CAT, art. 2(1).

160 See for example CAT, art. 14; ICCPR, art. 2(3)(b).

161 CAT, art. 4.

162 United Nations Office of the High Commissioner for Humanitarian Affairs, *Guiding Principles on Internal Displacement*, OCHA/IDP/2004/01 (Geneva: United Nations, 2004), <https://docs.unocha.org/sites/dms/Documents/GuidingPrinciplesDispl.pdf> (accessed May 31, 2014), principle 18.

Recommendations

To the Government of Myanmar

- Make all efforts to end the use of torture and other cruel, inhuman, and degrading treatment or punishment in the conduct of the war in Kachin State and northern Shan State, and in the rest of Myanmar. Publicly condemn the use of torture and other cruel, inhuman, and degrading treatment or punishment and communicate the illegality of torture specifically to the Myanmar Army, the Myanmar Police Force, and Military Intelligence.
- Investigate credible allegations of torture, and ensure that perpetrators are held accountable, regardless of rank or position, and are provided with due process rights and trials that meet international fair trial standards.
- Provide United Nations and national and international humanitarian agencies with safe, sustained, and unfettered access to all areas with internally displaced populations in Kachin State and northern Shan State, and make an explicit long-term commitment to authorize relief, recovery, and eventual development support to populations in need in all conflict-affected areas.
- Support culturally sensitive, specialized programming into effective rehabilitation methods for survivors of torture and their families. Provide the means for as full rehabilitation as possible to restore and repair the dignity, health, and self-sufficiency of survivors.
- Provide safe, sustained, and unfettered access to Kachin State and northern Shan State for the UN Special Rapporteur on the situation of human rights in Myanmar, representatives of the UN Office of the High Commissioner for Human Rights (OHCHR), national and international media, and independent observers and researchers. Support and fully cooperate with the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar.
- Support the establishment of an independent international investigation, including Myanmar partners, into alleged violations of international human rights law, international criminal law, and international humanitarian law committed by all parties to the armed conflicts in Kachin State, northern Shan State, and elsewhere in the country.

Fortify Rights

- Publicize information about the status of all civilians and combatants detained since June 2011 in Kachin State and northern Shan State. Ensure that anyone in detention has access to legal counsel of their choosing and to family members, and ensure that legal counsel can conduct their work freely and safely.
- Expedite the passing of a new prisons law that meets international standards.
- Follow through with previously stated commitments to equip all Myanmar Police Force precincts with CCTV to monitor interrogations.
- Immediately release all detainees in Kachin State and northern Shan State that have not been charged with a cognizable criminal offense, and release all people charged for “crimes” that infringe on their basic human rights.
- Remove indications of ethnic origin and religious affiliation from national identification cards, further to the 2012 recommendation of the UN Committee on the Rights of the Child.
- Ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol. Ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as the Optional Protocols, further to the June 2013 recommendation by the Myanmar National Human Rights Commission. Support the ratification of other key international human rights treaties, including the Convention on the Elimination of Racial Discrimination; the Optional Protocol on the involvement of children and armed conflict; ILO Convention No. 105 concerning the Abolition of Forced Labor; ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and the Rome Statute of the International Criminal Court.
- Implement the recommendations relating to Kachin State, northern Shan State, and combating torture made by the UN Special Rapporteur on the situation of human rights in Myanmar and by the Universal Periodic Review of the Human Rights Council.
- Finalize without delay an agreement with the UN Office of the High Commissioner for Human Rights to establish a Country Office in Myanmar with a full mandate for human rights protection, promotion, and technical support.

- Cooperate with Kachin lawyers, Kachin, Shan, and Myanmar civil society organizations, and human rights organizations to establish a domestic mechanism to provide prompt and adequate compensation to all survivors of torture by the Myanmar Army, Myanmar Police Force, and Military Intelligence.
- Take all necessary steps to end the practice of using forced porters in Kachin State and northern Shan State and all armed conflict areas. Immediately release civilians conscripted into unlawful forced labor by the Myanmar Army. Cooperate with the International Labour Organization, Kachin lawyers, and Kachin civil society to compile a complete list of all conscripted porters in Kachin State and northern Shan State, including information on their current whereabouts, and provide this information to their families.

To the Commander in Chief of the Armed Forces of Myanmar

- Take all necessary measures to end the use of torture by the Myanmar Army. Cooperate with investigations into credible allegations of laws-of-war violations, including torture, and ensure that perpetrators are held accountable, regardless of rank or position, and are provided with due process rights and trials that meet international fair trial standards.
- Provide United Nations and national and international humanitarian agencies with safe, sustained, and unfettered access to all areas of internally displaced populations in Kachin State and northern Shan State, and make an explicit long-term commitment to authorize relief, recovery, and eventual development support to populations in need in all conflict-affected areas.
- Support the establishment of an independent international investigation, including Myanmar partners, into alleged violations of international human rights law, international criminal law, and international humanitarian law committed by all parties to the armed conflicts in Kachin State, northern Shan State, and elsewhere in the country. Provide full cooperation for investigations into allegations of laws-of-war violations, and cooperate with prosecutions of perpetrators, regardless of rank or position.
- Take all necessary measures to end the practice of using forced civilian porters in combat zones and cooperate with UN agencies, the UN Special Rapporteur on the situation of human rights in Myanmar, and Kachin civil society in the verification of these activities.

- Take all necessary measures to end the practice of forced labor of civilians by the Myanmar Army, in line with Order No. 1/99 and Order Supplementing Order No. 1/99.
- Incorporate the promotion and protection of human rights and an end to impunity into ceasefire negotiations and peace talks with the Kachin Independence Army and other non-state ethnic armies.
- Cooperate with the government of Myanmar, Kachin lawyers, Kachin, Shan, and Myanmar civil society organizations, and human rights organizations to establish a domestic mechanism to provide prompt and adequate compensation to all survivors of torture by the Myanmar Army, Myanmar Police Force, and Military Intelligence.

To the UN Country Team and Myanmar-based UN Agencies, International Humanitarian Agencies, and the Donor Community

- Expand support to community-based organizations conducting humanitarian and human rights work. Provide financial, technical, and advocacy support to human rights defenders in order to strengthen local responses to human rights violations, end impunity, and ensure accountability for abuses.
- Continue to advocate with the government of Myanmar and relevant actors for increased humanitarian access to all areas of armed conflict.
- Conduct sustained monitoring and reporting on the human rights situation in northern Myanmar and include findings in regular situation reports. Press the government of Myanmar and non-state actors, including the KIO, to uphold their international legal obligations, particularly with respect to the laws of war and humanitarian access.
- Support culturally sensitive research and programming into effective rehabilitation methods for survivors of torture and their families in Myanmar's ethnic states. Support the provision of counseling and self-help techniques that can be self-administered by affected communities to provide the means for "as full rehabilitation as possible" to restore and repair the dignity, health, and self-sufficiency of the survivor and their families.

- Support an external independent review into the humanitarian response in Kachin State and northern Shan State by UN and international agencies, with a focus on the extent of unmet humanitarian needs in IDP camps in government-controlled and KIA-controlled territories and the reasons for those unmet needs. Participate with Kachin displaced populations, human rights organizations, and civil society in this review.

To the Kachin Independence Organization and the Kachin Independence Army

- Incorporate the promotion and protection of human rights and an end to impunity into ceasefire negotiations and peace talks with the Kachin Independence Army and other non-state ethnic armies.
- Support the establishment of an independent international investigation, including Myanmar partners, into alleged violations of international human rights law, international criminal law, and international humanitarian law committed by all parties to the armed conflicts in Kachin State, northern Shan State, and elsewhere in the country. Provide full cooperation for investigations into allegations of laws-of-war violations, and cooperate with prosecutions of perpetrators, regardless of rank or position.
- Continue to provide United Nations and national and international humanitarian agencies with safe, sustained, and unfettered access to all areas of internally displaced populations in Kachin State and northern Shan State.
- Implement the recommendations relating to Kachin State, northern Shan State, and ending human rights abuses made by the UN Special Rapporteur on the situation of human rights in Myanmar and by the Universal Periodic Review of the Human Rights Council.

To the Myanmar National Human Rights Commission

- Support the establishment of an independent international investigation, including Myanmar partners, into alleged violations of international human rights law, international criminal law, and international humanitarian law committed by all parties to the armed conflicts in Kachin State, northern Shan State, and elsewhere in the country.
- Conduct impartial investigations of credible allegations of serious human rights violations, including torture in Kachin State and northern Shan State, and make recommendations to achieve accountability and end impunity for abuses.
- Recommend the government of Myanmar ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol. Recommend the government of Myanmar ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as the Optional Protocols, further to the June 2013 recommendation by the Myanmar National Human Rights Commission. Support the ratification of other key international human rights treaties, including the Convention on the Elimination of Racial Discrimination; the Optional Protocol on the involvement of children and armed conflict; ILO Convention No. 105 concerning the Abolition of Forced Labor; ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and the Rome Statute of the International Criminal Court.

To the International Community and the Association of Southeast Asian Nations

- Urge the government of Myanmar to cease the use of torture in Myanmar without delay. Urge the government of Myanmar to communicate to the Myanmar Army, Myanmar Police Force, and Military Intelligence and relevant authorities to cease the use of torture and other cruel, inhuman, and degrading treatment or punishment.

- Support the establishment of an independent international investigation, including Myanmar partners, into alleged violations of international human rights law, international criminal law, and international humanitarian law committed by all parties to the armed conflicts in Kachin State, northern Shan State, and elsewhere in the country.
- Provide financial, technical, and advocacy support to human rights defenders in Myanmar in order to strengthen local responses to human rights violations, end impunity, and ensure accountability for abuses.
- Support the mandate of the UN Special Rapporteur on the Situation of Human Rights in Myanmar.
- Advocate for the full realization of recommendations relating to the situation in Kachin State and northern Shan State made by: the UN Special Rapporteur on the situation of human rights in Myanmar; the UN High Commissioner for Human Rights; the Committee on the Elimination of Discrimination Against Women; the Committee on the Rights of the Child; the Universal Periodic Review of the Human Rights Council; Fortify Rights, and other human rights organizations.

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The only known photo of male Kachin farmer (name and details on file with Fortify Rights) arrested in June 2012 by the Myanmar Army while herding cows. His wife, 45, has visited him in prison and told Fortify Rights he was beaten severely and subjected to water torture and other abuse: “In the police station there was a lot of torture and he was kept in a very small and dark room with no light.” Denied a fair trial, he remains in prison at the time of writing.

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While the international community applauds sweeping political changes taking place in Myanmar, a deadly civil war rages in the north of the country. Since June 2011, more than 100,000 civilians have been displaced to 165 displacement camps in Kachin State and northern Shan State, following renewed fighting between the Myanmar Army and the non-state Kachin Independence Army (KIA).

“I Thought They Would Kill Me”: Ending Wartime Torture in Northern Myanmar documents the systematic use of torture by Myanmar authorities against Kachin civilians from June 2011 to April 2014. Based on 78 interviews conducted by Fortify Rights, it chronicles the torture and other cruel, inhuman, and degrading treatment or punishment of more than 60 civilians by members of the Myanmar Army, Military Intelligence, and the Myanmar Police Force.

Fortify Rights believes the abuses documented in this report may constitute war crimes and crimes against humanity under international law, and it calls on the government of Myanmar to intervene to put an end to the torture, and to credibly investigate and prosecute the perpetrators of these crimes.