

Physicians for Human Rights



Under Siege in Kachin State, Burma

November 2011

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PHR

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Human Rights

ABOUT PHYSICIANS FOR HUMAN RIGHTS

Physicians for Human Rights (PHR) is an independent organization that uses the integrity of medicine and science to stop mass atrocities and severe human rights violations against individuals. We use our investigations and expertise to advocate for the:

- Prevention of individual or small scale acts of violence from becoming mass atrocities
- Protection of internationally-guaranteed rights of individuals and civilian populations
- Prosecution of those who violate human rights

We are supported by the expertise and passion of health professionals and concerned citizens alike.

Since 1986, PHR has conducted investigations in more than 40 countries around the world, including Afghanistan, Burma, Congo, Rwanda, Sudan, the United States, the former Yugoslavia, and Zimbabwe:

1988 — First to document Iraq's use of chemical weapons against Kurds

1996 — Exhumed mass graves in the Balkans

1996 — Produced critical forensic evidence of genocide in Rwanda

1997 — Shared the Nobel Peace Prize for the International Campaign to Ban Landmines

2003 — Warned of health and human rights catastrophe prior to the invasion of Iraq

2004 — Documented and analyzed the genocide in Darfur

2005 — Detailed the story of tortured detainees in Iraq, Afghanistan and Guantánamo Bay

2010 — Presented the first evidence showing that CIA medical personnel engaged in human experimentation on prisoners in violation of the Nuremberg Code and other provisions

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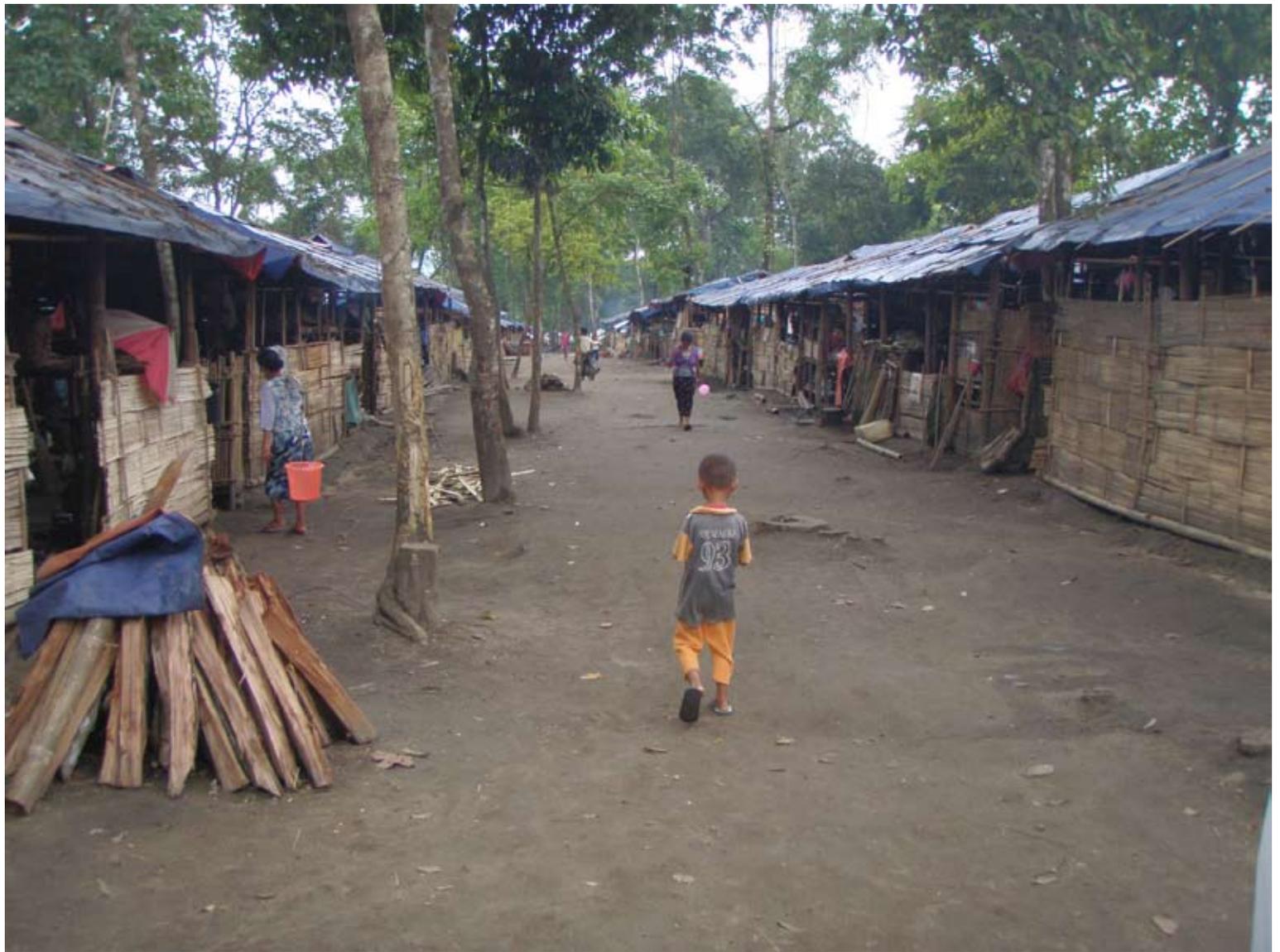
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IDP camp, Kachin State, Burma. Photo: PHR

“The problem is that everyone neglects this issue and says that it’s an internal problem—nobody wants to solve this problem. We suffer because of that. To solve this problem, the UN and US and EU or whoever, they should interfere in this situation. I would like to ask them to help us.”

KIO spokesman, interviewed on Sept 26, 2011

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In September 2011, as the international community discussed easing sanctions on Burma's military-backed civilian government, Physicians for Human Rights (PHR) conducted an emergency investigation in Burma's Kachin State in response to reports of grave human rights violations in the region. The aims of the study were

1. to independently investigate reported human rights abuses and war crimes; and
2. to assess the humanitarian situation and nutritional status of internally displaced persons (IDPs) displaced by conflict in 2011.

This report provides the first humanitarian assessment of some of the IDPs living in areas of Kachin State that are not controlled by the Burmese government. The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) recently released a report on the health situation of 5900 IDPs in urban and peri-urban areas of Kachin state that are under Burmese government control. But no mention was made of the estimated 22,000 displaced people in other areas of the state. PHR conducted its investigation entirely in these areas; this report will help to build a more complete picture of the humanitarian situation among internally displaced persons in politically contested areas in Kachin State.

The human rights investigation provides compelling evidence that the Burmese army (the Tatmadaw) has committed multiple human rights violations in Kachin State. Between June and September 2011, the Burmese army looted food from civilians, fired indiscriminately into villages, threatened villages with attacks, and used civilians as porters, human minesweepers, and impressed guides. Our findings are consistent with similar reports of human rights abuses in other ethnic states, and suggest that violations of rights of ethnic nationalities in the country by the central government are systematic and widespread.

In addition to the human rights investigation, PHR visited six camps and four shelters for displaced Kachin civilians on the Sino-Burmese border and conducted health and nutrition assessments from 22-30 September, 2011. The camps fail to meet multiple minimum humanitarian standards outlined in the Sphere humanitarian guidelines. Camps are overcrowded and there are insufficient numbers of latrines and water supply points. Camp medical staff reported that upper respiratory infections and diarrhea were the most common reasons for clinic visits, and that they experienced shortages in medicine for infants.

Key human rights findings of this report:

- The Burmese army forced Kachin civilians to guide combat units and walk in front of army columns to trigger landmines. This practice puts civilians at extreme risk of injury and death and is a war crime.
- The Burmese army regularly pillaged food and supplies from civilians. This practice is prohibited under customary international humanitarian law.
- The Burmese army fired automatic weapons directly into a civilian village, striking non-military targets. The intentional direction of attacks against civilians is also recognized as a war crime in the Rome Statute¹, the treaty that created the International Criminal Court.

1. Rome Statute of the International Criminal Court, art. 8(2), 17 Jul. 1998, 2187 U.N.T.S. 90, entered into force 1 Jul, 2002.

Key related humanitarian concerns:

- IDP camps are overcrowded and the numbers of latrines and water supply points are insufficient to ensure that residents' human rights to clean food and water are met. Camp medical staff reported insufficient supplies of medicine for infants.
- Eleven percent of children under five years old in one camp in Laiza were found to be severely or moderately malnourished, a situation that the World Health Organization (WHO) classifies as "severe" and warrants targeted supplementary feeding programs.
- Very little aid reaches IDP camps, and groups caring for them face challenges in providing food, medicine, and shelter. The most vulnerable populations—those in rural areas and near the border—have not received any official humanitarian aid; they are only receiving aid from community-based organizations, which have largely been ignored by the international donor community.

This investigation suggests that the incremental political changes in central Burma have not translated into improved livelihoods or improved the human rights situation of ethnic populations living along Burma's frontiers. The government of Burma has announced greater freedoms, including unblocking some internet websites and limiting censorship in the press, and releasing Aung San Suu Kyi and a fraction of the other political prisoners in the country. Some in the international community have asserted that political change has come to Burma; however, these changes largely are confined to the urban, primarily ethnic Burman, population. For many of the peoples of Burma facing conflict and abuse, including the Kachin peoples, the brutality of the old regime remains an omnipresent threat.

PHR's findings come at a crucial moment when the international community is considering easing sanctions on Burma in response to its positive steps towards what Senior General Than Shwe has called "disciplined democracy." PHR welcomes the stated commitment of the government to greater openness and urges the international community to ensure that the rhetoric translates into positive action for all people in Burma. The Kachin and other groups continue to endure grave human rights violations at the hands of the Burmese army. True progress must be measured by thorough analysis of the extent of the government's abuses and by establishing a system through which perpetrators are held accountable for their actions.

Methods and Limitations

In September and October 2011, PHR visited six camps and four shelters on the Sino-Burmese border. PHR conducted 48 key informant interviews with church leaders, KIO officials, health officials, clinicians, camp managers and internally displaced persons (IDPs). PHR used a checklist based on Sphere standards to assess the health and sanitation situation in the IDP camps². Sphere standards are evidence-based guidelines that define minimum standards of living for people in humanitarian emergencies. PHR's investigator interviewed IDPs using a semi-structured questionnaire used previously by PHR investigators in Burma³.

PHR trained nine surveyors to assess household hunger and acute malnutrition among children in one camp near Laiza town⁴.

2. The Sphere Project, *Sphere Handbook 2004 Edition* (2004), <http://www.sphereproject.org/index.php?option=content&task=view&id=27&Itemid=84>

3. See Physicians for Human Rights, *Life Under the Junta: Evidence of Crimes Against Humanity in Burma's Chin State* (2011), https://s3.amazonaws.com/PHR_Reports/life-under-the-junta-burma-chin-state.pdf.

4. Acute malnutrition was assessed by measuring the mid-upper arm circumference of children. For background information on this method, see Mid-Upper Arm Circumference (MUAC) at <http://www.unsystem.org/scn/archives/adults/ch06.htm>.

Approximately 900 families live in 330 tents in the camp, which is divided into eight administrative units. A two-stage sampling design was used to select participant households: surveyors used systematic interval sampling to select every third tent; and randomly selected one family per tent for the hunger questionnaire and MUAC. After obtaining consent, surveyors asked the head of household the six questions from the abridged FANTA-2 Household Food Insecurity Access Scale, a validated instrument used to assess household hunger in low and middle income countries.

Surveyors assessed nutritional status by measuring middle-upper arm circumference (MUAC) of all children between the age of 6 months and five years, and then asked six questions from the FANTA-2 survey. MUAC cutoffs of 115mm, 125mm and 135mm were used to define four categories of acute child malnutrition: severe, moderate, at risk and none.

The WHO classifies the nutritional situation of complex emergencies using the global acute malnutrition rate (GAM), calculated as the sum of moderate and severe malnutrition. The ethical review board of PHR and a local community consultation board approved the study.

PHR did not independently confirm reports of rape due to the lack of resources to refer victims for appropriate medical or psychological care. PHR uses the Istanbul Protocol for interviewing victims of torture, which requires that these referral systems be in place⁵. Furthermore, many of the alleged incidents happened inside areas controlled by government of Burma that PHR was unable to access. Lastly, although PHR follows strict confidentiality protocols, the potential risk of retribution by the Burmese government to respondents suspected of reporting rape was felt to be unacceptably high.

This investigation was limited to camps proximal to the Sino-Burmese border in areas not fully controlled by the Burmese government, and these findings should not be generalized to other areas of Kachin state, or of Burma as a whole. Fighting in the border town of Maijyang and deeper inside Kachin state precluded travel to those areas. This fighting has also limited the local humanitarian response reaching populations farther from the Chinese border, and it is likely that the findings in this report from Laiza underestimate the severity of the humanitarian conditions further from the border.

Background

Kachin State is the northernmost state in Burma, bordered by China (and formerly by Tibet) and India. The state is populated mostly by the Kachin people, a predominately Christian group with a Tibeto-Burman language and a culture and identity distinct from Burma's majority Buddhist and ethnic Burman population. Kachins also live in northern Shan state, where some of the heaviest fighting of this conflict has happened.

The Kachin were governed independently by the British and their chiefs only agreed to join the Union of Burma when they were promised autonomy in the first constitution of Burma and the Panglong Agreement. When this did not materialize, and especially after imposition of military rule in 1962, several Kachin independence movements began. The Kachin Independence Organization (KIO), and its military wing, the Kachin Independence Army (KIA), have been fighting for autonomy from the Burmese government since their formation in 1961. The KIO signed a ceasefire agreement with the Burmese government in 1994, which gave the KIO governing power over portions of Kachin State along the Chinese border.

5. Office of the United Nations High Commissioner for Human Rights, Personal Training Series No. 8/Rev. 1, Istanbul Protocol (2004), <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

The ceasefire agreement never fully resolved the deep-seated, underlying ethnic distrust between the Kachin peoples and the Burmese government, and it fell apart in June of 2011. The Kachin felt that the new Burmese constitution, adopted in 2008, gave insufficient representation and rights to minority groups. Major Kachin political parties were banned from participating in Burma's 2010 elections, and the central government was pressuring the KIA to join the Burmese army, which the KIA found unacceptable⁶.

Following the breakdown of the ceasefire arrangement, from June to October 2011 the Burmese army and KIA fought scores of battles in southeastern Kachin and northern Shan states. Thousands of Kachin villagers fled their homes for makeshift dwellings in the jungle, churches, or IDP camps inside Kachin state and along the border with China⁷. The KIO estimated that 30,000 villagers fled their homes during the first three months of fighting⁸. The KIO reported that the KIA and the Burmese army fought 160 skirmishes in October 2011, and fighting remains ongoing at the time of the writing of this report in November 2011⁹.

The onset of armed conflict in July 2011 was accompanied by a concurrent upsurge in reports of human rights violations by the Burmese army. Community-based organizations and the local news media described forced labor, extrajudicial killings, torture, and rape¹⁰. Similar abuses by the Burmese army have been regularly documented in other ethnic areas over the past decade.¹¹

In response to the reports coming from Kachin State, PHR launched an emergency investigation from 22-30 September, 2011. The goals of the investigation were to document human rights violations and to assess the health and nutrition situation in the IDP camps. This report describes the findings of the investigation.

6. Burma Fund U.N. Office, *Burma's 2010 Elections: A Comprehensive Report* (2011), http://www.burmalibrary.org/docs11/BurmaFund-Election_Report-text.pdf.

7. An IDP is someone who is fleeing fighting or persecution but remains inside his own country. An IDP must cross an international border to technically be termed a refugee.

8. Personal Communication, RANIR, 24 September, 2011

9. *Kachin Rebels Blow up Major Railway*. 11 November, 2011. http://www.irrawaddy.org/article.php?art_id=22440

10. Press Release, Kachin Women's Association Thailand, "Aid urgently needed for refugees fleeing spreading fighting and 'orders to rape' in Kachin State" (19 Jul. 2011), <http://www.kachinwomen.com/advocacy/press-release/37-press-release/65-aid-urgently-needed-for-refugees-fleeing-spreading-fighting-and-orders-to-rape-in-kachin-state.html>
Press Release: Women's League of Burma, "WLB launches a short film "Bringing Justice to Women" demanding the accountability of Burma's military for war crimes and crimes against humanity" (2011)

Press Release: Human Rights Watch, Burma: "Army Committing Human Rights Abuses in Kachin State" (2011)

Kachin News Group, "Plain clothes Burmese soldiers rob and assault Kachin people", 2 Jul 2011,

<http://www.kachinnews.com/photo-news/1926-plain-clothes-burmese-soldiers-rob-and-assault-kachin-people.html>

11. Karen Women Organization, *Walking Amongst Sharp Knives: The Unsung Courage of Karen Women Village Chiefs in Conflict Areas of Eastern Burma* (2010), <http://www.karenwomen.org/Reports/WalkingAmongstSharpKnives.pdf>; Shan Women's Action Network, *License to Rape* (2002) <http://www.shanwomen.org/pdf/Licence%20to%20Rape%20B.pdf>; Shan Human Rights Foundation, *Dispossessed: A Report on Forced Relocation and Extrajudicial Killings in Shan State, Burma* (1998), https://docs.google.com/View?docID=0AWY-xfqztTUUZGRwNHdrcTlfNzVncWs0YzRkNQ&revisio n=_latest&hgd=1; Chin Human Rights Organization, *Special Reports* (2004-2010), <http://www.chro.ca/publications/special-reports.html>; Karen Human Rights Group, *Self-Protection Under Strain: Targeting of Civilians and Local Responses in Northern Karen State* (2010), <http://www.khrg.org/khrg2010/khrg1004>; Human Rights Foundation of Monland, *Laid Waste: Human Rights Along the Kanbawk to Myaing Kalay Gas Pipeline* (2009), <http://rehmonnya.org/archives/category/laid-waste#1.%20Introduction>.

PHR documented multiple human rights violations, some of which are war crimes as defined by the Rome Statute of the International Criminal Court, the Geneva Conventions, and customary international humanitarian law. This report reflects a snapshot of violations that indicate wider abuses on the part of the Burmese army.

Rape

One week after the fighting began, the Kachin Women's Association of Thailand (KWAT) reported the rape of three women and the rape and murder of three more women. By the end of July, KWAT had reported rapes of 32 women and girls, 13 of whom were killed.¹² PHR did not attempt to confirm these reports because we could not guarantee the safety of the alleged victims.

The reported rapes violate the laws of war, codified in the Geneva Conventions.¹³ On a general level, prohibitions of rape and other forms of sexual violence are binding in international and non-international conflict, including the fighting in Kachin State.¹⁴ Any use of rape by the Burmese army against the Kachin would be a violation of this principle.

Human Shields

PHR interviewed Kachin civilians who were forced by the Burmese army to guide combat units and to walk in front of army columns to trigger landmines. This practice puts civilians at extreme risk of injury and death and is a violation of customary international humanitarian law. A key element of international humanitarian law is the principle of distinction, which requires parties to differentiate between military and civilian targets.

Related to this principle is the prohibition on the use of human shields,¹⁵ the requirement for parties to a conflict to protect civilians under their control from the effects of attacks,¹⁶ and the requirement to keep civilians away from military targets whenever possible.¹⁷ Forcing civilians to act as human minesweepers also violates the norm that civilians must be treated humanely during times of conflict.¹⁸

"They asked me to lead, to go first. At each of the mountain passes I thought that there might be bombs—mines—so I tried to avoid this, so I did not walk in the middle of the path, and I kept hitting in front of me with the stick. The Burmese thought that there might be mines on the path. I decided

12. Press Release, Kachin Women's Association Thailand, *supra* note 10.

13. Protocol Additional to the Geneva Conventions of 12 Aug. 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) art. 76(1), 1125 U.N.T.S. 3; Protocol Additional to the Geneva Conventions of 12 Aug. 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) arts. 10.1-10.4, 1125 U.N.T.S. 610. Note that Burma has ratified the First, Second, and Third Geneva Conventions, but has not ratified the Fourth Geneva Convention nor the two Additional Protocols. Many prohibitions of the Geneva Conventions are nonetheless binding on Burma because they have been recognized as binding customary international humanitarian law, applicable in both international and non-international conflicts. See Jean-Marie Henckaerts & Louise Doswald-Beck, International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, Volume I: Rules (2009), available at <http://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>. Customary International Humanitarian Law, Volume I: Rules, *supra* note 13, at 323.

14. Customary International Humanitarian Law, Volume I: Rules, *supra* note 13, at 323.

15. *Id.* at 337.

16. *Id.* at 68.

17. *Id.* at 74.

18. *Id.* at 306.

that if I did not run away, I might step on a landmine, this is a problem. I could easily die. I thought if I ran and they shot, I could also die. But I decided it would be better to run away than to hit a landmine. When I ran they did not shoot me, because maybe they were afraid of being heard by the KIA.”

Male farmer, 60, interviewed on 24 September, 2011

“They asked me where I was from and they asked me if I was in school. I told them yes I was in 7th standard. And then they said nothing but made me show them the way. If I did not show them the way I was afraid of getting shot. When I finally got home I didn’t want to eat because I was so afraid. I felt sick.”

Boy, 15, interviewed on 23 September, 2011

Forced Labor

The Burmese army forced Kachin civilians to carry supplies for combat troops. Civilians were not paid for their work and they did it under threat of violence. These acts of forced labor violate Burma’s obligations under the International Labor Organization Convention Concerning Forced or Compulsory Labor, which Burma ratified in 1955.¹⁹ Forced labor in conflict also violates customary international humanitarian law.²⁰

“One of the soldiers swung his rifle and hit me when I came out. After that they asked us to carry things. One soldier had about two porters each. Including men and women, there were over 30 of us. We carried all of the commodities from the shop, they put everything in a bag and asked us to carry it. They asked all of us to bow our heads down all the time. If we didn’t they would slap us. I did not bow my head and a soldier slapped me. I carried many heavy things. Bullets and clips. They were very heavy. On the way my longyi got caught in some barbed wire. When I tried to get it loose, soldiers slapped me again.”

Male welder, 41, interviewed on 25 September, 2011

“The soldiers asked me if I was Kachin. And I said no, I am Chinese. And they said we don’t care if you’re Chinese or Kachin, the captain wants you to follow us. And they asked me to carry some things. They asked me to carry a basket that was previously carried by a soldier. I dared not refuse. They had guns. I was captured at 6 a.m.; we walked all day, very slowly two or three paces and then stopped. Very slowly until we reached the next area then we spent the night there.

The next morning we continued. The next day, after we walked from that area, we continued on, then a Burmese soldier was hit by a land mine. So after that they made me carry the wounded soldier. At that time we stopped one night there and continued the next day. Then we stopped for another night, so I worked for five nights and four days.

When we reached a stopping place there was a well. My basket was heavy and gave me a wound on the back. So one soldier said to me, you need to get some ointment—go in there and get some treatment. So I went there, to a tailor, he was stitching his clothes. Another soldier said, “you are a porter, why do you need treatment?” and he pushed me away. One person gave me a packet of instant noodles, and this is all I had to eat for three days. I ate it slowly. The Burmese soldiers were eating rotten rice but they would not let me have it. I was very hungry and I wanted to cry.”

Male farmer, 32, interviewed on 24 September, 2011

Pillaging Civilian Property

The Burmese army employs a “self-reliance” policy in which troops are instructed to supply themselves with goods and property from the local civilian population. Civilians that PHR interviewed were not reimbursed for property taken by the military. These acts of pillaging, or the forcible taking of civilian property, are prohibited under customary international humanitarian

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

20. Customary International Humanitarian Law, Volume I: Rules, *supra* note 13, at 330.

law.²¹ Pillaging has devastating effects on the civilian population, including food insecurity and forced displacement. International law forbids the Burmese government from pillaging civilian property,²² as does Burma's constitution.²³

"Infantry battalion 58 arrived, is doing many investigations and we cannot move very well to the farms and back. They took animals from the village—killed them and took them. They shot our animals in the village and took them. Also we had a milling machine for rice, and the army took it to mill our rice.

From me they took chickens and one pig; from other villager they took cows and pigs. This is our main source for income, so we feel very sorrowful. We are very afraid. Whenever they ask a question or make a request and the answer is not to their liking they slap or beat us. We are afraid of the Burmese soldiers."
Male farmer, 54, interviewed on 24 September, 2011

Indiscriminant Firing into Civilian Villages

PHR documented one case of the Burmese army firing into a civilian village. Parties to a conflict must respect the principles of distinction and proportionality, and they commit war crimes when they intentionally attack homes or villages that are not legitimate military targets.²⁴ The intentional direction of attacks against civilians is also recognized as a war crime in the Rome Statute,²⁵ the treaty that created the International Criminal Court.

"When there was shooting, some villagers left and some stayed. We got trapped because troops were coming from two sides. They were shooting all over. They hit roofs of houses and a motorbike. I hid in some bushes behind a latrine, but when the bullets were hitting close to me, I was afraid to come out."
Male welder, 41, interviewed on 25 September, 2011

Forced Displacement

Kachin civilians recounted Burmese army abuses that occurred during periods of fighting in the 1970s and 1980s. These civilians heard early reports of abuses in this conflict, and many fled their villages when they heard the Burmese army was coming. Forced displacement is prohibited in customary international humanitarian law, and parties have an obligation to actively avoid situations that may lead to displacement.²⁶

Under the Guiding Principles of Internal Displacement, states have the responsibility to provide displaced people with non-discriminatory protection and humanitarian assistance.²⁷ The Government of Burma therefore has the dual obligation of preventing displacement as well as

21. *Id.* at 182.

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

A former Special Rapporteur on the situation of human rights highlighted Government soldiers' practice of forcibly taking poultry, rice, and farm animals from ethnic minority areas across Burma, without payment. Situation of Human Rights in Myanmar: Statement by Judge Rajsoomer Lallah, Special Rapporteur of the Commission on Human Rights (26 Oct. 2000), <http://www.myanmarlibrary.org/reg.burma/archives/200010/msg00106.html>.

23. "The Union shall protect according to law movable and immovable properties of every citizen that are lawfully acquired." Constitution of the Republic of the Union of Myanmar, art. 356, 2008; also, "The Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this Constitution." *Id.*, at art. 357. Enumerated citizen "duties" also include "the duty to assist the Union in carrying out the following matters...protection and preservation of public property." *Id.*, at art. 390(d).

24. Customary International Humanitarian Law, Volume I: Rules, *supra* note 13, at 37-45.

25. Rome Statute of the International Criminal Court, *supra* note 1, art. 8(2).

26. Customary International Humanitarian Law, Volume I: Rules, *supra* note 13, at 457, 461.

27. Guiding Principles on Internal Displacement, U.N. Doc. E/CN.4/1998/53/Add.2 (11 Feb. 1998).

providing care for those displaced. Our investigation revealed failure on both fronts. PHR found that forced displacement contributed directly to food insecurity among those surveyed.

PHR visited the camps listed below, which housed approximately 9,260 IDPs. This figure reflects IDPs housed in six camps in Laiza and in a few shelters in China. There are over 20 IDP locations in Kachin State and northern Shan State.

Camp Name	Location	Number of IDPs
Je Yang	Near Laiza - bamboo tents	3800
Hpung Lum Yang	Near Laiza - bamboo tents	1000
Man Au Wa	Laiza - community building, and empty workers' quarters	1100
Masat Muson Gat	Laiza market	630
Wun LiGawk Nu	Laiza - community center	330
Wai Jaing	Laiza - warehouse	1900
China shelters	NA ²⁸	500
Total		9260

"The Burmese army commander said that if there is fighting nearby we will shell your village. I don't know which unit, but they were artillery. The commander accused us of being KIA supporters. This year—we were sure the troops would attack us like before. In the 1970s my village was shelled and the army killed my younger brother. Two villagers [back then] were shot—one old man sitting in front of his hut and one mentally ill person. In the 1970s my wife was tortured by Burmese army, they tried to drown her in a bucket of water—I cannot bear that kind of experience again, so we came here [to the camp]"
Male farmer, 72, interviewed on 26 September, 2011

"Since the fighting started, we have been afraid. We thought that it is not easy to flee with the old and very young people, so we left early."
Male farmer, 32, interviewed on 29 September, 2011

"...it was easier to stay in the jungle, so we could live there and still get food from our house and farm. We hid in the jungle for almost 2 months. We ran out of food, and the children became sick and we were worried about the children. The children were very sick and we were worried so we finally brought them here."
Female farmer, 32, interviewed on 25 September, 2011

"We left everything in the village, but if we go back we need to hide, we're afraid to meet the troops. If we go home and stay we will not feel safe."
Male pastor, 37, interviewed on 23 September, 2011

Humanitarian Concerns

The KIO is headquartered in Laiza town, and the camps there are administered by the KIO health department, the KIO IDP committee, and the recently-formed Relief Action Network for IDPs and Refugees (RANIR). RANIR is a consortium of community-based organizations.

KIO recently decentralized its health system, and thus it has a limited presence outside of Laiza. Care of the IDPs in Majaiyang, south of Laiza, is handled by an ad-hoc group of eight civil society organizations, called "Wunpawng Ninghtoi" (WPN) in Kachin language, or "The light for all Kachin people." These groups had previously been involved in health and development projects in Kachin state. A Kachin youth organization is caring for IDPs in Northern Shan State.

28. The location of these shelters is not disclosed in order to protect the residents from possible persecution.

WPN is funded mostly by local donations and constantly faces funding shortages. In September, WPN asked IDPs to return to their homes because they could not afford to support them. Some IDPs went home but many returned to the camps when they encountered the army in their villages.

Food

There are direct connections between the violations of the Burma Army and the worsening food insecurity of people in Kachin State. PHR documented statistically significant associations between human rights violations and household hunger in Chin State in a survey in 2010.²⁹ A 2007 study in Eastern Burma showed that forced displacement was associated with increased child mortality and child malnutrition³⁰ The same study showed that theft of food by soldiers was associated with overall malnutrition.

The Burmese soldiers were eating rotten rice and they would not let me have it. I was very hungry...

Male farmer, 32

In Kachin State the Burmese army is pillaging food stores from civilians, and fighting has disrupted farming activities, which may lead to low crop yields; thus civilians may suffer both short and long-term effects of these human rights violations.

Government restrictions limit the scope of international humanitarian response, including the World Food Program (WFP), which to date has distributed food to only approximately 5100 of the estimated 30,000 IDPs.³¹ The majority of Kachin State IDPs have no access to official channels of international humanitarian assistance, forcing them to rely primarily on CBOs or survive on their own.

Local community based organizations are the sole providers for thousands of IDPs beyond the reach of international organizations. For example, WPN provides rice, oil, salt and occasionally beans and vegetables to IDPs around Majaiyang and in China. RANIR provides cooked rice twice per day to IDPs in Laiza town, and 500g of uncooked rice per family per day in the camps outside of town. IDPs find or buy the rest of their food. Some IDPs sneak back to their villages to harvest vegetables from their gardens, and the Je Yang camp in Laiza started a community gardening project.

"There is a lot of rice in Myitkyina and Bhamo but it cannot get here."

Chair of IDP Committee, Laiza, interviewed on 23 September, 2011

"Pigs, chickens, whatever they want they come and collect. I had over 50 chickens and now they are all gone. Because so many Burmese came and took them. If the army cannot catch them, they bring their dogs to catch the chickens."

Female farmer, 64, interviewed on 25 September, 2011

"We planted rice and left it, we do not know if it will grow. We planted and ran, animals might eat it."

Male farmer, 72, interviewed on 26 September, 2011

29. See Physicians for Human Rights, *Life Under the Junta: Evidence of Crimes Against Humanity in Burma's Chin State* (2011), *supra* note 3.

30. Mullany LC, Richards AK, Lee CI, Suwanvanichkij V, Maung C, Mahn M, Beyrer C, Lee TJ, Population-based survey methods to quantify associations between human rights violations and health outcomes among internally displaced persons in eastern Burma, *J Epidemiol Community Health* 2007;61:908-914

31. Myanmar: Food Concerns Rise for Kachin IDPs, IRIN, 19 Aug. 2011, <http://www.irinnews.org/printreport.aspx?reportid=93539>; World Food Program Distributes Rice to Kachin War IDPs, Kachin News Group, 9 Sep. 2011, <http://kachin-news.blogspot.com/2011/09/world-food-program-distributes-rice-to.html>.

"Farming is our source of income and source of food. Since there's no farming this year, if we could go home now then I am thinking what would we eat and how would we support the children? We need peace."
Housewife, 50 interviewed on 23 September, 2011

"We keep watching the farms duty by duty, we feel afraid when we return to the village, but we are thinking we are just only men, strong men, so we can easily run if something happens. Compared to last year's harvest this year's will be much less. One reason is we could not cultivate the whole farm, just one part of the farm we cultivated. Another reason is that normally we transplant rice at the exact time of transplanting, according to the calendar, but this year it was difficult to get enough labor so we did not transplant properly. It will not meet the requirements for our family to function. It will not be enough food for our family. Even though we planted now, we're not sure what will the situation be at harvest time; if there is more fighting we may not be able to harvest."

Male farmer, 32, interviewed on 25 September, 2011

"Our farm, our village, our paddy fields, because there is nobody living there, the cows and buffalo already have eaten the rice, so there is no point to go back now. We will go back when the fighting stops. If we go back and there is no food, we will collect vegetables from the forest. To eat and to sell. That will not be enough food, but it is all we can do. If it is not enough, maybe we can boil rice into porridge to make it last longer."
Female farmer, 32, interviewed on 25 September, 2011

Water and Sanitation

In Je Yang camp near Laiza, water is piped from a spring to two water points that serve 3800 people. The camps in Laiza town receive water from municipal faucets or twice per day from trucks. IDPs in the shelters in China take water from an uncovered well. RANIR and WPN had a very limited supply of Waterguard® purification solution at the beginning of the summer, but this is now gone and they cannot get more from Myitkyina because roads are blocked by fighting. They are asking IDPs to boil their water, though this is difficult because of limited fuel availability and rising fuel costs.

Most of the shelters in Laiza town have two to four latrines and one or two washing areas for every 200-500 people. The camps near Laiza have about 90 latrines for 3800 people.

Improved water and sanitation is needed in the camps, as are health education programs. In most camps the number of water points and latrines are insufficient for the number of IDPs, according to Sphere standards. Sphere recommends that the minimum distance from a household to a water point is less than 500 meters; that there is a maximum of 20 people for each toilet; that toilets are segregated by sex; and that children's feces are properly disposed of hygienically.³² The crowded camp conditions with inadequate quality and quantity of water and inadequate sanitation places IDPs at increased risk for infectious diseases.



Truck delivering water to IDP camp. Photo: PHR

³². The Sphere Project, *supra* note 2.

Shelter

The IDPs in Laiza town are living in crowded conditions in large rooms. Families have claimed areas on the floor with woven or plastic mats, and they hang up sheets for privacy at night. RANIR is slowly shifting these IDPs to the Je Ying camp outside of town for longer-term settlement. IDPs there live in bamboo shelters with tarpaulin roofs. The shelters' floor spaces are about 20 x 30 feet and they contain on average three households each, for a total of 10 to 15 people. These shelters have thin walls and no doors or window coverings, and they will not afford much protection from the cold during the winter.

Winter temperatures drop to the 40s Fahrenheit in Laiza and can go below freezing in Maijayang. The refugees in China are living in similarly crowded conditions in warehouses and stables and are also paying rent for their accommodation. The supply of tarps and building materials is inadequate to meet the minimum standards of this population. Spaces in the tents are adequate according to Sphere standards (of 3.5m² per person), but insulation and privacy are not.

Social Needs

The high school in Laiza teaches students in morning and evening shifts to accommodate IDP students. A primary school was built in Je Yang camp outside of Laiza; about 1000 students attend classes there. Educational materials are in short supply.

Health

Clinics in the camps in Laiza report their cases daily to the Kachin Health Department, which compiles the data and releases reports every two weeks. The Kachin Health Department shared with PHR morbidity and mortality data compiled from camps in Laiza from 16 June to 20 September 2011.

The Kachin Health Department told PHR that most visits to clinics were for acute respiratory infection, diarrhea, common cold, skin infections, and fever. WPN reported that common morbidities in Maijayang and surrounding areas were respiratory infections and diarrhea.

A community-based health organization (CBO) finished an immunization program in the Maijayang area just before the fighting broke out; it included measles vaccinations for children. The same CBO vaccinated children for measles in the Laiza camps. They reported that cholera was not endemic in the area before the fighting.

Malnutrition

PHR assessed child malnutrition and household hunger in the Je Yang camp outside of Laiza. Of the 110 households surveyed with the Household Food Insecurity Access Scale, 10% reported moderate hunger and 1% reported severe hunger.

MUAC measurements of 136 children surveyed in the Je Yang camp indicate that two percent of children suffer from severe acute malnutrition, which places them at exceptionally elevated risk of death. Another nine percent of children are moderately malnourished.



Child being measured for malnutrition. Photo: PHR

According to WHO classification system for malnutrition, the global acute malnutrition rate (GAM) in Laiza camp exceeds the ten percent threshold used to define a “severe” situation. According to WHO, this level of malnutrition warrants a targeted supplementary feeding program and ongoing monitoring.³³ Some children under five years of age were receiving rice porridge daily; this feeding program should be expanded to include therapeutic feeding, and a comprehensive and ongoing malnutrition assessment should be done.

WHO Classification of Malnutrition	Percent of Surveyed Children (Je Yang Camp)
Acute severe	2%
Acute moderate	9%
At-risk	27%
Normal	62%

Household Food Insecurity Access Level	Percent of Surveyed Families (Je Yang Camp)
Little or no hunger	89%
Moderate hunger	10%
Severe hunger	1%

Medical Needs

Camp health officials, clinicians and community-based organizations have identified several medical needs. Staff are few in number and are in need of additional medical training. The KIO health department only has three doctors on staff (several more run private clinics in Laiza) and about a dozen licensed medical practitioners (LMP, a three-year medical education from China). WPN has two LMPs, two medics trained in Thailand and five community health workers.

Medicine, especially for infants, is needed. One hospital that had been previously collaborating with the KIO health department on malaria and HIV programs in China is donating medicine to camps in Laiza.

Maternal Health

KIO health facilities do not provide abortion services, but officials reported that 13 women had been admitted to Laiza hospital between June and October for complications due to abortion. The officials said that some women are aborting pregnancies at home because they feel that they cannot take care of new children during wartime and displacement.

Since June, 79 women have given birth in camps in Laiza and 230 were pregnant when PHR visited. Nutrition and education programs are needed for these women.

Trafficking

As IDPs are displaced for longer periods of time, they are increasingly susceptible to trafficking as they become more desperate for money.³⁴ Human trafficking has long been a problem on

33. World Health Organization and U.N. Children’s Fund, *WHO Child Growth Standards and the Identification of Severe Acute Malnutrition in Infants and Children* (2009), http://www.who.int/nutrition/publications/severemalnutrition/9789241598163_eng.pdf

34. Interview with KWAT spokeswoman, 1 Oct. 2011.

the Sino-Burmese border due to the demand for brides and domestic workers in China and an economically depressed situation in Burma. Trafficking has been documented in the area since the early 1990s.³⁵

Relief Efforts

RANIR and WPN are managing the relief operations with financial support from the local community and donations from aid groups operating in Thailand. A RANIR spokesman said that these outside donations account for only 30% of their budget. Aid from international NGOs, the UN, and other official channels have not reached this area, even though the majority of IDPs from this conflict are living here.

Health and development projects in KIO areas are run mostly by CBOs with occasional technical and financial support from outside groups. Organizations operating inside Burma do so with memoranda of understanding (MOUs) with the Burmese government, and these MOUs strictly dictate where the organization can operate and the activities in which it can engage. The Burmese government would have to approve any request from an NGO based in Rangoon to deliver aid to IDPs in Kachin state.

RANIR and WPN have received no aid from Rangoon and very little aid from other sources, and officials from both organizations have expressed concern for IDPs if the conflict continues. WPN said in late September that they only had enough funds for one more month of operations and after that they did not know how they would provide for IDPs. RANIR staff also emphasized that they would run out of supplies if the conflict is prolonged.

"I'm not sure how long the money will last or the war will last."

Chair of IDP Committee, Laiza, interviewed on 23 September, 2011

Conclusions

IDPs along the Sino-Burmese border are in a precarious situation. Fighting has intensified through October and more IDPs are arriving in the camps. Although RANIR and WPN are providing for IDPs, the situation is not sustainable, even in the short term. The international community is ignoring calls for aid and forcing the Kachin to fend for themselves.

The Burmese government has not sent aid to IDPs in Laiza or Maijyang. The central government regulates aid organizations that operate in an official capacity inside the country, particularly in ethnic, rural Burma, and some of the most vulnerable displaced communities do not receive international humanitarian assistance. Despite this practice, donor governments are focusing their aid on organizations that are working within the central government's legal fold in Burma.

PHR welcomes an increase in humanitarian support to Burma, including support to organizations operating within the legal fold of the country. But as long as the Burmese army is committing human rights violations against civilians in ethnic border areas, the Government of Burma cannot be trusted to fulfill the human rights to health and education in those areas.

35. Kachin Women's Association Thailand, *Eastward Bound: An Update on Migration and Trafficking of Kachin Women on the China-Burma Border* (2008), <http://www.kachinwomen.com/images/stories/publication/eastwardbound.pdf>; Kachin Women's Association Thailand, *Driven Away: Trafficking of Kachin Women on the China-Burma Border* (2005), http://www.kachinwomen.com/images/stories/publication/driven_away.pdf.

Donor governments should be aware of the effects of this—as clearly demonstrated in the Kachin conflict—and adjust their funding strategies to include organizations on both sides of conflict lines.

The international community should support positive change in Burma, but as long as political prisoners remain in jail, ethnic nationalities face widespread abuse by the Burmese army, and meaningful legal reforms are nonexistent, it should not ease pressure on the Burmese government.

This investigation documented multiple human rights abuses by the Burmese army: forced labor, looting, using civilians as minesweepers, and firing indiscriminately into civilian villages. These abuses have been widely documented in other ethnic states in Burma, and this investigation has shown that these practices continue. A UN Commission of Inquiry is needed to investigate these abuses and pave the way for reconciliation in the country.

“When we have freedom I will go back to my village.”

Female storekeeper, 41, interviewed on 26 September, 2011



IDP camp, Kachin State. Photo: PHR

Recommendations

The newly-elected government in Burma has said that it is on a path to democracy; however, this has not been the case for the Kachin people. Their political parties were denied representation in parliament in the 2010 elections and now they are persecuted by the military.

The continuing abuse of ethnic minorities in Burma shows that announcements of progress by the Government of Burma does not reflect improvements for people who still bear the brunt of army attacks. The human rights violations, including war crimes, warrant continued attention and pressure from the international community.

a. To the Government of Burma:

- Cease immediately all human rights violations and violations of the law of armed conflict.
- Provide aid to IDPs in all parts of Kachin state.
- Permit unimpeded access for the United Nations, international NGOs, and local NGOs to deliver food and medical assistance to IDPs in Kachin State.
- Ensure that the newly-created National Human Rights Commission upholds the Principles relating to the Status of National Institutions (The Paris Principles) which require domestic human rights institutions to uphold particular standards including independence and pluralism.
- Invite the UN to conduct a COI into crimes against humanity in Burma, as recommended by the UN Special Rapporteur on the situation of human rights in Myanmar in March 2010.

The KIO has control of portions of territory in Kachin state along the Sino-Burmese border.

A ceasefire signed between the KIO and the Government of Burma collapsed earlier this year and yielded to sustained fighting between the Government of Burma and the KIA, the military arm of the KIO. The KIO helps support some of the IDP camps, providing food, shelter, and other necessary supplies to displaced people.

b. To the KIO:

- Collaborate with community-based organizations to effectively deliver needed supplies to IDPs.

c. To the KIA:

- Adhere to all laws of armed conflict.

The Association of Southeast Asian Nations (ASEAN) recently acquiesced to Burma's demand to chair the regional body in 2014 despite evidence of essential progress such as the release of all political prisoners and an end to attacks on ethnic minorities. The years until Burma begins its chairmanship provide an opportunity for ASEAN to encourage significant and lasting reforms in the country.

d. To ASEAN:

- Encourage Burma to meet key benchmarks, including an end to human rights violations and war crimes in Kachin State and other ethnic areas, before Burma accedes to the chairmanship.
- Demand that Burma cease attacks against civilians in Kachin State and adhere to its obligations to provide protection and assistance to those displaced.
- Include the IDP situation in Kachin State as an important issue before the ASEAN Intergovernmental Human Rights Commission.

The international community has responded in varied ways to continued human rights violations in Burma. There is momentum for an international, impartial investigation into crimes in the country, but some actors in the international community see any advance on the part of the Government of Burma as a time for increased engagement, not investigation nor condemnation. Incremental progress on the part of the Government should be encouraged, but such steps should not preclude the international community from addressing the continued conflict in Kachin State and the documented human rights violations.

e. To the International Community:

- Increase financial support to all agencies supporting Kachin IDPs, including CBOs frequently operating to aid communities barred from access to official channels of humanitarian assistance.
- Establish a UN Commission of Inquiry to investigate reported crimes in Kachin State, as well as other areas of Burma.
- Continue to pressure the Government of Burma until it meets certain benchmarks, including the end of all attacks on civilians in all ethnic minority areas.

f. To China:

- Allow UNHCR to construct refugee camps for displaced Kachin people in China.
- Give humanitarian aid to IDPs in Kachin state.

g. To the United Nations:

- Provide necessary aid to IDPs in Kachin State, and to those displaced along the Sino-Burmese border.
- Liaise with community-based organizations that document human rights violations and distribute aid in order to get an accurate assessment of both the incidence of violence in the region and the level of aid required.
- Take action on recommendations of the Special Rapporteur for the establishment of a Commission of Inquiry.

h. To the United States:

- Ensure that Secretary of State Hillary Clinton focuses on human rights violations against Kachin communities and other ethnic minorities during her visit to Burma.
- Increase support for community-based organizations that are uniquely capable of bypassing government restrictions to deliver food, medicine, and other humanitarian assistance to IDPs in Kachin State and on the Sino-Burmese border.
- Authorize an emergency donation through the State Department to stem the worsening humanitarian conditions in Kachin State. Rally support from other nations for an investigation into continued human rights violations in Burma.
- Use its leverage and that of international community to increase humanitarian access throughout the entire country.
- Take action on recommendations of the Special Rapporteur for the establishment of a Commission of Inquiry.

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