

# **SYSTEM OF IMPUNITY**

**Nationwide Patterns of Sexual Violence  
by  
the Military Regime's Army and Authorities in Burma**

**The Women's League of Burma (WLB)**

**September 2004**

## **Women's League of Burma**

The Women's League of Burma (WLB) is an umbrella organisation comprising 11 women's organisations of different ethnic backgrounds from Burma. WLB was founded on 9th December, 1999. Its mission is to work for women's empowerment and advancement of the status of women, and to work for the increased participation of women in all spheres of society in the democracy movement, and in peace and national reconciliation processes through capacity building, advocacy, research and documentation.

### **Aims**

- To work for the empowerment and development of women.
- To encourage women's participation in decision-making in all spheres of life.
- To enable women to participate effectively in the movement for peace, democracy and national reconciliation.

By working together, and encouraging cooperation between the different groups, the Women's League of Burma hopes to build trust, solidarity and mutual understanding among women of all nationalities in Burma. The 11 member organisations are listed on the inside back cover of this report.

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This report could not have been written without the girls, women and other community members who dared to share their stories despite continual risk to their own security. We firmly believe that their courage in speaking out is a first step to bringing about genuine political change in Burma and restoring the peace and safety they so fervently desire.

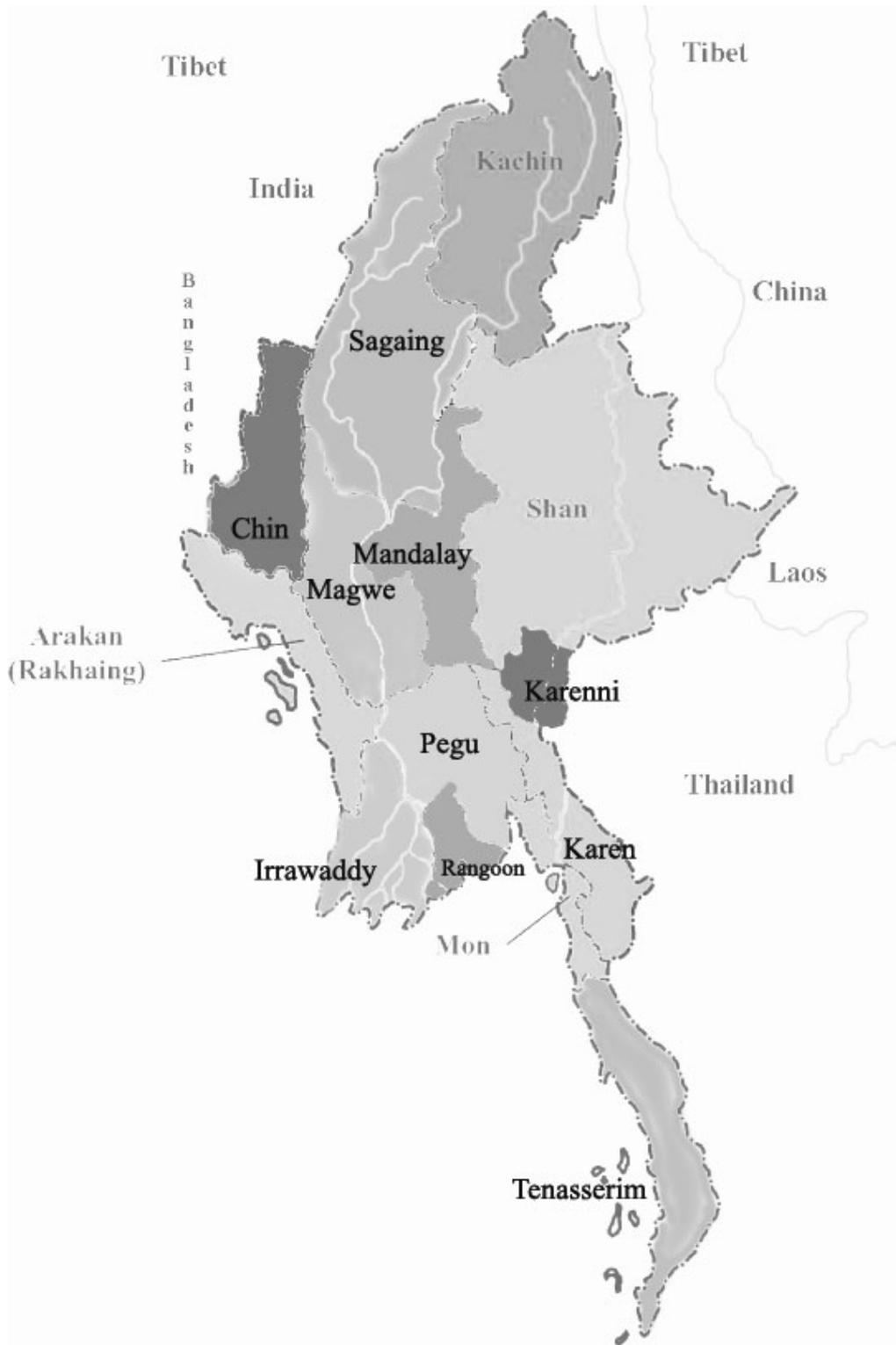
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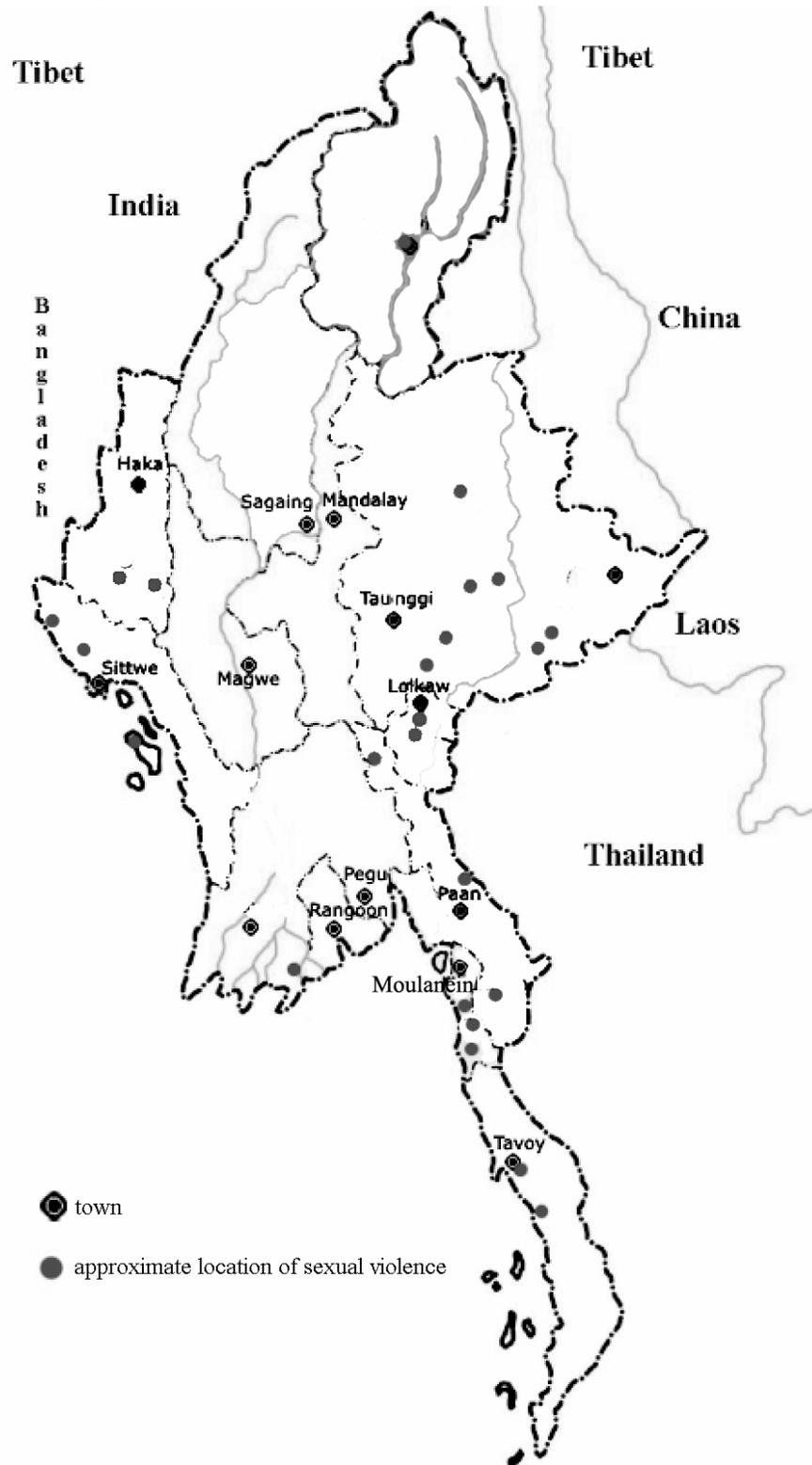
## List of Acronyms

AHRC:	Asian Human Rights Commission
BPFA:	Beijing Platform for Action
B+ 5 OD:	Beijing Plus Five Outcomes Document
CEDAW:	Convention on the Elimination of All Forms of Discrimination against Women
CNF:	Chin National Front
CRC:	Convention on the Rights of the Child
FLC:	Forced Labour Convention
GC:	Geneva Conventions
HRDU:	Human Rights Documentation Unit
IB:	Infantry Battalion
ICC:	International Criminal Court
ICRC:	International Committee of the Red Cross
ICTR:	International Criminal Tribunal for Rwanda
ICTY:	International Criminal Tribunal for the Former Yugoslavia
IDP:	Internally Displaced Person
KNU:	Karen National Union
KWO:	Karen Women's Organisation
KNWO:	Karenni Women's Organisation
LIB:	Light Infantry Battalion
MI:	Military Intelligence
MNCWA:	Myanmar National Committee for Women's Affairs
MWAF:	Myanmar Women's Affairs Federation
NGO:	Non Government Organisation
NLD:	National League for Democracy
PSLA:	Palaung State Liberation Army
PWO:	Palaung Women's Organisation
PWU:	Pa-O Women's Union
PYNG:	Palaung Youth Network Group
RWU:	Rakhaing Women's Union
SHRF:	Shan Human Rights Foundation
SLORC:	The State Law & Order Restoration Council (now SPDC)
SPDC:	State Peace and Development Council
SNPLO:	Shan State Nationalities People's Liberation Organisation
SWAN:	Shan Women's Action Network
TPDC:	Township Peace and Development Council
TWU:	Tavoy Women's Union
UDHR:	Universal Declaration of Human Rights
UNHCR:	The United Nations High Commissioner for Refugees
UNCHR:	The United Nations Commission on Human Rights
WCRP:	Women and Child Rights Project
WRWAB:	Women's Rights and Welfare Association of Burma

# MAP OF BURMA : STATES & DIVISIONS



# LOCATIONS OF SEXUAL VIOLENCE DOCUMENTED IN THIS REPORT



## **Executive Summary**

This report *System of Impunity* documents detailed accounts of sexual violence against women in all the ethnic states, as well as in central areas of Burma. These stories demonstrate patterns of continuing widespread, and systematic human rights violations being perpetrated by the regime's armed forces and authorities.

Women and girls from different ethnic groups report similar stories of rape, including gang rape; rape and murder; sexual slavery; and forced "marriage". Significantly, almost all the incidents took place during the last two years, precisely while the regime has been repeatedly denying the prevalence of military rape in Burma.

These stories bear witness to the fact that, despite the regime's claims to the contrary, nothing has changed in Burma. Regardless of their location, be it in the civil war zones, the ceasefire areas or "non-conflict" areas, it is clear that no woman or girl is safe from rape and sexual torture under the current regime. Soldiers, captains, commanders and other SPDC officials continue to commit rape, gang rape and murder of women and children, with impunity.

The documented stories demonstrate the systematic and structuralized nature of the violence, and the climate of impunity which not only enables the military to evade prosecution for rape and other crimes against civilian women, but also fosters a culture of continued and escalating violence. Even when crimes are reported no action is taken and moreover complainants are victimised, threatened or imprisoned. Women and children continue to be raped, used as sex slaves, tortured and murdered across the country by the regime's armed forces and authorities.

It is clear that the rapes and violence are not committed by rogue elements within the military but are central to the modus operandi of this regime. Structuralized and systematic human rights violations, including sexual violence, are an inevitable result of the regime's policies of military expansion and consolidation of control by all possible means over a disenfranchised civilian population.

This is why there can be no other solution to the problem of systematic sexual violence in Burma than an end to military rule. While countries in the region, members of ASEAN, and particularly Burma's neighbours, appear willing to overlook human rights issues in their dealings with Burma, women of Burma wish to highlight that these policies of constructive engagement have grave repercussions for the citizens of Burma, particularly women and children. The political support which the regime is gaining from the region is emboldening it to continue its policies of militarization and accompanying sexual violence. It is directly placing the lives of women and girls in Burma at risk.

The Women's League of Burma therefore makes the following recommendations:

**To the State Peace and Development Council:**

- To immediately implement a nationwide ceasefire, and withdraw all Burma Army troops stationed in the ethnic states;
- To immediately begin tripartite dialogue with the National League for Democracy and genuine representatives of the ethnic nationalities, to begin a meaningful process of political reform.

**To Burma's regional neighbours, including members of ASEAN:**

- On the basis of the signed Declaration on the Elimination of Violence Against Women in the ASEAN Region, to publicly raise their concerns with the SPDC military regime about their systematic violation of human rights, particularly rape and other forms of sexual violence against women and girls nationwide;
- To review their policies of constructive engagement with the regime;
- To cease providing the regime with arms and military equipment;
- To suspend all trade and investment with Burma, and stop any form of loans to the regime, until there is genuine democratic reform;
- To pressure the regime to immediately begin tripartite dialogue;
- To actively support the efforts of the UN and other key stakeholders to achieve peace, human rights and democracy in Burma.

**To Burma's immediate neighbours, particularly Thailand, Bangladesh and India:**

As well as the recommendations above,

- To give protection to people from Burma seeking refuge, particularly from sexual violence, by allowing them access to refugee camps and the UNHCR;
- To allow these refugees access to humanitarian aid agencies, and to ensure all refugee camps provide adequate health care and counselling for survivors of sexual and gender based violence;
- Not to forcibly repatriate these refugees back to Burma.

**To the international community:**

- To call for the UN Security Council to place Burma on their agenda;
- To call for UN bodies to authorize comprehensive sanctions against the regime, including an arms embargo, until genuine democratic reform takes place in Burma;
- To demand that the SPDC military regime immediately implements a nationwide ceasefire and withdraws its troops stationed in the ethnic states;
- To urge all UN agencies and international NGOs operating in Burma to bear witness publicly to the atrocities committed by the SPDC and demand immediate democratic reform in Burma.

## Methodology

This report was compiled by members of women's organisations around Burma's border, in collaboration with the Women's League of Burma's Violence Against Women Programme. The information was collected by interviews with survivors of sexual violence, as well as family or community members who had witnessed incidents of sexual violence. Some cases were provided by other human rights monitoring organisations. All data was carefully cross-checked with local sources.

Technical assistance was provided by the Centre for Refugee Research, University of New South Wales, the Australian National Committee on Refugee Women (ANCORW) and the Asian Women Human Rights Council (AWHRC).

## Background

### Over four decades of military rule

On 4th January, 1948, Burma achieved independence from the British and a new nation, the Union of Burma, was born, a multi-ethnic, multi-cultural "nation-state", which was founded on the basis of the 1947 Panglong Agreement<sup>1</sup>. However, civil war between the central Burman-dominated government and the ethnic groups broke out within months of independence. Throughout the 1950s and into the 1960s various ethnic groups took up arms to fight the central government.

In 1962, the military toppled the democratically elected government, on the pretext that it needed to "prevent the nation's disintegration due to separatists."<sup>2</sup> The regime's isolation policy and mismanagement of the economy led Burma to become one of the world's least developed countries. In 1988, hundreds of thousands of people nationwide marched to demand that the regime be replaced by an elected civilian government.

On 18<sup>th</sup> September, 1988, "to save the nation from chaos and anarchy"<sup>3</sup> the military, renaming itself the State Law and Order Restoration Council (SLORC), staged a coup and opened fire with machine guns on peaceful demonstrators in Rangoon and other cities.

Under pressure from the international community, the SLORC held general elections on 27<sup>th</sup> May, 1990, and the National League for Democracy (NLD) won more than 80% of the votes. Fourteen years later, the regime continues to refuse to hand over power to the people. Instead, it has put many elected leaders under house arrest or into prison, where

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<sup>1</sup> The aspiration of the signers of the agreement was to jointly gain independence from the British, and to establish a Union of equal and co-independent states.

<sup>2</sup> Seminar on Understanding Myanmar, Myanmar Road to Democracy: The Way Forward  
<<http://www.myanmar.com/Understanding%20Myanmar/mrd.html>>

<sup>3</sup> *ibid*

some have died. Others have fled into exile. On 30<sup>th</sup> May, 2003, the regime orchestrated a massacre of NLD members in Upper Burma. As of January 2004, Amnesty International estimated that there were about 1,350 political prisoners in Burma.

The SPDC<sup>4</sup> has since May 2004, been convening a “National Convention” to draft a new constitution. However, it has handpicked most delegates, and has insisted that the future role of the military in Burma’s politics is non-negotiable. As a result, the NLD and other elected ethnic political parties have refused to join the proceedings.

### **Continuing civil war**

The SPDC now boasts that “Myanmar is today enjoying unprecedented peace and stability”<sup>5</sup> and that there have been 17 groups which have cease-fire agreements with them. It claims that the Karen National Union is the only active armed group left, but in fact there are numerous armed resistance groups still actively opposing the regime. These include Karen, Shan, Karenni, Mon, Chin, Rakhaing, and other Burma's opposition groups.

It is therefore continuing military offensives and anti-insurgency campaigns, particularly in the eastern ethnic states of Burma. Ethnic civilians are targeted under these campaigns, and have suffered forced relocation, looting and destruction of homes and property, torture, rape and extrajudicial killing. This has led to a constant influx of refugees to neighbouring Thailand, where over 140,000 are currently housed in refugee camps<sup>6</sup>, and many hundreds of thousands more survive as migrant workers. Over 600,000 villagers are also estimated to be internally displaced in eastern Burma alone.<sup>7</sup>

Even though the regime, using both force and promises of “development”, has persuaded various resistance armies to agree to ceasefires since 1989, the agreements have involved no political concessions and have simply entailed cessation of fighting, and permission for the various armies to maintain control of prescribed areas and conduct business. This process has benefited the regime by enabling it to neutralize much of the armed opposition to its rule, while promoting the exploitation of resources in the ethnic border areas, from which it can earn hefty revenues. As more and more groups signed ceasefires during the 90s, the regime was able to intensify its military campaigns against the remaining active armed resistance groups.

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<sup>4</sup> The State Peace and Development Council (SPDC) was formerly known as the State Law & Order Restoration Council (SLORC). The name was changed to SPDC in 1997.

<sup>5</sup> Seminar on Understanding Myanmar, Myanmar Road to Democracy: The Way Forward  
<<http://www.myanmar.com/Understanding%20Myanmar/mrd.html>>

<sup>6</sup> Source: Burmese Border Consortium’s data July 2004

<sup>7</sup> Source: Profile of Internal Displacement : Myanmar (Burma) ; Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 9 July, 2004)  
[http://www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Myanmar+\(Burma\)](http://www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Myanmar+(Burma))

While the ceasefire agreements should have benefited the local civilians, in fact continuing SPDC military expansion and infrastructure development in the respective areas, such as Kachin, Mon and parts of Shan State, have meant that people still or even increasingly face human rights abuses by SPDC troops, including sexual violence. In recent years, the SPDC has cut off central support for their troops in the provinces, and authorized them to survive on locally generated revenue. This has led not only to increased arbitrary taxation, accelerated exploitation of local natural resources such as timber, but also to massive land confiscation by local military units to grow crops for army consumption and sale, and forced labour of villagers on their income-generation projects.

### **Increased militarization**

For over a decade, the SPDC has been continuously increasing its military strength, and has prioritised military spending in order to maintain absolute power, and to control and exploit the resource-rich ethnic states.

The regime has expanded the size of its army more than twofold to over 450,000 soldiers since 1988. The army is by far the largest of the defence services, most of the troops being stationed in ethnic lands. Since 1988, the regime has made deals for military equipment from China amounting to the value of about US\$3 billion<sup>8</sup>. In 2001, the regime spent US\$150 million on twelve MIG fighter planes from Russia, and in May 2002, the regime signed an agreement with Russia to help construct a centre for nuclear studies and a research nuclear reactor<sup>9</sup>. Recent reports indicate that North Korea has offered strategic military training and weapons and nuclear technology to the regime.

### **Systematic sexual violence in Burma**

Since 1992, the UNCHR has passed resolutions each year on the situation of human rights in Burma. The reports by the UN Special Rapporteurs on Burma submitted to the UN General Assembly since 1992 have contained an abundance of summaries of testimonies of extreme human rights violations committed by the military regime, including military rape.<sup>10</sup>

Furthermore, the UN Special Rapporteur on Violence Against Women, jointly with the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Special Rapporteur on Torture, have sent letters of allegation to the regime on sexual violence committed by military personnel in Burma.

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<sup>8</sup> A 2000 International Crisis Group (ICG) report: Burma/Myanmar: How strong is the military regime?

<sup>9</sup> Source: 15 May, 2002's DowJones, Associated Press

<sup>10</sup> In the 1994 report (E/CN.4/1994/57), one recommendation reads, "The Government of Myanmar should take the necessary steps to bring the acts of soldiers, including privates and officers, in line with accepted international human rights and humanitarian standards so that they will not commit arbitrary killings, **rapes** and confiscations of property, or force persons into acts of labour, portering, relocation or otherwise treat persons without respect for their dignity as human beings." [Emphasis added] The Special Rapporteur on Burma 2003 report contains similar recommendations.

<http://www.unhcr.ch/huridocda/huridoca.nsf/FramePage/Myanmar>

<http://www.unhcr.ch/html/menu2/7/a/mmya.htm>

However, it was not until the release of *Licence to Rape*<sup>11</sup>, produced by the Shan Women's Action Network (SWAN) and Shan Human Rights Foundation (SHRF) in 2002, and later the report *Shattering Silences*<sup>12</sup> by the Karen Women's Organisation in April 2004, that evidence was presented to the international community of the systematic nature of the sexual violence being perpetrated by the regime's troops.

*Licence to Rape*<sup>13</sup> documents 173 incidents of rape and other forms of sexual violence, involving 625 girls and women, committed by SPDC troops in Shan State, mostly from 1996-2001. The majority of rape incidents were committed in the areas of Central Shan State where over 300,000 villagers have been forcibly relocated from their homes since 1996 as part of an anti-insurgency campaign. *Shattering Silences*<sup>14</sup> documents 125 cases of sexual violence committed by the SPDC's military troops in Karen State from 1988 until 2004, of which half of the rapes were committed by high-ranking military officers. Furthermore, 40% of those documented were gang-rape and in 28% of the cases, the women were killed after being raped.

Both reports expose how the military regime is allowing its troops systematically and on a widespread scale to commit rape with impunity in order to terrorize and subjugate the ethnic peoples of Shan and Karen States. Both reports conclude that restoration of genuine peace, democracy and the rule of the law in Burma is necessary to end the systematic sexual violence.

### **A pattern of denial by the regime**

Since the publication of *Licence to Rape* in June 2002, the regime has repeatedly refuted its complicity in acts of rape by military personnel. This is not unexpected from a regime which makes frequent boasts about the elevated status of women in Burma, and long-established gender equality<sup>15</sup>.

At the Beijing + 5 Conference, the regime even claimed that it had been fulfilling its commitment to the Beijing Platform for Action, and with regard to Critical Area of

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<sup>11</sup> This report documented the cases of rape of Shan women by the military regime of Burma from 1996 – 2001.

<sup>12</sup> This report documented the cases of rape of Karen women by the military regime of Burma from 1988 - 2004

<sup>13</sup> The full report can be viewed at

<<http://www.shanwomen.org> & [http://www.shanland.org/shrf/License\\_to\\_Rape/license\\_to\\_rape.htm](http://www.shanland.org/shrf/License_to_Rape/license_to_rape.htm)

<sup>14</sup> The full report can be viewed at: <<http://www.womenofburma.org>>

<sup>15</sup> a) "The Status of women in Myanmar remains to be among the highest in the world"

(Source: SPDC's Oral Statement on Item 12 at the 60th Session of UNCHR)

b) "Since the inception of Myanmar civilization 2000 years ago, there has been historical evidence that Myanmar women and men did enjoy equal rights". (Source: Statement by SPDC's leader of the Delegation, Major-General Soe Myint at the Fourth World Conference on Women, 1995)

c) "In Myanmar, women legally enjoy equal rights as men in political, economic, administrative and social sphere." (Source: Statement by SPDC's leader of the delegation to the 22nd session of the UN committee on CEDAW on January 21 2000)

d) "In the Union of Myanmar, women enjoy equality with men as an inherent right." (Source: SPDC's response to B+ 5 questionnaire).

Concern D - Violence Against Women, it stated that “very few cases exist regarding violence against women” in Burma, and “it is not a major issue”. Moreover, it mentioned that “the area of Women in Armed conflict is not relevant to present day Myanmar, since the country has been in peace for decades.”<sup>16</sup> Ironically, the regime’s delegation to the conference was led by a man.

Since the publication of *Licence to Rape*, the regime has sought to discredit the authors of that report. It has also cited the presence of international NGOs and UN agencies in Shan State as evidence that no human rights abuses, including sexual violence, have taken place.

To respond to international pressure as a result of *Licence to Rape*, the regime in August 2002 conducted an investigation into the report. People throughout Central and Southern Shan State were forced to sign documents testifying that no incidents of sexual violence had been committed by SPDC troops in their areas, and in some places people were forced to stage public demonstrations to support their claim. Also, information about incidents of sexual violence brought to their attention during their investigation was suppressed by the regime. The regime then publicly announced that the allegations in the *Licence to Rape* report were “false and fabricated.”<sup>17</sup>

In October 2002, the regime invited UN Special Rapporteur for Human Rights in Burma, Professor Pinheiro, to visit Shan State during his regular monitoring trip to Burma. Prior to the visit to Burma, the regime threatened Shan villagers in various areas not to testify against their troops. They also sent out military intelligence officers to track down and interrogate rape survivors.

In December 2002, the regime allowed the International Committee of the Red Cross (ICRC) access to the conflict area of Southern Shan State where many of the rapes had taken place. Local Shan populations were warned not to speak ill of the military. In early February 2003, local military officers threatened to cut out the tongues and slit the throats of villagers who had dared speak out to the ICRC during their visit to Shan State in January 2003. Similar patterns of threats took place prior to the visit of Amnesty International to Burma in January 2003.

During 2003, and continuing into 2004, the regime has periodically referred derogatively to the contents of *Licence to Rape* in its state media.

When in April 2004, the Karen Women’s Organisation (KWO), released their report, *Shattering Silences*, within two days of the release of the report, the SPDC issued a statement calling the contents of the report “absurd”, and claiming it was part of a “black propaganda campaign” aimed at derailing the regime’s peace talks with the Karen National Union.

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<sup>16</sup> <http://www.un.org/womenwatch/daw/followup/Myanmar>

<sup>17</sup> See details at: [http://www.shanland.org/shrf/License\\_to\\_Rape/A\\_mockery.htm](http://www.shanland.org/shrf/License_to_Rape/A_mockery.htm)

Despite the regime's denials, and their attempts to block flows of information since 2002, reports of sexual violence by the SPDC military inside Burma have continued to reach women's groups and other human rights organisations around the borders. This report collates just a portion of these testimonies.

## **Rape - A Human Rights Violation<sup>18</sup>**

The Geneva Conventions include prohibitions against rape and sexual violence in war, Article 27 of the Fourth Geneva Convention states: "*Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.*"<sup>19</sup> Rape and sexual violence are not listed as grave breaches but are constructed as assaults on women's honour and dignity. However since the adoption of these Conventions in 1949 there have been landmark developments in the international humanitarian law pertaining to the recognition of the gravity of rape and sexual violence against women and children in conflict situations. The 1993 and 1994 Statutes establishing the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) recognised rape as a crime against humanity. This was the first time that rape had been explicitly codified as a crime within an international criminal tribunal. In 1998 the Statute of the International Criminal Court (ICC) recognised rape as a war crime, a crime against humanity and in certain circumstances as an act of genocide. The Rome Statute codifies rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and sexual violence as war crimes and crimes against humanity.<sup>20</sup> In the same year decisions in both the ICTR<sup>21</sup> and the ICTY<sup>22</sup> confirmed that when rape was committed by a public official or other person acting in an official capacity, or with the consent, instigation or acquiescence of that person, the rape constituted torture.

*"Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when inflicted by or at the instigation of or with the consent or acquiescence of a public official or other persons acting in an official capacity. The Chamber defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive."*<sup>23</sup>

In documenting the cases in this report, care has been taken to also identify the form of sexual violence and the specific human rights violations committed in each case. Many of

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<sup>18</sup> The UN Declaration on the Elimination of Violence against Women defined the term "violence against women" as "any act of gender based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life". The CEDAW Committee (General Recommendation 19) reaffirmed that violence that is directed against a woman because she is a woman or that affects women disproportionately, is a form of discrimination against women.

<sup>19</sup> Fourth Geneva Convention, Article 27

<sup>20</sup> See Appendix 4 the relevant ICC articles

<sup>21</sup> ICTR, Akayesu decision, 2 September 1998, para 596.

<sup>22</sup> ICTY, Celibici judgement, 16 November 1998, para 496

<sup>23</sup> ICTR, Akayesu decision, 2 September 1998, para 596.

the incidents of rape were committed in conjunction with other human rights violations such as forced labour, sexual slavery, detention, murder, and denial of legal redress. Thus the cases are also a record of other forms of human rights violations committed against women and girls in Burma.<sup>24</sup>

Locating these incidences within a human rights framework is an important aspect of illustrating the State's culpability in these acts. The Declaration on the Elimination of Violence Against Women, 1993, outlines in Article 4 (c) that States should "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons". The Special Rapporteur on Violence Against Women further noted that States are required to ensure equal protection of the law for their citizens. So if there is evidence of systematic, discriminatory, non-prosecution by the State of crimes of violence against women, then, States arguably have violated their responsibility under international human rights law.<sup>25</sup>

The SPDC is responsible for countless cases of murder, rape, genocide, torture, sexual slavery, false imprisonment and forced labour. The regime has signed onto the Geneva Conventions, the Convention on the Rights of the Child, the Forced Labour Convention, the Convention on the Elimination of All Forms of Discrimination Against Women, the Beijing Platform for Action and the Beijing Plus Five Outcomes Document, but has yet to fulfil any of its obligations and commitments therein. In a recent act of hypocrisy, the regime signed the Declaration on the Elimination of Violence Against Women<sup>26</sup> in the ASEAN Region. In this declaration the signatories reaffirm their commitments to all relevant UN conferences and to the Millennium Development Goal on gender equality.

There are also prohibitions against rape and sexual violence in the domestic laws of Burma,<sup>27</sup> although they are limited and extremely outdated and rarely if ever applied.<sup>28</sup>

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<sup>24</sup> Many of these acts arguably also violate the Geneva Conventions (1949) and their Optional Protocols (1977) and the Rome Statute of the International Criminal Court (2002).

<sup>25</sup> E/CN.4/1995/42. She also highlighted the case of Valesquez Rodriguez Case Honduras, 4 Inter.Am.Ct. HR (Ser.C.), 1988./ where States were also held responsible for the organisation of the government apparatus and structures of public power in order to make them capable of ensuring free and full enjoyment of human rights.

<sup>26</sup> See Appendix 5 for the full text of this Declaration

<sup>27</sup> See Appendix 4, Penal Code Articles 375 & 376

<sup>28</sup> See *Gathering Strength* by Brenda Belak, Images Asia, 2002.

## **Analysis of findings**

### **Nationwide Patterns of Sexual Violence**

This report, *System of Impunity* documents detailed accounts of recent human rights violations against women in all the ethnic states, as well as in central areas of Burma. These stories demonstrate patterns of continuing widespread, and systematic human rights violations being perpetrated by the regime's armed forces and authorities.

Women and girls from different ethnic groups report similar stories of rape, including gang rape; rape and murder; sexual slavery; and forced "marriage". Significantly, almost all the incidents took place during 2003 and 2004, after the publication of *Licence to Rape*, precisely while the regime has been repeatedly denying the prevalence of military rape in Burma.

These human rights abuses are occurring across an enormous geographic area inside Burma, from its southern border with Thailand to its northern borders with India, Bangladesh and China. These accounts detail criminal acts perpetrated by members of Burma's armed forces and authorities. These criminal acts have to date not only gone unpunished but continue unabated despite the continued claims of the regime that Burma is at peace.

These stories bear witness to the fact that, despite the regime's claims to the contrary, nothing has changed in Burma. Regardless of their location, be it in the civil war zones, the ceasefire areas or "non-conflict" areas, it is clear that no woman or girl is safe from rape and sexual torture under the current regime. Soldiers, captains, commanders and other SPDC officials continue to commit rape, gang rape and murder of women and children with impunity.

The documented stories demonstrate the systematic and structuralized nature of the violence, and the climate of impunity which not only enables the military to evade prosecution for rape and other crimes against civilian women, but also fosters a culture of continued and escalating violence. Even when crimes are reported no action is taken and moreover complainants are victimised, threatened or imprisoned. Women and children continue to be raped, used as sex slaves, tortured and murdered across the country by the regime's armed forces and authorities.

It is clear that the rapes and violence are not committed by rogue elements within the military but are central to the modus operandi of this regime. Structuralized and systematic human rights violations, including sexual violence, are an inevitable result of the regime's policies of military expansion and consolidation of control by all possible means over a disenfranchised civilian population.

## Patterns of Systematic Sexual Violence

The same patterns of rape and sexual exploitation are evident in towns and villages across Burma. Rape is being used as a method of torture to intimidate and humiliate civilian populations. Rapes are being perpetrated by military officers or with their complicity. In many of the documented cases women and girl children are gang raped by large groups of soldiers, sometimes leading to death. Girls and women are being kept as sex slaves, often under the pretext of forced labour.

The perpetrators are confident of impunity. These human rights violations are committed in the knowledge that most of Burma's civilian population will either be too afraid to complain or that if they do complain can be forced to accept meagre compensation payments, threatened with violence if they do not retract their complaints, or arbitrarily imprisoned if they continue to press their cases.

### Rape as torture

The SPDC's strategic use of rape to control and suppress potential opposition by members of civilian populations or resistance groups constitutes torture.<sup>29</sup> This is highlighted by a number of the documented cases. In these cases the rapes have been used to intimidate, degrade, humiliate, punish, control, to violate personal dignity and to break down the identity of women and girls. Like torture, rape is a violation of personal dignity, and in fact constitutes torture when it 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.<sup>30</sup> This is highlighted by cases from both Mon and Shan States. In each of these cases the young women or their family members were accused of being rebel supporters, and the young women were held in detention and repeatedly raped by the military. In the case of Mi Myat Hlay her father had been arrested and accused of supporting a Mon splinter group and she was later detained and sexually tortured by the captain who had arrested him.

*“Captain Hla Khaing arrested Mi Myat Hlay's father accusing him of having contact with the Mon armed group. .... While the accused was being beaten in custody the captain called Mi Myat Hlay to negotiate about the release of her father. At night Captain Hla Khaing took Mi Myat Hlay, who came to meet him in confidence of his offer, to a house, drove out the owner of the house and then raped her. After raping thus, he detained her for two days and raped her again and again.”<sup>31</sup>*

In Shan State, Naang Ung a 13 year old Shan girl was detained along with a number of other villagers who were detained and falsely accused of being rebels. She was tied up in

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<sup>29</sup> See Rape as a Human Rights Violation in Report Background, p.13

<sup>30</sup> International Tribunal for Rwanda (ICTR)

<sup>31</sup> Mi Myat Hlay's Story, Number 5

a tent and raped every day for 10 days. The injuries she sustained from the repeated rapes were so severe that she never recovered. She died a few weeks after her release.

*“Naang Ung was tied up in a tent and raped every day for 10 days, from 2nd till 11th January, by five to six SPDC troops each day. She was warned on her release not to tell anyone about the incident or they would come after her and kill her.”<sup>32</sup>*

### **Rape and complicity by commanders and officers**

In 17 of the 26 documented stories the rapes and gang rapes have either been perpetrated by senior military officers or authorities, or with their complicity. In 11 of the cases the senior officers and authorities are the direct perpetrators. These cases of rape and gang rape have occurred in a range of locations across most of the States of Burma including; during detention on military bases; while women were performing forced labour; in the fields; and in women’s and children’s homes.

**Table 1: Rape and sexual torture committed by senior military officers**

<b>Case Number</b>	<b>Rank of perpetrator(s)</b>	<b>Battalion/Location</b>	<b>Location of the Rape(s)</b>
<b>2.</b>	U San Net Kyaw, Chairman, Peace and Development Council	Kalahteik Village, Dedalu Village Tract Pyapon Township, Irrawaddy Division	Perpetrator’s home, Lower Burma
<b>5.</b>	Captain Hla Khaing and soldiers	LIB 586	A villager’s house, Mon State
<b>6.</b>	Corporal Naing Naing	4 <sup>th</sup> Military Training Centre Southern Command	A rubber plantation, Mon State
<b>7.</b>	Battalion Commander Myint Oo and soldiers	IB 246	Military camp, Wan Lao village, Central Shan State
<b>8.</b>	Second Lieutenant and soldiers	IB 245	In Mong Hta Village, Southern Shan State
<b>10.</b>	Captain Tin Maung Myint and soldiers	LIB 324	Between villages in front of husband, Northern Shan

<sup>32</sup> Naang Ung’s Story, Number 7

			State
12.	Captain Khin Aung	Battalion 542	On way home from school, Rakhaing State
19.	Sergeant Tin Shwe	LIB 124	Village, Karen State
21.	Captain Khin San and two soldiers	Battalion 334	Her home, Rakhaing State
23.	Corporal Tun Tun Zaw and three soldiers	LIB 405 Company 1	Rubber farm, Tenasserim Division
24.	Second Corporal Maung Toe and two soldiers	LIB 402 Company 1	Near her farm, Tenasserim Division
26.	Sergeant. Zaw Lwin	IB 37	Her shop, Kachin State

The fact that women and children have been raped by senior military officers or public officials clearly highlights the systematic nature of the rape and sexual violence. In eight of these cases, encouraged by the example of their senior officers, the soldiers under their command also committed the acts of rape and torture. This is particularly highlighted by the case of Mi Myat Hlay<sup>33</sup> who was detained and serially raped by the Captain of Infantry Battalion 58, Captain Hla Khaing. Following his example soldiers under his command also gang raped another woman, Mi Soe Win and a girl, Mi Za Tile, from nearby villages.

*“Soldiers under the captain’s command also raped Mi Soe Win, 25, from Thae Khan Village, and Mi Za Tile, 17, from Sin Gu Village. While Mi Soe Win was being threatened with a knife and gang raped she shouted for help. Villagers came and saved her but, as the villagers who saved her decried, blamed and despised her, she felt too ashamed to stay in her village. Mi Za Tile was also ashamed for crying out for help while she was being assaulted and raped by a soldier in her house.”<sup>34</sup>*

Furthermore in the other six cases though the rapes are committed by junior officers, the failure of their senior officers to take any legal action to punish the offenders makes them complicit in these crimes of violence. In several of these cases the senior officers also commit a series of additional human rights abuses against the complainants. In one case as a direct result of his complaint about the gang rape and murder of his daughter, Sai Tienkoew<sup>35</sup> is accused of being connected with the Shan resistance, and is tortured and imprisoned for 28 years. In other cases the complainants are threatened with death or forced to sign retraction statements. In one case from Karen State when the woman who

<sup>33</sup> Mi Myat Hlay, Mi Soe Win and Mi Za Tile’s Story, Number 5

<sup>34</sup> Mi Myat Hlay, Mi Soe Win and Mi Za Tile’s Story, Number 5

<sup>35</sup> Sai Tienkoew and Nang Hom’s Story, Number 9

had been raped took her complaint directly to the soldier's senior officer, she was verbally and physically assaulted.

*“Then the next day I went to Sergeant Kyi Naing and reported this to him. Instead of taking action, he told me that I was a bad woman and a liar and then he slapped me two times on my face.”<sup>36</sup>*

**Table 2: Complicity by senior officers and authorities in rape and sexual torture**

Case Number	Rank of Officer to whom complaint was made	Battalion/ Location	Complainant	Action
9.	Commander	IB 244	Victim's father	Complainant tortured and sentenced to 28 years in prison
11.	Nasaka Authority	Nasaka Headquarters	Victim's father	No action
13.	Commander Myo Min	LIB 428/531 & IB 72	Victim/survivor's parents and village chief	No action
14.	Commander Myint Soe	LIB 530	Victim/ survivor's parents	Death threats against complainants
20.	Sergeant Kyi Naing	LIB 32	Victim/survivor	Complainant was assaulted
22.	SPDC officer, Myo Min Han	LIB 510 Company Four	Victim/survivor's Grandmother	No action

### Rape of girl children

Fifteen of the cases presented in this report detail the rape of young girls under the age of 18, by members of the armed forces or authorities. In three of the cases the girls are gang raped by large groups of soldiers and are then murdered; in one instance the gang rape takes place in a military camp. That the soldiers are openly colluding to commit these brutal crimes, even in camps in full view of fellow-soldiers, without fear of reprisal, is a clear indication that they are confident that the system endorses their behaviour. Such confidence in impunity is graphically highlighted by the brutal rape of eight and a half year old Pa-O child, Ma Nang Kon. Ma Nang Kon was raped in the toilet beside her house within earshot of her grandmother who came running when she heard the child's muted screams.

*“While she was using the toilet, Private Soe Win seized her, covered her mouth, and raped her. At first he could not enter so he spat on the*

<sup>36</sup> Ma Yo Yo's Story, Number 20

*girl's organ, and forced until he could. Ma Nang Kon felt so much pain that she screamed out. Her cries were heard even though Private Soe Win held her mouth tightly closed. ....The grandmother called out the girl's name and went to the toilet to check. When she was about 20 feet from the toilet, she saw Private Soe Win running away to the next door garden, holding his wrap (male sarong). ”<sup>37</sup>*

The local commander's response to this brutal crime is a mockery of justice and stands as testimony of the regime's refusal to accept criminal responsibility for the crimes of its armed forces and authorities.

*“On 24<sup>th</sup> November, 2002, the Second Commander, Myo Min Han and his soldiers came to the girl's house and gave 50,000 kyats ( about US\$50), three sets of clothes, two pounds of dried cake and **a big teddy bear**. [emphasis added] He claimed that as Private Soe Win had deserted and was no longer in the army that the military could not be held responsible for the rape. ”<sup>38</sup>*

On the 31<sup>st</sup> July, 2004, a 12 year old Palaung child, Mae U Don was raped along with two other women while they were working on their farms at Naung War, in Southern Shan State.

*“... the soldier seized Mae U Don, kissed her, held her buttocks tightly, tore her sarong and raped her violently. ”<sup>39</sup>*

### **Gang rape and murder of girl children**

A pattern of brutal gang rape and murder of girl children is evident across the country. From Shan State in the east to Rakhaing State in the west of Burma. In several cases of exceptional brutality and torture, two young girls both died as a result of the injuries they sustained from the repeated rapes. Naang Ung a 13 year old Shan girl was detained, tied in a tent and raped every day for 10 days. The injuries she sustained from the repeated rapes were so severe that she never recovered. She died a few weeks after her release.

Sai Tienkoew a Shan farmer found the naked body of his 14 year old daughter Nang Hom, by the river. She had been gang raped to death by six soldiers.

*“In mid 2001, Sai Tienkoew's daughter, Nang Hom, aged 14, went fishing with another woman, Nang Oh, aged 48, at the Kok*

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<sup>37</sup> Ma Nang Kon, Number 22

<sup>38</sup> Ma Nang Kon, Number 22

<sup>39</sup> Mae Song, Mae Aik Linn and Mae U Don's Story, Number 3

*River, near Wan Kad Village. Six soldiers from SPDC Infantry Battalion 244, based nearby, met them and told the older woman to return home. They then gang raped the girl to death, and left her naked body by the river.*”<sup>40</sup>

In Rakhaing State, Shajeeda a 12 year old Rohingya girl was raped and murdered by a member of the Nasaka<sup>41</sup> border security force.

*“ On 27<sup>th</sup> April, 2004, the victim, Shajeeda, accompanied by another girl, 10 year old Rohima (not real name) of the same village, went with their 12 cattle to a grazing ground on a nearby hillside. At about 4:00 pm, a Nasaka in plain clothes from Nasaka Headquarters went to the grazing ground while the said two young girls were preparing to return home. The Nasaka grabbed Shajeeda and took her away to a solitary place on the hillside..... When asked, a village elder said, “A 12 year old girl is raped and strangled by the Nasaka force. This is a great inhuman matter. An unbearable event. I cannot imagine the condition of the victim’s parents.”*”<sup>42</sup>

On 5<sup>th</sup> of February, 2003, Ma De Baw La a 15 year old Lahu girl was gang raped and killed by SPDC troops patrolling in the Mong Pyark area.

*“At that time, they saw many drops of blood, they saw a lot of blood along the road to the granary. They then found the dead body of their daughter in the granary. The village headman told them that the SPDC troops had proceeded to gang rape her; and that when they had finished raping her, they had killed her.”*<sup>43</sup>

### **Sexual slavery and forced labour**

In two of the cases, the girls or women are kept as sex slaves by SPDC soldiers. In one of the cases women are called in rotation in groups of three from nearby villages and are held on the military base for 24 hours<sup>44</sup>. In another case a girl child is held in a tent at a military base for 10 days<sup>45</sup>. While in some cases women are detained on the pretext of suspicion of supporting resistance groups, in other cases the pretext is being summoned to perform forced labour.

The widespread practice of the use of forced labour by the SPDC has been well documented. In a number of the stories documented here this practice is again highlighted in particular with respect to women being forced to work as porters for the military or women called to military bases to perform domestic duties. In each of these cases the

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<sup>40</sup> Sai Tienkeow and Nang Hom’s Stories, Number 9

<sup>41</sup> The Border Disciplinary Control Force, was set up under the then SPDC military intelligence to monitor border trade. They are formed by military, police and other SPDC officials.

<sup>42</sup> Shajeeda’s Story, Number 11

<sup>43</sup> Ma De Daw La’s Story, Number 1

<sup>44</sup> Mi Khin Hling’s Story, Number 4

<sup>45</sup> Naang Ung’s Story, Number 7

women are also raped. In a case of forced labour from Mon State it is reported that women from villages near a military base are routinely summoned to the base to perform domestic chores and are detained there as sex slaves for a period of 24 hours.

*“At the end of December 2003, IB 299 that was operating a military campaign in Southern Ye Township, Mon State, sent for three women daily in rotation to work for the military column. These women were raped. The women from each household of Khaw Zar and six villages nearby were rotationally compelled to cook meals and fetch water for the soldiers at the place where the military column was encamped. At night time they were forced to entertain the commanders, to sing karaoke songs and give massages, and almost all were raped.”<sup>46</sup>*

In a case reported from Chin State, two women abducted to work as porters for the military were raped.

*“In January 2003, Captain Zaw Latt of IB 266 made a military operation to Matupi township. He took nine people, two women and seven men to porter from Pamai village to Kadi village. On the way they came to a river. The soldiers ordered the men to cross ahead and told the women to stay with them, and when they did the seven soldiers assaulted the women. The women, Nu Nu 21 years old and Khai Paw 20 years old, were raped by the soldiers after the male porters crossed to the other side of the river bank.”<sup>47</sup>*

### **Forced “marriage” and sexual slavery**

Several cases documented in this report show evidence of the practice of abduction and so called forced “marriage” of women to SPDC soldiers. In most cases young women and their families have no power to prevent these abductions, rapes and so called ‘marriages’ of young women.

On 19<sup>th</sup> September, 2003, Ma Saw Myint a 16 year old Rohingya girl was on her way home from school, when she was abducted by a group of soldiers from Battalion 542. She was forcibly married to Captain Khin Aung and despite her parents’ objections they were given no choice other than to recognize the marriage.

*“The classmates of the victim quickly informed her parents of the incident and they immediately went to the Battalion Headquarters to ask about their daughter. The Battalion Commander did not give them any response. So, they hurriedly went to the Township Peace and Development Council (TPDC) Chairman and the police station to inform them of the event,*

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<sup>46</sup> Mi Khin Hling’s Story, Number 4

<sup>47</sup> Nu Nu and Khai Paw’s Story, Number 16

*believing that they would get some help. But, both authorities declined to provide any help, as it was an army matter. “They also said that the matter could only be dealt with by the Commander of the Battalion.”<sup>48</sup>*

In another documented case of Sui Tang from Chin State, it is clear that her so called “marriage” to the soldier is in fact a euphemism for abduction, rape and sexual slavery.

“A soldier assaulted her and took her as his wife. Her husband could do nothing for her although she was his wife. The soldier took her up to Mindat and after three months of marrying her left her there. Desperate as she is, the woman is left between the devil and the deep sea. She dare not go back home to her husband. She fears that her husband will ill treat her as a result of what the soldier has done to her. She believes that her husband will be enraged by the incident and that he might harass her as an alternative way to do to the soldier.”<sup>49</sup>

In this case Sui Tang is punished twice, first by being raped and enslaved by the soldier and second made homeless for fear of her husband’s reaction.

### **Silencing Complainants**

The SPDC soldiers and commanders employ a broad range of repressive strategies in order to ensure that any soldiers or officers guilty of the war crimes of rape and sexual violence against civilian women and girls evade punishment. This ranges from the generally pervasive climate of fear, which prevents civilians from speaking out, to death threats if complaints are made, to false imprisonment, torture and disappearance. Often the family members of women who have been raped who take complaints to the military are immediately arrested and accused of being supporters of the resistance.

A 17 year old Mon girl, Mi Mya Htay was raped by Corporal Naing Naing from the Fourth Military Training Centre of the Southern Command. When her father and the village head complained about the rape to the centre commander, not only was no action taken to punish the perpetrator but they were forced to renounce the accusation.

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<sup>48</sup> Na Saw Myint’s Story, Number 12

<sup>49</sup> Sui Tang’s Story, Number 18

*“Therefore, Mi Mya Htay’s father and the village head complained about the rape to the commander of the Military Training Centre of the Southern Command. They said that action should be taken against Corporal Naing Naing. However, without taking any action against the rapist, the military authorities forced Mi Mya Htay’s father and the village head to sign papers renouncing the accusation. No compensation was given.”*<sup>50</sup>

### **Climate of Fear and Death Threats**

When a 15 year old Lahu girl, Ma De Baw La was gang raped and murdered by the SPDC troops her parents were too afraid to seek justice.

*“Though her parents reported this to the authority of that area, no action was taken. Her parents wanted to see justice done, but they knew of others who had complained about rape and they were punished with fines or imprisonment for complaining to the authorities. Although they wanted justice, there was nothing they could do.”*<sup>51</sup>

When 17 year old Karenni girl, Maw Lee Meh<sup>52</sup> was raped by Private Myint Lwin of LIB 530, her parents were threatened with death when they lodged a complaint.

*“Her parents, seeking justice, reported the incident to Column Commander Myint Soe. However, Myint Soe took no action and threatened the family with death if they talked about the rape to other people.”*<sup>53</sup>

### **Compensation and silencing**

On the rare occasions that the rape of women and girls is acknowledged and the perpetrator held to account, the punishment is usually in the form of a small sum of money which the perpetrator is required to pay to the victim. The paltry sum provided generally amounts to no more than US\$50 to US\$150. When Nang Seng La was forced to accept compensation of 150,000 kyats after she had been gang raped by a patrol of 12 to 14 soldiers, she was also forced to promise that she would neither reveal her story nor leave her village.

*“The victim was given 150,000 kyats, equivalent to approximately US\$150. She was given a warning to not reveal the story. She was*

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<sup>50</sup> Mi Mya Htay’s Story, Number 6

<sup>51</sup> Ma De Baw La’s Story, Number 1

<sup>52</sup> Reported in the 2003 Report of the UN Special Rapporteur on Violence Against Women, E/CN.4/2003/75/Add.2, 14 January 2003

<sup>53</sup> Maw Lee Meh’s Story, Number 14

*placed under close observation and was forbidden to leave her village<sup>54</sup>.”*

Though she has been the victim of a brutal criminal attack she is now effectively imprisoned in her village. It is significant that her village is close to the Thai border, and indicates that the SPDC is concerned to block news of sexual abuse from reaching human rights monitors inside Thailand.

### **False imprisonment**

When Shan farmer Sai Tienkeow reported his daughter's rape and murder to the authorities he was arrested and accused of being associated with the Shan resistance. He was detained, tortured and eventually imprisoned for 28 years.

*“When the military commander there refused to accept the complaint, the father said he would go to Kengtung to press charges with military superiors there. The local commander then arrested him, accusing him of being connected with the Shan resistance. He was detained at the local military base for several days, during which time he was beaten and electrocuted to force a ‘confession’. He was then sent to jail in Kengtung for over a year, where his wife was not allowed to visit him ‘because of the severity of his crime’. Finally he was sentenced to 28 years in prison for alleged connection with the Shan resistance. (They claimed they had found guns in his house.) He was then transferred to Meiktila Prison in Upper Burma.”<sup>55</sup>*

His story can be told as he recently escaped from prison and is now living along the Thai Burma border. At the time of this interview in January of this year he had had no contact with his wife or son and had no idea whether they were dead or alive.

### **False accusations**

In addition to the number of stories which demonstrate the way in which the SPDC silences complaints, a number of the stories highlight that the SPDC falsely accuses villagers of being or supporting rebels. This is highlighted by Naang Ung's story. In this case she and a number of other villagers were accused of being rebels because the army had noticed two army field jackets hanging on the fence near where they were working in the fields. They were all rounded up, beaten, arrested and taken to a nearby military camp for interrogation. According to the testimony of the local villagers these people were not rebels but internally displaced farmers, who happened to be wearing fake, Korean made army jackets.

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<sup>54</sup> Nang Seng La's Story, Number 8

<sup>55</sup> Sai Tienkeow and Nang Hom's Stories, Number 9

*“According to the local people, these were innocent displaced farmers who had been trying to survive by cultivating their original rice field at their old village, and the army field jackets that were used by the SPDC troops as evidence were of a kind generally worn by many people and were freely sold in many markets and towns.”<sup>56</sup>*

## **Nationwide Absence of the Rule of Law**

While it is clear from the reports *Licence to Rape* and *Shattering Silences* that rape is being condoned by the SPDC as a strategy<sup>57</sup> of war in the recognised conflict areas, the cases in this report indicate that sexual violence by military troops and authorities is also prevalent in ceasefire and “non-conflict” areas throughout the country, including in central areas of Burma.

### **Rapes in ceasefire and “non conflict” areas**

Many of the accounts of rape and murder documented here have occurred within so called ceasefire areas, in Mon, Shan and Kachin States, including in recent months in Karen State at the same time as internationally publicised peace talks between the Karen National Union and the regime were in progress.

Three of the stories of rape documented in this report are from Mon State where the main Mon armed resistance group, the Mon State Party reached a ceasefire agreement with the regime in 1995. These stories detail the rape and gang rape of five women during the period from December 2003 to February 2004. However it is clear from Mi Khin Hling’s story that many more women from villages in Southern Ye Township, Mon State, were held as sex slaves by the military column and were routinely raped as part of the military campaign at that time.

*“The women from each household of Khaw Zar and six villages nearby were rotationally compelled to cook meals and fetch water for the soldiers at the place where the military column was encamped. At night time they were forced to entertain the commanders, to sing karaoke songs and give massages, and almost all were raped. Mi Khin Hling, 23, a woman who was raped, said that the women sent for were, in daylight, forced to cook meals and fetch water and, at night, were repeatedly raped.”<sup>58</sup>*

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<sup>56</sup> Naang Ung’s Story, Number 7

<sup>57</sup>Rape in conflict is more than a weapon, it is a strategy: The word strategy is preferable because it recognises that rape and sexual violence in conflict situations are the calculated, planned and sanctioned use of individual criminal acts performed by military personnel. (E.Pittaway)

<sup>58</sup>Mi Khin Hling’s Story. Number 4

Several of the other cases occurred in parts of Shan State where various groups have reached ceasefire agreements, clearly challenging the authority and capacity of these groups to take any action against the regime for these ongoing human rights violations against women and children. In one case “Aye” a Palaung woman, was gang raped in front of her husband in Northern Shan State by soldiers from LIB 324, Column Three, led by Captain Tin Maung Myint. After the rapes, Captain Tin Maung Myint threatened the couple not to report the rapes to the PSLA ceasefire group<sup>59</sup> or he would kill them.<sup>60</sup> In another case in Central Shan State in a Pa-O ceasefire area, 8 year old Pa-O girl, Ma Nang Kon<sup>61</sup> was brutally raped by Private Soe Win from LIB 510, Company Four. Although he was arrested within one hour of committing this attack, by a Pa-O ceasefire group, the SPDC Second Commander from the military camp sought to evade responsibility by claiming that Private Soe Win was a deserter and was therefore no longer the responsibility of the army.

Even though ceasefire talks have been going on between the Karen National Union (KNU) and the SPDC since November 2003, as recently as June 2004 incidents of rape have been reported.

On the 26<sup>th</sup> June, 2004, Naw May from Laylawkahtikhee Village, in the Maniroe IDP area, was brutally raped and killed by SPDC troops.

*“She was then raped brutally and killed right away by the troops. In addition, her ears were cut for the ear-rings, and items worth 90,000 kyat, and one basket of rice were taken away.”<sup>62</sup>*

Two young girls, one 15 years of age, were raped by the SPDC Chairman, U San Net Kyaw from Pyapon township, Irrawaddy Division, Lower Burma.

*“According to the two victims, U San Net Kyaw raped Ma San San Aye at around midnight on the same day and Ma Aye Mi San at 4 am the following day.”<sup>63</sup>*

This case illustrates that even in central areas not far from the capital, persons in positions of authority are capable of raping with impunity.<sup>64</sup> Despite the incriminating evidence of the witnesses, the medical evidence and an initial charge of rape by a tribunal, under instructions from the District Legal Office, the case against him was closed and the two young women were charged and sentenced to four years imprisonment with hard labour.

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<sup>59</sup> The Palaung State Liberation Army (PSLA) had reached a ceasefire agreement with the regime in 1991

<sup>60</sup> “Aye’s” Story, Number 10

<sup>61</sup> Ma Nang Kon, Number 22

<sup>62</sup> Naw May, Number 25

<sup>63</sup> Ma San San Aye and Ma Aye Mi San’s Story, Number 2

<sup>64</sup> Ma San San Aye and Ma Aye Mi San’s Story, Number 2.

*“On 26<sup>th</sup> November, the two victims reported what had happened to them to village elders, and sought their cooperation to file a complaint against the perpetrator. They then filed complaints at the Kyonekadone Police Station, and had medical examinations the same day.”<sup>65</sup>*

The documentation provided for this case states that the rape of village girls by the Chairman is a regular occurrence when the men from the village are away at sea fishing.

*“U San Net Kyaw is reported to have raped other women and girls while the men are away at sea. He lives alone at his house, as his wife has died and his children have all left home. Previous rape victims were too fearful to lay charges against him because of the power and influence he has in the locality, as demonstrated in this case.”<sup>66</sup>*

### **Police complicity**

A number of the documented cases highlight the absence of the rule of law in any part of Burma, be it in civil war areas, ceasefire zones or “non-conflict” areas, close to the capital. In each of these cases the police, government officials and district law officers either refused to investigate and/or to prosecute cases of rape perpetrated by the military or government officials.

The Township Peace and Development Chairman and the police declined to assist the parents of 16 year old Rohingya girl, Ma Saw Myint when she was abducted and forced into marriage by an SPDC soldier.

*“So, they hurriedly went to the Township Peace and Development Council (TPDC) Chairman and the police station to inform them of the event, believing that they would get some help. But, both authorities declined to provide any help as it was an army matter.”<sup>67</sup>*

When Aung San Hla reported the rape of his sister Ma Khaing Hla, he was advised by the police officer that this was a matter for the military.

*“Next morning her brother, Aung San Hla, tried to file a case against the culprits at the police station. But the police officer said, “We have not the authority to file any cases whatsoever connected with army personnel. If you wish to make a complaint you have to submit the matter directly to the battalion concerned.”<sup>68</sup>*

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<sup>65</sup> ibid

<sup>66</sup> ibid

<sup>67</sup> Ma Saw Myint’s Story, Number 12

<sup>68</sup> Ma Khaing Hla and Aung San Hla’s Story, Number 21

In the case of Burman girls Ma San San Aye and Ma Aye Mi San, not only were the police initially reluctant to record their complaint but when the case eventually did reach the courts and the official was found guilty of rape, they worked to have this overturned by the District Law Office.

*“They then filed complaints at the Kyonekadone Police Station, and had medical examinations the same day. Witnesses' statements were also recorded. Both U Win Myint and U Thaung Aye subsequently testified that they took the girls to U San Net Kyaw's house. However, as the complaints were against the chairman of the local ruling council, the police were reluctant to record them and instead made only unofficial records. The victims then also reported the case directly to higher authorities in the Township and District PDCs.”<sup>69</sup>*

Despite formal written complaints to the SPDC and the Myanmar National Working Committee for Women's Affairs<sup>70</sup> (MNCMA) (an organisation instituted by the SPDC now known as the Myanmar Women's Affairs Federation), no action has been taken to review this case. This is a striking illustration of the ongoing complicity of so called national civil society institutions, in the gross human rights violations being perpetrated by the regime against women and children across Burma.

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<sup>69</sup> Ma San San Aye and Ma Aye Mi San's Story, Number 2

<sup>70</sup> The Myanmar National Committee for Women's Affairs (MNCMA) was established by the regime in 1996. On the 20<sup>th</sup> December 2003, it was renamed the Myanmar Women's Affairs Federation and the regime claimed they had “reformed” it into a non-government organisation!

## Conclusion and Recommendations

The ongoing sexual violence with impunity by the SPDC's armed forces and authorities nationwide, provides clear evidence of the structuralized and systematic nature of the human rights violations being committed in Burma.

All but one of the cases documented in this report took place during the past two years, after international attention began to focus on the issue of systematic sexual violence in Burma. Thus, the regime's officers and soldiers have continued to commit atrocities such as gang rape and murder of girl children with complete impunity even while the regime's spokesmen have been vehemently denying reports of sexual violence by their military in UN forums.<sup>71</sup>

This highlights the futility of the regime's efforts to evade the charges of systematic sexual violence in Burma. In fact, it is clear that systematic sexual violence is endemic to military rule in Burma. When a regime with no external enemies relentlessly expands the size of its army, deploys increasing numbers of battalions nationwide, grants troops full licence to subjugate and exploit local populations, and at the same time denies people their most fundamental democratic and legal rights, it is *inevitable* that widespread human rights abuses, including sexual violence, occur.

This is why there can be no other solution to the problem of systematic sexual violence in Burma than an end to military rule. While countries in the region, members of ASEAN, and particularly Burma's neighbours, appear willing to overlook human rights issues in their dealings with Burma, we wish to highlight that these policies of constructive engagement have grave repercussions for the citizens of Burma, particularly women and children. The political support which the regime is gaining from the region is emboldening it to continue its policies of militarization and accompanying sexual violence. It is directly placing the lives of women and girls in Burma at risk.

We therefore make the following recommendations:

### **To the State Peace and Development Council:**

- To immediately implement a nationwide ceasefire, and withdraw all Burma Army troops stationed in the ethnic states;
- To immediately begin tripartite dialogue with the National League for Democracy and genuine representatives of the ethnic nationalities, to begin a meaningful process of political reform.

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<sup>71</sup> "It is the consistent policy and practice of the Myanmar Government to prevent any form of violence against women. It has never been the policy to condone such a crime, whether it is committed by a civilian or by a member of the Armed Forces." From the Statement by The Myanmar Observer Delegation, 60<sup>th</sup> Session, HCHR, Geneva, 5 April 2004.

**To Burma's regional neighbours, including members of ASEAN:**

- On the basis of the signed Declaration on the Elimination of Violence Against Women in the ASEAN Region, to publicly raise their concerns with the SPDC military regime about their systematic violation of human rights, particularly rape and other forms of sexual violence against women and girls nationwide;
- To review their policies of constructive engagement with the regime;
- To cease providing the regime with arms and military equipment;
- To suspend all trade and investment with Burma, and stop any form of loans to the regime, until there is genuine democratic reform;
- To pressure the regime to immediately begin tripartite dialogue;
- To actively support the efforts of the UN and other key stakeholders to achieve peace, human rights and democracy in Burma.

**To Burma's immediate neighbours, particularly Thailand, Bangladesh and India:**

As well as the recommendations above,

- To give protection to people from Burma seeking refuge, particularly from sexual violence, by allowing them access to refugee camps and the UNHCR;
- To allow these refugees access to humanitarian aid agencies, and to ensure all refugee camps provide adequate health care and counselling for survivors of sexual and gender based violence;
- Not to forcibly repatriate these refugees back to Burma.

**To the international community:**

- To call for the UN Security Council to place Burma on their agenda;
- To call for UN bodies to authorize comprehensive sanctions against the regime, including an arms embargo, until genuine democratic reform takes place in Burma;
- To demand that the SPDC military regime immediately implements a nationwide ceasefire and withdraws its troops stationed in the ethnic states;
- To urge all UN agencies and international NGOs operating in Burma to bear witness publicly to the atrocities committed by the SPDC and demand immediate democratic reform in Burma.

## Appendix One: Table of cases

No	Name	Gender	Ethnicity	Age	Human Rights violation	Perpetrator	Date	Place
1	"Ma De La Baw"	F	Lahu	15	Gang rape, torture and murder of a child; intimidation	SPDC troops based in Mong Pyark Township	05/02/03	Lahu village, Mong Pyark Township, Shan State
2	Ma San San Aye and Ma Aye Mi San	F	Burman	15 & ..	Rape; lack of legal redress; false accusations; arbitrary imprisonment	U San Net Kyaw, SPDC Village Chairman	26/11/02	Kalahteik Village, Dedalu village, Pyapon Township, Lower Burma
3	"Mae Song", "Mae Aik Linn" and "Mae U Don"	F	Palaung	35,30 & 12	Rape; torture; lack of legal redress; intimidation	Three soldiers from LIB 516 and LIB 517	31/07/04	Former Naung War Village, Namzang Township, Southern Shan State.
4	Mi Khin Hling	F	Mon	23	Sexual slavery; rape; torture; forced labour; beating; detention	IB 299	./12/03	Southern Ye township, Mon State
5	Mi Myat Hlay, Mi Soe Win and Mi Za Tile	F	Mon	20, 25 & 17	Rape; gang rape; torture; arrest; beating; detention; death threats	Captain Hla Khaing and soldiers of LIB 586	17/02/04	Ywa Thit, Thae Khan and Sin Gu Villages, Mon State
6	Mi Mya Htay	F	Mon	17	Rape; lack of legal redress; harassment; threats	Corporal Naing Naing from the 4th Military Training Centre of Southern Command	19/02/04	Kyoun Ka Dat Village, Thanbyuzayat Township, Mon State
7	Naang Ung	F	Shan	13	Gang rape, sexual slavery, torture and murder of a child	SPDC Commando troops from IB 246 led by Commander Myint Oo	28/12/02-11/01/03	Wan Lao Village, Kun-Hing Town, Central Shan State

8	"Nang Seng La"	F	Shan			Gang rape; torture; intimidation; denial of freedom of movement	SPDC IB 245 lead by a Second Lieutenant based in Keng Tung, Eastern Shan State	16/04/04	Mong Hta Village, Mong Ton Township, Southern Shan State
9	Sai Tienkeow and Nang Hom	M & F	Shan	42 & 14		Gang rape and murder of a child; torture; false imprisonment	SPDC IB 244 based in Keng Tung, Eastern Shan State	Mid-2001-End 2003	Wan Kad, Mong Kok Tract, Mong Hsat Township, East Shan State
10	"Aye"	F	Palaung	29		Gang rape; torture; death threats; lack of legal redress	SPDC LIB 324 troops, Column Three led by Captain Tin Maung Myint based in Namtu Township	20/09/02	Between Paing Kham and Loi Jae Villages, Namtu Township, Northern Shan State
11	Shajeeda	F	Rohingya	12		Rape, torture, murder of a child; lack of legal redress	Member of Nasaka (Border Disciplinary Control Force) from Nasaka Headquarters	27/04/04	Near Kyi Kan Pyin Village, Maungdaw Township North, Rakhaing State
12	Ma Saw Myint	F	Rohingya	16		Abduction, rape and forced marriage of a child	Captain Khin Aung and soldiers of Battalion 542	19/09/03	Mazichaung Village, Kyaukpuru Township, Rakhaing State
13	Daileh	F	Karenni	15		Rape, torture of a child ; death threats; lack of legal redress	SPDC soldier Ngae Lay of LIB 428/531 and IB 72	07/07/03	Beside the military base, near Hoya, Pruso Township, Karenni State
14	Maw Lee Meh	F	Karenni	17		Rape, torture of a child; lack of legal redress; harassment; death threats	Private Myint Lwin of LIB 530 under Column Commander Myint Soe	25/08/02	Daw Tamagyi Village, Dee Maw So Township, Karenni State
15	Ling Cin	F	Chin	28		Rape	A soldier of IB 140 led by Major Soe Win	../09/03	Near Matupi Civil Hospital, Matupi Town, Chin State

16	Nu Nu and Khai Paw	F	Chin	21 & 20	Gang rape; torture; forced labour	Captain Zaw Latt and seven soldiers of IB 266	../01/03	Riverbank between Pamai and Kadi Villages, Matupi Township, Chin State
17	Swe Tin	F	Chin	20	Gang rape; torture; death threats; lack of legal redress	SPDC soldiers	../10/03	Pha Nang Village, Matupi Township, Chin State
18	Sui Tang	F	Chin	35	Rape; sexual slavery; torture; forced labour	SPDC soldier Maung Zaw of IB 140	../12/03	Mindat Town, Chin State
19	"Naw Bay Paw"	F	Karen	38	Rape; torture; intimidation; death threats	Sergeant Tin Shwe from LIB 124 under the command of Captain Aung Naing Oo	07/01/04	Taungoo Area, Karen State
20	"Ma Yo Yo"	F	Karen	24	Rape; lack of legal redress; victimization; physical punishment	Soldier Ang Gyi from SPDC troop LIB 32, with complicity of Sergeant Kyi Naing	16/02/04	Lay Hkaw Htee Du Paw Village, Kya-in Township, Doplaya District, Karen State
21	Ma Khaing Hla and Aung San Hla	F & M	Rakhaing	17	Gang rape of a child; lack legal redress; victimisation;	Captain Khin San and two soldiers of Battalion 334	17/01/03	Nga Taut Village, Rathedaung Township, Rakhaing State
22	"Ma Nang Kon"	F	Pa-O	8	Rape, torture of a child; lack of legal redress	Private Soe Win: Identification No.Ta: 225821 LIB 510 Company Four	09/11/02	Naung Thauang, Kalalan Village, Hsi Hseng Township, Central Shan State

<b>23</b>	Ma Myint Myint San	F	Tavoy	17	Gang rape, torture of a child ; lack of legal redress	Corporal Tun Tun Zaw and three SPDC soldiers of LIB 405 Company One	16/12/03	Yun Maw Village, Tavoy Township, Tavoy District, Tenasserim Division
<b>24</b>	Daw Mi Than	F	Tavoy	54	Gang rape; torture; lack of legal redress	Second Corporal Maung Toe and two SPDC soldiers of LIB 402 Company One	14/03/04	Kyauk Hlayga Village, Thayetchaung Township, Tavoy District, Tenasserim Division
<b>25</b>	"Naw May"	F	Karen	38	Rape; torture; murder; theft of property	SPDC troops of IB 101, led by Column Two Commander Colonel Kyaw Lwin Oo	26/06/04	Laylawkahkhee Village, Maniroe (IDP area), Tenasserim Township, Mergui-Tavoy District, Karen State
<b>26</b>	Ma Aah Pan	F	Kachin	17	Rape of a child; forced abortion	Sergeant Zaw Lwin from SPDC IB 37, based in Myitkyina, Kachin State	07/02/04	Sita Area, Suburb of Mynikyina, Kachin State

## Appendix Two: The Women’s Stories

*We thank the women and girls of courage who have told their stories. As many of them remain in Burma in situations of ongoing danger and persecution, to avoid increasing their risk and the risk that their families face this report does not use either their real names or the real names of their family members. In the case of the women and girls who have been murdered and whose stories have already been published elsewhere, or who have found relative safety in neighbouring countries, we have with their or their families’ consent used their real names. The use of a “false” name is indicated by the use of inverted commas.*

### 1. “Ma De Baw La’s” Story

<b>Name:</b>	Ma De Baw La
<b>Age:</b>	15
<b>Gender:</b>	Female
<b>Family Status:</b>	Unmarried
<b>Ethnicity:</b>	Lahu
<b>Religion:</b>	Christian
<b>Date of Incident:</b>	5 <sup>th</sup> February 2003
<b>Perpetrator:</b>	SPDC troops based in Mong Pyark Township
<b>Location:</b>	Lahu area, Mong Pyark Township, Shan State
<b>HR violation:</b>	Gang rape, torture and murder of a child; intimidation
<b>Source:</b>	Lahu Women’s Organisation, 14 <sup>th</sup> February, 2004

“...they saw many drops of blood, they saw a lot of blood along the road to the granary. They then found the dead body of their daughter in the granary. The village headman told them that the SPDC troops had proceeded to gang rape her; and that when they had finished raping her, they had killed her...”

On 5th February, 2003, Ma De Baw, 15 years old, was alone in her house because she needed to wait to take the paddies from the paddy fields while her parents and brother were working in the farm fields. That day, approximately 20 soldiers from the SPDC troops were patrolling outside the area of Mong Pyark. The troops arrived in the village and started checking everyone and everything. They forcibly took all kinds of food from around the village. After eating, the troops left the village.

When Ma De Baw’s parents and brother came home from the farm that evening they noticed that she hadn’t taken the paddies. Her parents thought that she was visiting her friend’s house in the village. When she was not home by dark, her parents got worried and they began checking around the house. At that time, they saw many drops of blood, they saw a lot of blood along the road to the granary. They then found the dead body of their daughter in the granary. The village headman told them that the SPDC troops had proceeded to gang rape her; and that when they had finished raping her, they had killed her.

Though her parents reported this to the authority of that area, no action was taken. Her parents wanted to see justice done, but they knew of others who had complained about rape and they were punished with fines or imprisonment for complaining to the authorities. Although they wanted justice, there was nothing they could do.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## **2. Ma San San Aye and Ma Aye Mi San's Story**

<b>Name:</b>	Ma San San Aye and Ma Aye Mi San
<b>Age:</b>	Ma San San Aye was 15
<b>Gender:</b>	Female
<b>Ethnicity:</b>	Burman
<b>Date of Incident:</b>	26 <sup>th</sup> November 2002
<b>Perpetrator:</b>	U San Net Kyaw, Chairman, Peace and Development Council, Dedalu Village Tract, Pyapon Township, Irrawaddy Division
<b>SPDC Officials:</b>	(complicit in protecting the Perpetrator) 1. U Sai Myint Aye, Deputy Superintendent, Kyonekadone Police Station 2. U Han Nyein, District Law Officer, Pyapon District 3. U Myint Swe, Magistrate, Pyapon Township Court
<b>Location:</b>	Kalahteik Village, Dedalu Village Tract, Pyapon Township
<b>HR violation:</b>	Rape; lack of legal redress; false accusations; unjust and arbitrary imprisonment
<b>Source:</b>	Asian Human Rights Commission (AHRC)

“...On 6<sup>th</sup> March, 2003, Ma San San Aye and Ma Aye Mi San wrote letters of appeal to senior officials and the Myanmar National Working Committee for Women's Affairs (MNWCWA). A copy of the letter follows. It is understood that no enquiry or action has ever followed...”

On 25<sup>th</sup> November, 2002, U San Net Kyaw sent a written summons to U Tin Sein, a village headman. He instructed the headman to send Ma San San Aye, not more than 15 years old at the time, and Ma Aye Mi San (age unknown) to him at Kalahteik village,

together with their employer, U Thaung Aye. U Win Myint, a ward headman, took the two together with U Thaung Aye at about 8pm. According to the two victims, U San Net Kyaw raped Ma San San Aye at around midnight on the same day and Ma Aye Mi San at 4 am the following day.

On 26<sup>th</sup> November the two victims reported what had happened to them to village elders, and sought their cooperation to file a complaint against the perpetrator. They then filed complaints at the Kyonekadone Police Station, and had medical examinations the same day. Witnesses' statements were also recorded. Both U Win Myint and U Thaung Aye subsequently testified that they took the girls to U San Net Kyaw's house. However, as the complaints were against the chairman of the local ruling council, the police were reluctant to record them and instead made only unofficial records. The victims then also reported the case directly to higher authorities in the Township and District PDCs.

On 12<sup>th</sup> December a Tribunal formed to hear the case, examined witnesses, and on 19<sup>th</sup> December U San Net Kyaw was charged with rape. Although a charge was recorded, U San Net Kyaw was not arrested, and at no time was brought before any judicial or legal authority. After charging him, the police sought legal advice on the case from the Pyapon Township Law Office, which referred the matter to the Pyapon District Law Office. Having consulted with District and Divisional level PDC officials, the District Law Office advised that there was insufficient evidence of rape, that the charges should be dropped and that appropriate action instead taken against the two complainants. As a result, Deputy Superintendent of Police U Sai Myint Aye charged Ma San San Aye and Ma Aye Mi San with bringing false accusations against a government officer.

On 6<sup>th</sup> March, 2003, Ma San San Aye and Ma Aye Mi San wrote letters of appeal to senior officials and the Myanmar National Working Committee for Women's Affairs (MNWCWA). A copy of the letter follows. It is understood that no enquiry or action has ever followed.

On 20<sup>th</sup> October, 2003, Ma San San Aye and Ma Aye Mi San were found guilty of the charges of falsely accusing a government officer, and were sentenced to four years rigorous imprisonment. Their current whereabouts are not known to AHRC.

### **Additional Comments**

Pyapon Township is on the coastline, and the villagers are mainly fisher folk. U San Net Kyaw is reported to have raped other women and girls while the men are away at sea. He lives alone at his house, as his wife has died and his children have all left home. Previous rape victims were too fearful to lay charges against him because of the power and influence he has in the locality, as demonstrated in this case.

Because one of the two victims is reported to be a minor, the handling of the case also violates Burma's Child Law, which was enacted in 1993 to bring it into compliance with the Convention on the Rights of the Child (CRC), which it acceded to in 1991. Under that law, there are provisions for trials involving children to be conducted in separate facilities

to regular courts, and for sentencing only to juvenile detention camps, not to adult facilities. However, in this instance it appears that Ma San San Aye has been treated in the same manner as an adult in her trial and sentencing to four years imprisonment with hard labour.

In recent years, there have been credible reports of Burma army soldiers, often under the instruction of officers, systematically raping women belonging to minority groups located in remote parts of the country. This case illustrates that even in central areas not far from the capital, persons in positions of authority are capable of raping with impunity, and that victims are likely to be punished by the courts if they dare to challenge the legality of a state official's actions, irrespective of circumstances.

#### **LETTER OF APPEAL SENT BY MA SAN SAN AYE**

To:

1. Senior General Than Shwe, Chairman, State Peace and Development Council, Yangon
2. General Khin Nyunt, Secretary-1, State Peace and Development Council  
[now Prime Minister], Yangon
3. Colonel Tin Hlaing, Minister for Home Affairs, Ministry of Home Affairs, Yangon
4. Attorney General, Supreme Court, Pansodan Road, Yangon
5. Major General Htay Oo (Division Commander), Chairman, Division Crime  
Suppression Committee, Patheingyi, Ayeyawaddy Division
6. Divisional Legal Officer, Division Law Office, Patheingyi, Ayeyawaddy Division
7. The Secretary, Myanmar National Working Committee for Women's Affairs, 64  
Kabar Aye Pagoda Road, Mayangone Township, Yangon

**Dated: 6<sup>th</sup> March 2003**

**Subject: Complaint against the decision to close the rape case against the Chairman of the Village PDC and request for review and reconsideration of the charges**

1. We, Ma San San Aye and Ma Aye Mi San, were summoned in writing and under seal of the office of U San Net Kyaw, Chairman, Village Tract Peace and Development Council, Kalahteik Village, Dedalu Village Tract, Pyapon Township, Pyapon District, Ayeyawaddy Division, to be brought before him. Accordingly, Fishery Industry Employer U Thaug Aye, and U Win Myint, took us to him on three occasions. On the night of 25-11-2002 we met with the Chairman and were left in his custody.

2. Chairman U San Net Kyaw took us both to the upper floor of his residence and at around midnight, he raped me, Ma San San Aye, and at around 4am, Ma Aye Mi San.

3. On 26-12-2002 we reported this to the elders of the village and asked for their cooperation to make a complaint at Kyonekadone Police Station. Though we were

medically examined at Kyonekadone Hospital and witness statements were recorded, there seemed to be attempts to disrupt the process, so we reported the matter to the Township PDC and District PDC. A Township PDC Tribunal was formed and on 12-12-2002 the case was heard, witnesses examined, and on 19-12-2002 a charge was framed under sections 376/511 [of the Penal Code] and the case was posted as Pa/586 at the police station. However, U San Net Kyaw, being the Chairman of the Village Tract PDC who has damaged the reputation of the authorities, was not placed under arrest and he is still at large.

4. Our information is that after 22-1-2003, under instructions of U Han Nyein, District Law Officer to Kyonekadone Police Station, the rape case was closed. When we made enquiries about the reason for the closure, U Han Nyein himself told us that he was acting under instructions from the Divisional Law Office.

5. Though the victims were able to report the offence with firm supporting evidence, the authorities are protecting the rapist Chairman of the Village Tract PDC, thereby insulting the national culture and illegally violating women's rights.

6. We request that the case be reopened truthfully and that action be taken against those certain authorities who are defending the rapist Village Tract PDC Chairman U San Net Kyaw.

Respectfully

(signed)

Ma San San Aye

Age 15

Father: U Win Hlaing

ID No.: Not yet applied

Kantharyar Village, Dedalu Village Tract, Pyapon Township, Pyapon District,  
Ayeyawaddy Division

#### **Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,132,142c,143c,144,145c,e,269

**B+5:** Paragraphs; 69b,c,96,b,99c,d

**CEDAW:** Articles;2f, 15

**CRC:** Articles;3,19,34,37

**UDHR:** Articles;3,4,5,6,7,8,9,10,11

**ASEAN:** VAW Declaration: Paragraphs 2, 3,4

**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

### **3. “Mae Song”, “Mae Aik Linn” and “Mae U Don’s” Story**

**Names:** Mae Song, Mae Aik Linn and Mae U Don

**Ages:** 35, 30 and 12  
**Gender:** Female  
**Ethnicity:** Palaung  
**Religion:** Buddhist  
**Family Status:** Mae Song, daughter U Khin Oo (dead) and Naai Oo  
 Mae Aik Linn, daughter Pou Aik Ray and Mae Aik Ray  
 Mae U Don, daughter Pou Oo and Mae Oo  
**Occupation:** Farmers  
**Date of Incident:** 31<sup>st</sup> July 2004  
**Perpetrators:** Three soldiers from LIB 516 and LIB 517  
**Location:** Former Naung War Village, Namzarng Township, Southern Shan State  
**HR violation:** Rape; torture; lack of legal redress; intimidation  
**Source:** Palaung Youth Network Group (PYNG) and Palaung Women's Organisation (PWO)

“....The victims are afraid to tell their stories and don't know how to take legal action as they worry about the soldiers' threats and brutality...”

On 31<sup>st</sup> July, 2004, a group of SPDC troops from Light Infantry Battalion (LIB) 516 and 517 raped two Palaung women and one child, only 12 years old, of Mak Mon Lao Village, Namzarng Township, Southern Shan State. While the Palaung villagers were working on their farms in the former Naung War Village, three SPDC soldiers came to them with guns and proceeded to rape the two women and the child.

According to our sources and village eye witnesses, the perpetrators are from LIB 516 and 517, based at a gravel quarry in the Southeastern Military Control Zone Two, Mile No.9, on the Kholam-Wet Saya Road. They wore SPDC military uniforms with no identification tags and they had been seen previously around these areas with their guns, so some villagers recognised them.

### **Case One: Mae Song**

On 31<sup>st</sup> July, 2004, Mae Song was working alone in the hut of her farm when three SPDC soldiers entered. One of them (the perpetrator) told her to lie down on the ground. When she refused to do as he asked, they all struck her with their guns four or five times. Then the perpetrator grabbed her hand, pulled her to the ground and raped her. He is described as tall, fit and pale skinned, aged about 30.

After that they all moved away towards another farm in the area.

### **Case Two: Mae Aik Linn**

On 31<sup>st</sup> July, 2004, when Mae Aik Linn, her husband Pou Aik Seen and her 12 year old cousin Mae U Don were working in their farm, the same three soldiers came and threatened and pointed their guns at them. One of the soldiers pointed his gun at Pou Aik

Seen and Mae U Don and called them to follow him to go somewhere. After that, one soldier (the perpetrator) dragged Mae Aik Linn into the farm hut and raped her violently. He is described as short, with a dark sunburned skin, aged about 20. The tall soldier who had raped Mae Song, was waiting outside the hut.

### **Case Three: Mae U Don**

The SPDC soldier who had ordered Mae U Don and Pou Aik Seen to follow him, led them about 40 yards away from the hut then he beat and tortured Pou Aik Seen with his gun. He ordered him to go away from them and after he had gone, the soldier seized Mae U Don, kissed her, held her buttocks tightly, tore her sarong and raped her violently. He is described as approximately five feet five inches tall, with dark sunburned skin, a narrow face with a long nose and a beard and moustache, aged over 30.

Now these three Palaung women feel shame and are too afraid of soldiers to go to work on their farm. Mae U Don, the 12 year old child, especially is suffering such fear and shame that she has lost physical and mental well being.

The victims are afraid to tell their stories and don't know how to take legal action as they worry about the soldiers' threats and brutality. The local authorities also are afraid to take legal action on these atrocities. Situated as they are in the southern part of Shan state which is far from the Palaung State Liberation Army (PSLA) ceasefire group's territories in the northern part of Shan state, it is very difficult to get their help or to take any legal action against brutal SPDC military soldiers.

#### **Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,f,m  
**CEDAW:** Articles; 2f, 15  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles:3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## **4. Mi Khin Hling's Story**

**Name:** Mi Khin Hling  
**Age:** 23  
**Gender:** Female  
**Family Status:** Unmarried  
**Ethnicity:** Mon  
**Date of Incident:** End of December 2003

**Perpetrator:** IB 299  
**Location:** Southern Ye Township, Mon State  
**HR violation:** Sexual slavery; rape; torture; forced labour; beating; detention  
**Source:** Women and Child Rights Project (WCRP), Human Rights Foundation of Monland

“...In the daytime we had to cook meals and carry water for their baths. After having dinner, they demanded to have massages, and when night fell raped us...”

At the end of December, 2003, IB 299 that was operating a military campaign in Southern Ye Township, Mon State, sent for three women daily in rotation to work for the military column. These women were raped. The women from each household of Khaw Zar and six villages nearby were rotationally compelled to cook meals and fetch water for the soldiers at the place where the military column was encamped. At night time they were forced to entertain the commanders, to sing karaoke songs and give massages, and almost all were raped. Mi Khin Hling, 23, a woman who was raped, said that the women sent for were, in daylight, forced to cook meals and fetch water and, at night, were repeatedly raped.

“They (soldiers) didn’t send for married women. If a woman says she is married, she is beaten. In the daytime we had to cook meals and carry water for their baths. After having dinner, they demanded to have massages, and when night fell raped us. We did not dare resist at all because we were afraid they would kill us.”

IB 299 detained the summoned women round the clock from 6 am until the next three women arrived to relieve them.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,m  
**CEDAW:** Articles;2f, 15  
**UDHR:** Articles;3,4,5,6,7,8  
**FLC:** Articles:1, 2  
**1949GC:** Articles:3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(1) (c)7(2) (g),  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

**5. Mi Myat Hlay, Mi Soe Win and Mi Za Tile’s Story**

**Name:** Mi Myat Hlay, Mi Soe Win and Mi Za Tile  
**Age:** 20, 25 and 17  
**Gender:** Female  
**Ethnicity:** Mon  
**Date:** 17<sup>th</sup> February 2004

**Perpetrator:** Captain Hla Khaing and soldiers of LIB 586  
**Location:** Ywa Thit, Thae Khan and Sin Gu Villages, Mon State  
**HR violation:** Rape; gang rape; torture; arrest; beating; detention; death threats  
**Source:** Women and Child Rights Project (WCRP), Human Rights Foundation of Monland

“...villagers who were aware of the rapes were decrying the raped women...”

Captain Hla Khaing of LIB 586 that was in combat against the Hanthawaddy Restoration Party, a splinter Mon armed group, raped Mi Myat Hlay, 20, daughter of Nai Sway, of Ywa Thit Village. Captain Hla Khaing arrested Mi Myat Hlay’s father accusing him of having contact with the Mon armed group. While the soldiers were interrogating him in custody he was inhumanely beaten. While the accused was being beaten in custody the captain called Mi Myat Hlay to negotiate about the release of her father. At night Captain Hla Khaing took Mi Myat Hlay, who came to meet him in confidence of his offer, to a house, drove out the owner of the house and then raped her. After raping thus, he detained her for two days and raped her again and again

Soldiers under the captain’s command also raped Mi Soe Win, 25, from Thae Khan Village, and Mi Za Tile, 17, from Sin Gu Village. While Mi Soe Win was being threatened with a knife and gang raped she shouted for help. Villagers came and saved her but, as the villagers who saved her decried, blamed and despised her, she felt too ashamed to stay in her village. Mi Za Tile was also ashamed for crying out for help while she was being assaulted and raped by a soldier in her house.

Other villagers who were aware of the rapes were decrying the raped women. The women no longer dared live in their villages and ran away to other villages. Mi Myat Hlay’s niece said she was taking refuge in Ye Town. The people who have close relationships with Mi Soe Win and Mi Za Tile said they were hiding in the northern part of Ye Town where they have relatives.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,f,m  
**CEDAW:** Articles;2f, 15,  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8,  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**1949GC:**Articles:3,27 & 1977 Protocol 75,76  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

**6. Mi Mya Htay’s Story**

**Name:** Mi Mya Htay  
**Age:** 17

**Gender:** Female  
**Family Status:** Unmarried  
**Ethnicity:** Mon  
**Date of Incident:** 19<sup>th</sup> February 2004  
**Perpetrator:** Corporal Naing Naing from the Fourth Military Training Centre of Southern Command  
**Location:** Kyoun Ka Dat Village, Thanbyuzayat Township, Mon State  
**HR violation:** Rape; lack of legal redress; harassment; threats  
**Source:** Women and Child Rights Project (WCRP), Human Rights Foundation of Monland

“...without taking any action against the rapist, the military authorities forced Mi Mya Htay’s father and the village head to sign papers renouncing the accusation...”

On 19th February, 2004, at night, a corporal from the Fourth Military Training Centre of Southern Command deceptively raped a girl of 17 years from Kyoun Ka Dat Village, Thanbyuzayat Township.

The case is that Corporal Naing Naing of the Military Training Centre stationed at Wae Ka Li Village, Thanbyuzayat Township, lacking the compassion of a father to treat another man’s daughter as his own, pretended that he was in love with 17 year old Mi Mya Htay. Mi Mya Htay, who was not aware of his deceit, confidently kept an appointment with him, and eventually fell into the trap of the rapist. Though, after having been raped, Mi Mya Htay requested Corporal Naing Naing to marry her, he not only refused to accept her request but also threatened and abandoned her. The people who went to the rubber plantation to collect rubber sap found her crying there past midnight and took her back home.

Therefore, Mi Mya Htay’s father and the village head complained about the rape to the commander of the Military Training Centre of the Southern Command. They said that action should be taken against Corporal Naing Naing. However, without taking any action against the rapist, the military authorities forced Mi Mya Htay’s father and the village head to sign papers renouncing the accusation. No compensation was given.

Moreover, as the soldiers from the artillery battalion near the Fourth Military Training Centre try to rape the women workers of the rubber plantation, the women often have to run away from their work place.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,f,m  
**CEDAW:** Articles;2f, 15  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles:27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)

**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## 7. Naang Ung's Story

**Name:** Naang Ung  
**Age:** 13  
**Gender:** Female  
**Family Status:** Daughter of Lung Thaak Khe, wife of Zai Na-Lin  
**Ethnicity:** Shan  
**Date of Incident:** 28<sup>th</sup> December 2002 - 11<sup>th</sup> January 2003  
**Perpetrator:** SPDC Commando troops from IB 246 led by Commander Myint Oo  
**Location:** Wan Lao Village, Kun-Hing Town, Central Shan State  
**HR violation:** Gang rape, sexual slavery, torture and murder of a child  
**Source:** Shan Human Rights Foundation (SHRF)

“.....Naang Ung was tied up in a tent and raped every day for 10 days, from 2nd till 11th January, by five to six SPDC troops each day...”

On 28th December, 2002, a patrol of more than 10 SPDC commando troops from IB 246, known locally as ‘Death Battalion’, led by Battalion Commander Myint Oo who was most notorious for killing innocent people in the area and locally known as the ‘broken-legged commander’, arrested seven villagers who were threshing rice at a remote rice field eight miles south of Kun-Hing Town.

On seeing two army field jackets, which were fake Korean-made jackets worn by many people and sold in markets and towns everywhere in the area, dangling on a fence which enclosed a pile of reaped paddy plants, the SPDC troops accused the villagers of being rebels and seized, beat, tied up and took them to the military camp at Wan Lao village, about one and a half miles south of the rice field. The villagers were:

1. Lung Thaak Khe (m) aged 50
2. Pa Naang Lu (f) aged 48, Lung Thaak Khe's wife
3. Naang Ung (f) aged 13, daughter of Lung Thaak Khe and Pa Naang Lu
4. Zai Na-Lin (m) aged 18, Naang Ung's husband
5. Zai Thun (m) aged 25
6. Maha Tum (m) aged 40
7. Maha Wee (m) aged 50

These villagers were internally displaced farmers originally from Long Maw Village but had been forcibly relocated to Wan Lao Village tract on the outskirts of Kun-Hing Town in 1996-97 by the then SLORC (State Law and Order Restoration Council) troops. They had gone to work at their original rice field near their deserted village when they were arrested by the SPDC troops.

At the military camp, the villagers were locked into bamboo stocks and interrogated for four days and nights. On 1st January,2003, the SPDC troops released four of them but continued to detain Lung Thaak Khe, his daughter Naang Ung and Naang Ung's husband, Zaai Na-Lin.

Lung Thaak Khe and Zaai Na-Lin were further tortured and interrogated, and finally killed by the SPDC troops and dumped into the Nam Paang River, about one mile west of the camp. Naang Ung was tied up in a tent and raped every day for 10 days, from 2nd till 11th January, by five to six SPDC troops each day. She was warned on her release not to tell anyone about the incident or they would come after her and kill her.

However, although she was near death from what she had suffered, Naang Ung secretly related her plight to some villagers and they went to look for her father and her husband. When they found their bodies in the water, stranded near the bank of the Nam Pang River, they were already decomposed and unrecognisable except for the clothes that were still on them. The villagers then pushed the bodies deep into the river and let the current carry them away.

Naang Ung herself never recovered from her ordeal, and died on 4<sup>th</sup> February, 2003. According to the local people, these were innocent displaced farmers who had been trying to survive by cultivating their original rice field at their old village, and the army field jackets that were used by the SPDC troops as evidence were of a kind generally worn by many people and were freely sold in many markets and towns.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,4,5,6,7,8
<b>1949GC:</b>	Articles;3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1,7 (1)(c) 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

### **8. “Nang Seng La’s” Story**

<b>Name:</b>	Nang Seng La
<b>Gender:</b>	Female
<b>Family Status:</b>	Mother of two children
<b>Ethnicity:</b>	Shan
<b>Date of Incident:</b>	16 <sup>th</sup> April 2004
<b>Perpetrator:</b>	SPDC IB 245 lead by a Second Lieutenant based in Keng Tung, Eastern Shan State
<b>Location:</b>	Mong Hta Village, Mong Ton Township, Southern Shan State

**HR violation:** Gang Rape; torture; intimidation; denial of freedom of movement  
**Source:** Shan Women's Action Network (SWAN), 28<sup>th</sup> April, 2004

“...Nang Swe Hsa, a villager of Mong Hta, Mong Ton Township was gang raped by an SPDC patrol from SPDC's 245th Infantry Battalion..”

On 16th April, 2004, Nang Seng La, a villager of Mong Hta, Mong Ton Township was gang raped by a SPDC patrol from SPDC's 245th Infantry Battalion (based in Keng Tung, Eastern Shan State). According to the villagers from other villages, this 12-14 man patrol was led by a one starred officer, a Second Lieutenant and was on the way back to Mong Hta from Saan Kaang Village, when they met and gang raped the victim. The victim, Nang Seng La was the mother of two children. As it was the Annual Water Festival, she went to the village monastery to offer alms and was on her way home when she encountered the patrol.

Two days later, the Battalion Commander himself arrived in Mong Hta to handle this case. The Second Lieutenant and his team were sent back to the Battalion HQ. The victim was given 150,000 kyats, equivalent to approximately US\$150. She was given a warning to not reveal the story. She was placed under close observation and was forbidden to leave her village.

Mong Hta is a village, close to the Thai border, opposite to Weing Heng, Province of Chiang Mai.

#### **Case Relevant Human Rights References**

**BPPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,m  
**CEDAW:** Articles;2f, 15  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles;3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## **9. Sai Tienkeow and Nang Hom's Stories**

**Names :** Sai Tienkeow and Nang Hom  
**Age:** 42 and 14  
**Gender:** Male, and Female child  
**Family Status:** Married with two children / Daughter of Sai Tienkeow  
**Ethnicity:** Shan  
**Occupation:** Farmer  
**Date of Incident:** Mid 2001 – December 2003  
**Perpetrator:** SPDC IB 244 based in Keng Tung, Eastern Shan State  
**Location:** Wan Kad, Mong Kok Tract, Mong Hsat Township, East Shan State

**HR violation:** Gang rape and murder of a child; torture; false imprisonment  
**Source:** Shan Women’s Action Network (SWAN), 7<sup>th</sup> January, 2004, North Chiang Rai border

“...Six soldiers from SPDC Infantry Battalion 244, based nearby, met them and told the older woman to return home. They then gang raped the girl to death, and left her naked body by the river...”

In mid 2001, Sai Tienkeow’s daughter, Nang Hom, aged 14, went fishing with another woman, Nang Oh, aged 48, at the Kok River, near Wan Kad Village. Six soldiers from SPDC Infantry Battalion 244, based nearby, met them and told the older woman to return home. They then gang raped the girl to death, and left her naked body by the river.

The father found the body of his daughter that same day and went to complain at the local SPDC base. When the military commander there refused to accept the complaint, the father said he would go to Kengtung to press charges with military superiors there. The local commander then arrested him, accusing him of being connected with the Shan resistance. He was detained at the local military base for several days, during which time he was beaten and electrocuted to force a ‘confession’. He was then sent to jail in Kengtung for over a year, where his wife was not allowed to visit him ‘because of the severity of his crime’. Finally he was sentenced to 28 years in prison for alleged connection with the Shan resistance. (They claimed they had found guns in his house.) He was then transferred to Meiktila Prison in Upper Burma.

While in Meiktila Prison, he was forced to do hard labour, breaking stones for road construction. Fortunately, in late 2003, while he was being made to tend some horses near one of the work-sites outside the prison, he was able to escape. He then spent a month walking back eastwards towards his home in Shan State, begging for food along the way. At the end of December, 2003, he reached the Thai-Shan border. At the time of the interview, he had made no contact with his wife and remaining son, did not know if they were still in their original village or even if they were still alive.

**(For further details see [www.shanland.org](http://www.shanland.org) )**

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,f,m  
**CEDAW:** Articles;2f, 15  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8,9,10,11  
**1949GC:** Articles;3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## 10. “Aye’s” Story

<b>Name:</b>	Aye
<b>Age:</b>	29
<b>Gender:</b>	Female
<b>Family Status:</b>	Married
<b>Ethnicity:</b>	Palaung
<b>Date of Incident:</b>	20 <sup>th</sup> September 2002
<b>Perpetrator:</b>	SPDC LIB 324 troops, Column Three led by Captain Tin Maung Myint based in Namtu Township
<b>Location:</b>	Between Paing Kham and Loi Jae Villages, Namtu Township, Northern Shan State
<b>HR violation:</b>	Gang rape; torture; death threats; lack of legal redress.
<b>Source:</b>	<i>Shwe Phi Oo Journal</i> (Vol. 2, No.1. July 2003) published by the Palaung Women’s Organisation (PWO)

“... They took 9,000 kyats from U Lao Kai and made him watch them rape his wife. After the rapes, Captain Tin Maung Myint threatened the couple that if they reported the incident to the PSLA Ceasefire Group, he would kill them...”

On 20<sup>th</sup> September, 2002, at around 8 pm, SPDC LIB 324 troop, Column Three, led by Captain Tin Maung Myint and based in Namtu Township, met U Lao Kai, aged 40 and his wife Aye, 29 on their way between Paing Kham and Loi Jae Villages. The SPDC troops stopped the couple and searched them. They took 9,000 kyats from U Lao Kai and made him watch them rape his wife.

After the rapes, Captain Tin Maung Myint threatened the couple that if they reported the incident to the PSLA Ceasefire Group, he would kill them.

### Case Relevant Human Rights References

<b>BPFA:</b>	Paragraphs; 113, 131, 132, 136, 142c, 143c, 144, 145c, d, e, 231h,
<b>B+5:</b>	Paragraphs; 69b, c, 96, b, 99c, d, m
<b>CEDAW:</b>	Articles; 2f, 15
<b>UDHR:</b>	Articles; 3, 5, 6, 7, 8
<b>1949GC:</b>	Articles; 3, 27 & 1977 Protocol Articles 75, 76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3, 4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## 11. Shajeeda’s Story

<b>Name:</b>	Shajeeda
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**Age:** 12  
**Gender:** Female  
**Family Status:** Daughter of Noor Kalan  
**Ethnicity:** Rohingya  
**Date of Incident:** 27<sup>th</sup> April 2004  
**Perpetrator:** Member of Nasaka<sup>72</sup> (Border Disciplinary Control Force) from Nasaka Headquarters  
**Location:** Near Kyi Kan Pyin Village, Maungdaw Township North, Rakhaing State  
**HR violation:** Rape, torture, murder of a child; lack of legal redress  
**Source:** Kaladan News, Wednesday 12<sup>th</sup> May, 2004

“....A 12 year old girl is raped and strangled by the Nasaka force. This is a great inhuman matter. An unbearable event. I cannot imagine the condition of the victim’s parents....”

On 27<sup>th</sup> April, 2004, the victim, Shajeeda, accompanied by another girl, 10 year old Rohima (not real name) of the same village, went with their 12 cattle to a grazing ground on a nearby hillside. At about 4:00 pm, a Nasaka in plain clothes from Nasaka Headquarters went to the grazing ground while the said two young girls were preparing to return home. The Nasaka grabbed Shajeeda and took her away to a solitary place on the hillside. The other girl was standing helplessly, said a relative of the victim.

Rohima waited for a while but when Shajeeda didn’t return she went home with the cattle and informed the victim’s father of the incident, the relative further added.

Hearing the news, Shajeeda’s father, quickly went to the Nasaka Headquarters to report the incident. He was expelled from the gate by the Nasaka guard. So, he went to the Village Chairman and Secretary to inform them of the incident. They gave him assurances that the next day, they would go to the Nasaka Headquarters to report the incident, said the victim’s mother to our source.

The following day, 28<sup>th</sup> April, early in the morning, the Village Chairman and Secretary accompanied by the victim’s father went to the Nasaka Headquarters to inquire about the event. The Nasaka stated that they had no information about the happening and said that no Nasaka force was linked to this matter. However, Shajeeda’s father was not discouraged by the Nasaka’s misbehaviour. As a result, he went to the mountain where his daughter was taken and searched there the whole day. However he failed to find his daughter and returned home.

Early on 29<sup>th</sup> April, 2004, he went to the said mountain again accompanied by some villagers and searched thoroughly. Not having found his daughter, at 12:00 noon he took a rest under a big tree, wondering about what had happened to his daughter. Suddenly, he

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<sup>72</sup> The Border Disciplinary Control Force, was set up under the then SPDC military intelligence to monitor border trade. They are formed by military, police and other SPDC officials.

heard the buzzing of flies at some distance and went to see what was happening there. He relates that he found his daughter's dead body lying face down on the ground covered with some bushes.

Taking the dead body of his daughter he went to the village and informed the Village Chairman and Secretary. Afterwards, accompanied by them, he went to Nasaka Headquarters with the dead body to inform the Nasaka. The Nasaka authority concerned ordered them to bury the dead body immediately. They again denied any involvement of their forces in the murder case and refused to hear any allegation against the Nasaka forces. The Nasaka also warned the victim's father not to come again to vilify their soldiers.

When asked, a village elder said, "A 12 year old girl is raped and strangled by the Nasaka force. This is a great inhuman matter. An unbearable event. I cannot imagine the condition of the victim's parents."

The incident was reported to the authorities concerned, including police and Military Intelligence (MI), but no action has been taken yet against the culprit.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## **12. Ma Saw Myint's Story**

<b>Name:</b>	Ma Saw Myint
<b>Age:</b>	16
<b>Gender:</b>	Female
<b>Family Status:</b>	Daughter of U Maung Maung
<b>Ethnicity:</b>	Rohingya
<b>Date of Incident:</b>	19 <sup>th</sup> September 2003
<b>Perpetrator:</b>	Captain Khin Aung and soldiers of Battalion 542
<b>Location:</b>	Mazichaung Village, Kyaukpru Township, Rakhaing State
<b>HR violation:</b>	Abduction, rape and forced marriage of a child
<b>Source:</b>	Kaladan News, Wednesday 12 <sup>th</sup> May, 2004

“...She and her friends cried for help but no one dared to come to her rescue, an eyewitness told our source...”

On 19<sup>th</sup> September, 2003, a school girl was abducted and forcibly married to an army captain at Kyaukprou Township in Rakhaing State, according to a relative of the victim.

The victim, Ma Saw Myint, 16, daughter of U Maung Maung, hails from Mazichaung Village, Kyaukprou Township in Rakhaing State. She is a student in class ten in the Myo Ma State High School of the said village, source further added.

On 19<sup>th</sup> September, 2003, at around 4:30 pm, while the victim Ma Saw Myint was on her way back home with her companions, a group of military from Battalion 542 drove up behind them in a mini-car. Suddenly they picked her up and drove away. She and her friends cried for help but no one dared to come to her rescue, an eyewitness told our source.

The classmates of the victim quickly informed her parents of the incident and they immediately went to the Battalion Headquarters to ask about their daughter. The Battalion Commander did not give them any response. So, they hurriedly went to the Township Peace and Development Council (TPDC) Chairman and the police station to inform them of the event, believing that they would get some help. But, both authorities declined to provide any help as it was an army matter.

“They also said that the matter could only be dealt with by the Commander of the Battalion,” one of the maternal relatives of the victim told our source. After hearing that, the parents of the victim returned home with great disappointment, said a woman to our source.

“But, six days later, on 25<sup>th</sup> September, 2003, Captain Khin Aung of Battalion 542, accompanied by bride Ma Saw Myint, and three other soldiers, came to our house with lots of presents. We had no other choice but to recognize the new couple,” said the victim’s mother to our source.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles;3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

### **13. Daileh’s Story**

**Name:** Daileh  
**Age:** 15

**Gender:** Female  
**Family status:** Unmarried  
**Ethnicity:** Karenni  
**Religion:** Roman Catholic  
**Occupation:** Peasant  
**Date of Incident:** 7<sup>th</sup> July 2003  
**Perpetrator:** SPDC soldier Ngae Lay of LIB 428/531 and IB 72  
**Location:** Beside the military base, near Hoya, Pruso Township, Karenni State  
**HR violation:** Rape, torture of a child ; death threats; lack of legal redress  
**Source:** Karenni News Agency for Human Rights with cooperation of field reporters and Karenni Women’s Organisation( KNWO)

“....Ten SPDC soldiers blocked her way, right in front of their base and one of them, named Ngae Lay, showed her a grenade and warned her not to shout. Ngae Lay then dragged Daileh into a bush nearby and raped her....”

On 7<sup>th</sup> July, 2003 a village girl, Daileh, aged 15, was raped by an SPDC soldier, Ngae Lay from Hseibu, based with LIB 428/531/72 (a joint military battalion base), while she was on her way home from Hoya.

Daileh had visited her relatives living in Hoya and returned by the road where the SPDC base is located. SPDC troops from LIB 428/531 and IB 72 were both stationed near Hoya after this road had been constructed. The road is an essential thoroughfare for the local people who use it on a daily basis. As she passed the SPDC military base, ten SPDC soldiers blocked her way, right in front of their base and one of them, named Ngae Lay, showed her a grenade and warned her not to shout. Ngae Lay then dragged Daileh into a bush nearby and raped her. She was also told by Ngae Lay not to talk about the rape or she would be killed.

On 13<sup>th</sup> July 2003, Daileh’s parents and village chiefs reported this attack to the camp commander, Myo Min, and asked for legal action to be taken. However, until now no action has been taken. It is reported that Daileh is greatly depressed by this incident and she is now suffering from a mental disorder.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,f,m  
**CEDAW:** Articles;2f, 15  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles;3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## 14. Maw Lee Meh's Story <sup>73</sup>

<b>Name:</b>	Maw Lee Meh
<b>Age:</b>	17
<b>Gender:</b>	Female
<b>Family status:</b>	Unmarried
<b>Ethnicity:</b>	Karenni
<b>Religion:</b>	Buddhist
<b>Occupation:</b>	Peasant
<b>Date of Incident:</b>	25 <sup>th</sup> August 2002
<b>Perpetrator:</b>	Private Myint Lwin of LIB 530 under Column Commander Myint Soe
<b>Location:</b>	Daw Tamagyi Village, Dee Maw So Township, Karenni State
<b>H/R Violation:</b>	Rape, torture of a child; lack of legal redress; harassment; death threats
<b>Source:</b>	Karenni News Agency for Human Rights with cooperation of field reporters and Karenni Women's Organisation (KNWO)

“...Her parents, seeking justice, reported the incident to Column Commander Myint Soe. However, Myint Soe took no action and threatened the family with death if they talked about the rape to other people....,”

On 25<sup>th</sup> August, 2002, at midnight, Maw Lee Meh, 17, from Daw Tamagyi Village, Dee Maw So Township, was raped while she was alone at home, by SPDC's Private Myint Lwin from LIB 530. This was reported by one of the refugees who herself was raped by SPDC troops in early 1998.

“She told her parents about the rape when her parents returned from their paddy field the next day. Her parents, seeking justice, reported the incident to Column Commander Myint Soe. However, Myint Soe took no action and threatened the family with death if they talked about the rape to other people,” added the refugee informant.

### Case Relevant Human Rights References

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles;3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4

<sup>73</sup> Reported in the 2003 Report of the UN Special Rapporteur on Violence Against Women, E/CN.4/2003/75/Add.2, 14 January 2003

**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## 15. Lung Cin's Story

**Name:** Lung Cin  
**Age:** 28  
**Gender:** Female  
**Ethnicity:** Chin  
**Occupation:** Nurse  
**Date of Incident:** September 2003  
**Perpetrator:** A soldier of IB 140 led by Major Soe Win  
**Location:** Near Matupi Civil Hospital, Matupi Town, Chin State  
**H/R Violation:** Rape  
**Source:** Women's Rights and Welfare Association of Burma (WRWAB)

“... That evening she was alone in her home, in Matupi town, not far from the hospital, when the soldier forced his way in and raped her...”

In September, 2003, Lung Cin a 28 year old nurse who works at the Matupi Civil Hospital was raped by a soldier from IB 140, led by Major Soe Win. That evening she was alone in her home, in Matupi town, not far from the hospital, when the soldier forced his way in and raped her.

### Case Relevant Human Rights References

**BPFA:** Paragraphs; 113, 131, 132, 142c, 143c, 144, 145c, d, e, 231h,  
**B+5:** Paragraphs; 69b, c, 96, b, 99c, d, f, m  
**CEDAW:** Articles; 2f, 15  
**UDHR:** Articles; 3, 5, 6, 7, 8  
**1949GC:** Articles; 3, 27 & 1977 Protocol Articles 75, 76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3, 4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## 16. Nu Nu and Khai Paw's Story

**Name:** Nu Nu and Khai Paw  
**Age:** 21 and 20  
**Gender:** Female  
**Ethnicity:** Chin  
**Occupation:** Villagers  
**Date of Incident:** January 2003  
**Perpetrator:** Captain Zaw Latt and seven soldiers of IB 266  
**Location:** Riverbank between Pamai and Kadi Villages, Matupi Township, Chin State  
**H/R Violation:** Gang rape; torture; forced labour

**Source:** Women’s Rights and Welfare Association of Burma (WRWAB)

“...The women, Nu Nu 21 years old and Khai Paw 20 years old, were raped by the soldiers after the male porters had crossed to the other side of the river. ..”

In January, 2003, Captain Zaw Latt of IB 266 made a military operation to Matupi Township. He took nine people, two women and seven men, to porter from Pamai Village to Kadi Village. On the way they came to a river. The soldiers ordered the men to cross ahead and told the women to stay with them, and when they did the seven soldiers assaulted the women.

The women, Nu Nu 21 years old and Khai Paw 20 years old, were raped by the soldiers after the male porters had crossed to the other side of the river.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,m  
**CEDAW:** Articles;2f, 15  
**FLC:** Articles:1, 2  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles:3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

**17. Swe Tin’s Story**

**Name:** Swe Tin  
**Age:** 20  
**Gender:** Female  
**Ethnicity:** Chin  
**Occupation:** Farmer  
**Date of Incident:** October 2003  
**Perpetrator:** SPDC soldiers  
**Location:** Pha Nang Village, Matupi Township, Chin State  
**H/R Violation:** Gang rape; torture; death threats; lack of legal redress  
**Source:** Women’s Rights and Welfare Association of Burma (WRWAB)

“...As there is no one that will advocate for them and take punitive action against the SPDC soldiers no one made any attempt to report the incident to the authorities...”

While Swe Tin, a 20 year old girl, was going to the farm, soldiers followed her and raped her in the jungle. After the soldiers abused her as they liked, she was allowed to go back

but with the threat of being killed if she spoke of the incident. So she did not dare to tell anyone though everyone knew about it.

As there is no one that will advocate for them and take punitive action against the SPDC soldiers no one made any attempt to report the incident to the authorities.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,m
<b>CEDAW:</b>	Articles;2f, 15
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles;3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

### **18. Sui Tang's Story**

<b>Name:</b>	Sui Tang
<b>Age:</b>	35
<b>Gender:</b>	Female
<b>Family Status:</b>	Married
<b>Ethnicity:</b>	Chin
<b>Date of Incident:</b>	December 2003
<b>Perpetrator:</b>	SPDC soldier Maung Zaw of IB 140
<b>Location:</b>	Mindat Town, Chin State
<b>H/R Violation:</b>	Rape; sexual slavery; torture; forced labour
<b>Source:</b>	Women's Rights and Welfare Association of Burma (WRWAB)

“...She fears that her husband will ill treat her as a result of what the soldier has done to her...”

A 35 year old woman, Sui Tang, wife of Mang Re, like others in Vui Long Village, Matupi Township, was called by the SPDC soldiers in December, 2003, to carry bricks for the construction of an army camp. But unfortunately, she never returned to her husband. A soldier assaulted her and took her as his wife.

Her husband could do nothing for her although she was his wife. The soldier took her up to Mindat and after three months of marrying her left her there.

Desperate as she is, the woman is left between the devil and the deep sea. She dare not go back home to her husband. She fears that her husband will ill treat her as a result of what the soldier has done to her. She believes that her husband will be enraged by the incident and that he might harass her as an alternative way to do to the soldier.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,
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<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,m
<b>CEDAW:</b>	Articles;2f, 15
<b>FLC:</b>	Articles:1, 2
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1,7 (1) (c),7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## 19. “Naw Bay Paw’s” Story

<b>Name:</b>	Naw Bay Paw
<b>Age:</b>	38
<b>Gender:</b>	Female
<b>Family Status:</b>	Married with 5 children
<b>Ethnicity:</b>	Karen
<b>Date of Incident:</b>	7 <sup>th</sup> January 2004
<b>Perpetrator:</b>	Sergeant Tin Shwe from LIB 124 under the command of Captain Aung Naing Oo
<b>Location:</b>	Taungoo Area, Karen State
<b>H/R Violation:</b>	Rape; torture; intimidation; death threats
<b>Source:</b>	<i>Shattering Silences</i> , April 2004, Karen Women’s Organisation (KWO) Report

“...Along the way, Sergeant Tin Shwe raped her and told her not to tell anyone about it. If she did he would kill her.....”

On 7<sup>th</sup> January, 2004, at about 9 pm. Sergeant Tin Shwe, forced Naw Bay Paw, a 38 year old mother of five children, to go with him to another village. Naw Bay Paw took her one year old child with her. Along the way, Sergeant Tin Shwe raped her and told her not to tell anyone about it. If she did he would kill her.

After this threat, he let her go back home. The head of the village retrieved Naw Bay Paw and escorted her home. She arrived home at about 1 am. After this she was so frightened and hurt that she could not speak or talk. She was afraid that the perpetrator would come again and kill her if she spoke. Her husband was not at home at that time, he was staying in the betel nut orchard overnight.

After about a month, on 5<sup>th</sup> February, 2004, Captain Aung Naing Oo came to the village and met with the head man, the pastor and the husband of Naw Bay Paw. He forced them to sign the following statement which denied that the SPDC had raped Naw Bay Po. It said the following:

1. That no SPDC soldier raped Naw Bay Paw.
2. When SPDC soldiers came to Naw Bay Paw's house, they were not carrying arms and they only asked Naw Bay Paw

to show them the way to the other village.

#### Case Relevant Human Rights References

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,m
<b>CEDAW:</b>	Articles;2f, 15
<b>FLC:</b>	Articles:1, 2
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1,7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## 20. “Ma Yo Yo’s” Story

<b>Name:</b>	Ma Yo Yo
<b>Age:</b>	24
<b>Gender:</b>	Female
<b>Family Status:</b>	Married with five children
<b>Ethnicity:</b>	Karen
<b>Date of Incident:</b>	16 <sup>th</sup> February 2004
<b>Perpetrator:</b>	Soldier Ang Gyi from SPDC troop LIB 32, with complicity of Sergeant Kyi Naing
<b>Location:</b>	Lay Hkaw Htee Du Paw Village, Kya-in Township, Doplaya District, Karen State
<b>H/R Violation:</b>	Rape; lack of legal redress; victimisation; physical punishment
<b>Source:</b>	<i>Shattering Silences</i> , April 2004, Karen Women’s Organisation (KWO) Report

“...Then when he was in my house he pulled me up and raped me badly, in my house....”

I lived in Lay Hkaw Htee Du Paw Village near Htee Hta Baw Village, Kya-in Township in the Doplaya District. The SPDC troops of LIB 32 were based in Htee Hta Baw Village. On 16<sup>th</sup> February, 2004, three of the SPDC soldiers of LIB 32 Sergeant Kyi Naing, Corporal Soe Hla Oo and soldier Ang Gyi came to my village which is beside the hillside.

When they arrived in my village one of them who is soldier Ang Gyi, came to my house. Then when he was in my house he pulled me up and raped me badly. I had no idea what to do.

Then the next day I went to Sergeant Kyi Naing and reported this to him. Instead of taking action, he told me that I was a bad woman and a liar and then he slapped me two times on my face. Then he called his soldier Ang Gyi and asked about it. When Ang Gyi said, “Yes” he didn’t say or take any action against him. He just ordered me to go home. No action was taken on this case.

### Case Relevant Human Rights References

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,m
<b>CEDAW:</b>	Articles;2f, 15
<b>FLC:</b>	Articles:1, 2
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1,7 (1) (c),7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## 21. Ma Khaing Hla and Aung San Hla's Story

<b>Name:</b>	Ma Khaing Hla and Aung San Hla
<b>Age:</b>	17
<b>Gender:</b>	Female and Male
<b>Family Status:</b>	Daughter and Son of U Maung Rhee
<b>Ethnicity:</b>	Rakhaing
<b>Date of Incident:</b>	17 <sup>th</sup> January 2003
<b>Perpetrator:</b>	Captain Khin San and two soldiers of Battalion 334
<b>Location:</b>	Nga Taut Village, Rathedaung Township, Rakhaing State
<b>HR violation:</b>	Gang rape of a child; lack legal redress; victimisation; disappearance
<b>Source:</b>	<i>The Rakhaing Lens Newsletter</i> , Issue No. 6, March 2003 published by Rakhaing Women's Union (RWU)

“...Captain Khin San and two soldiers from Battalion 334, entered the house, tied her, blocked her mouth with a piece of cloth, and raped her outrageously...”

On 17th January, 2003, SPDC Army soldiers raped Ma Khaing Hla, 17 year old daughter of U Maung Rhee, resident of Nga Taut Tu village, Rathedaung Township, in her village home. She was resting at home after having given help to her mother, when, at 10.30, Captain Khin San and two soldiers from Battalion 334, entered the house, tied her, blocked her mouth with a piece of cloth, and raped her outrageously.

Next morning her brother, Aung San Hla, tried to file a case against the culprits at the police station. But the police officer said, “We have not the authority to file any cases whatsoever connected with army personnel. If you wish to make a complaint you have to submit the matter directly to the battalion concerned.”

Once news was received of the rape, Army Headquarters sent two soldiers from Battalion 334 to the house and they took Aung San Hla away. They lied and told him that he was needed to talk about the matter of the rape so he went with them.

He has never returned home. To this day he is still missing and his family continue to live in a state of fear and anxiety.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles;3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ICTY:</b>	Paragraphs: 495, 496
<b>ICTR:</b>	Paragraphs: 597
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## **22. “Ma Nang Kon’s” Story**

<b>Name:</b>	Ma Nang Kon
<b>Age:</b>	8
<b>Gender:</b>	Female child
<b>Family Status:</b>	Daughter of Daw Nang Mart and U Kyaw
<b>Ethnicity:</b>	Pa-O
<b>Religion:</b>	Buddhist
<b>Date of Incident:</b>	9 <sup>th</sup> November 2002
<b>Perpetrator:</b>	Private Soe Win: Identification No.Ta: 225821 LIB 510 Company Four
<b>Location:</b>	Naung Thaung, Kalalan Village, Hsi Hseng Township, Central Shan State
<b>HR violation:</b>	Rape, torture of a child; lack of legal redress
<b>Source:</b>	Pa-O Women’s Union (PWU)

“...When she found that blood and semen came out of the girl’s sex organ, she wiped out it with her green sarong. The girl was still crying because of the pain...”

On 19<sup>th</sup> November, 2002, at 9:50 in the morning, Private Soe Win from LIB 510, Company Four raped a local girl, Ma Nang Kon, in Naung Thaung, Kalalan Village, Hsi Hseng Township.

At the time of the case, LIB 510 Company Four were stationed about two and a half miles away from Kalalan Village.

Private Soe Win used to visit Kalalan Village, passing on his way to the market. The victim Ma Nang Kon was staying with her grandmother as her parents were at work in another village. On the day of the attack, when Ma Nang Kon went to the toilet,

unknown to her Private Soe Win followed her. While she was using the toilet, Private Soe Win seized her, covered her mouth, and raped her. At first he could not enter so he spat on the girl's organ, and forced until he could. Ma Nang Kon felt so much pain that she screamed out. Her cries were heard even though Private Soe Win held her mouth tightly closed.

The grandmother called out the girl's name and went to the toilet to check. When she was about 20 feet from the toilet, she saw Private Soe Win running away to the next door garden, holding his wrap (male sarong).

Ma Nang Kon rushed out of the toilet crying. She was in pain. Her grandmother took her to the house. When she found that blood and semen came out of the girl's sex organ, she wiped it out with her green sarong. The girl was still crying because of the pain. Her grandmother went to report the rape to the headman, and the villagers reported it to the Shan State Nationalities People's Liberation Organisation (SNPLO), a Pa-O ceasefire group. The Ceasefire Group arrested Private Soe Win, the rapist within an hour. According to the inquiries, Private Soe Win used to visit Khun Lon's house, Nang Kon's neighbour and have drinks. Sometimes he visited her house.

When examined, there was strong evidence that she had been raped. The girl's thighs and calves were stained with blood and semen. Her vagina was torn, red and swollen and painful when touched.

On 24<sup>th</sup> November, 2002, an SPDC officer, Myo Min Han and his soldiers came to the girl's house and gave 50,000 Kyats (about US\$50), three sets of clothes, two pounds of dried cake and a **big teddy bear**. He claimed that as Private Soe Win had deserted and was no longer in the army that the military could not be held responsible for the rape. The villagers were very upset to learn about the atrocity.

#### **Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27 & 1977 Protocol Articles 75,76
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

### **23. Ma Myint Myint San's Story**

<b>Name:</b>	Ma Myint Myint San
<b>Age:</b>	17
<b>Gender:</b>	Female
<b>Family Status:</b>	Daughter of U Thi Po and Daw Aye Tin
<b>Ethnicity:</b>	Tavoy
<b>Occupation:</b>	Farmer

**Date of Incident:** 16<sup>th</sup> December 2003  
**Perpetrator:** Corporal Tun Tun Zaw and three SPDC soldiers of LIB 405 Company One  
**Location:** Yun Maw Village, Tavoy Township, Tavoy District, Tenasserim Division  
**HR violation:** Gang rape, torture of a child; lack of legal redress  
**Source:** Tavoy Women’s Union (TWU), Tavoy Foundation and Human Rights Documentation Unit (HRDU)

“....Myint Myint San and her father reported the rape case to the Tavoy Township Police Station through their village leaders but no action was taken....”

On 16<sup>th</sup> December, 2003, at about 4 am, Ma Myint Myint San, the 17 year old daughter of U Thi Po and Daw Aye Tin, who lives in Yun Maw Village, Tavoy Township, Tavoy District, was repeatedly raped by Corporal Tun Tun Zaw and three other SPDC soldiers of LIB 405, Company One while she was going to scrape rubber in their rubber farm.

Myint Myint San and her father reported the rape case to the Tavoy Township Police Station through their village leaders but no action was taken. They still live in the village.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,269  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,f,m  
**CEDAW:** Articles;2f, 15  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles;3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

**24. Daw Mi Than’s Story**

**Name:** Daw Mi Than  
**Age:** 54  
**Gender:** Female  
**Family Status:** Wife of U Pho Mya  
**Ethnicity:** Tavoy  
**Occupation:** Farmer  
**Date of Incident:** 14<sup>th</sup> March 2004

**Perpetrator:** Second Corporal Maung Toe and two SPDC soldiers of LIB 402 Company One  
**Location:** Kyauk Hlayga Village, Thayetchaung Township, Tavoy District, Tenasserim Division  
**HR violation:** Gang rape; torture; lack of legal redress  
**Source:** Tavoy Women’s Union (TWU), Tavoy Foundation and Human Rights Documentation Unit (HRDU)

“...was repeatedly raped by Second Corporal Maung Toe and two other SPDC soldiers from LIB 402 Company One, while she was on the way to her farm..”

On 14th March, 2004, at about 10 in the morning, 54 year old Daw Mi Than, wife of U Pho Mya, who lives in Kyauk Hlayga Village, Thayetchaung Township, Tavoy District, was repeatedly raped by Second Corporal Maung Toe and two other SPDC soldiers from LIB 402 Company One, while she was on the way to her farm. The rape took place about two kilometres from the village.

She reported the rape to the village leaders, but no action was taken.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h,  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,m  
**CEDAW:** Articles;2f, 15  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles:3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

**25. “Naw May’s” Story**

**Name:** Naw May  
**Age:** 38  
**Gender:** Female  
**Family Status:** Wife of Saw Rae Dee  
**Ethnicity:** Karen  
**Occupation:** Farmer  
**Date of Incident:** 26<sup>th</sup> June 2004  
**Perpetrator:** SPDC troops of IB 101, led by Column Two Commander Colonel Kyaw Lwin Oo

**Location:** Laylawkahtikhee Village, Maniroe (IDP area), Tenasserim Township, Mergui-Tavoy District, Karen State  
**HR violation:** Rape; torture; murder; theft of property  
**Source:** Karen Women’s Organisation (KWO)

“...She was then raped brutally and killed right away by the troops. In addition, her ears were cut for the ear-rings,...”

On 26<sup>th</sup> June, 2004, troops from SPDC Infantry Battalion 101 led by Column Two Commander, Colonel Kyaw Lwin Oo, came and shot at the villagers who had hidden themselves in Laylawkahtikhee Village in the Maniroe IDP area. Saw Rae Dee’s hut was attacked and his wife, Naw May 38, was shot and one of her hands was broken.

She was then raped brutally and killed right away by the troops. In addition, her ears were cut for the ear-rings, and items worth 90,000 kyat, and one basket of rice were taken away.

**Case Relevant Human Rights References**

**BPFA:** Paragraphs;113,131,132,136,142c,143c,144,145c,d,e,231h  
**B+5:** Paragraphs; 69b,c,96,b,99c,d,m  
**CEDAW:** Articles;2f, 15  
**CRC:** Articles;3,19,34,37  
**UDHR:** Articles;3,5,6,7,8  
**1949GC:** Articles:3,27 & 1977 Protocol Articles 75,76  
**ICC:** Article: 7(1), (g)-1, 7(2) (g)  
**ICTY:** Paragraphs: 495, 496  
**ICTR:** Paragraphs: 597  
**ASEAN:** VAW Declaration: Paragraphs 2, 3,4  
**Penal Code:** Articles 375 & 376 of the Myanmar Penal Code

## 26. “Ma Aah Pan’s” Story

**Name:** Ma Aah Pan  
**Age:** 17  
**Gender:** Female  
**Ethnicity:** Kachin  
**Occupation:** Shopkeeper (Selling dessert and delicacies)  
**Date of Incident:** 7<sup>th</sup> February 2004  
**Perpetrator:** Sergeant Zaw Lwin from IB37, based in Myitkyina, Kachin State.  
**Location:** Sita Area, Suburb of Myitkyina, Kachin State  
**HR violation:** Rape of a child; forced abortion  
**Source:** Local Kachin Sources

“... When she refused him, he threatened that he would close down her shop (which means to revoke her right to run a shop) and forced her to have sex with him....”

Ma Aah Pan, a Kachin girl of 17, met Sergeant Zaw Lwin at her shop on 7<sup>th</sup> February, 2004. He told her that he was a bachelor, with no wife nor children. He said he liked her and he wanted to be with her. When she refused him, he threatened that he would close down her shop (which means to revoke her right to run a shop) and forced her to have sex with him. He deceitfully induced her to keep on having sex by telling her that he would convert to Christianity, be baptized, and get married to her. When he found out that Ma Aah Pan was one month pregnant he asked her to have abortion. This she did and he kept living with her and her family. On 22<sup>nd</sup> May, 2004, he left her.

Ma Aah Pan was very unhappy about what he had done to her and told him she would report their relationship to the community leaders and respective senior officers. Then he and his wife came to Ma Aah Pan and her family's house and apologised to them. They knelt down and pleaded with them not to inform any authorities about it. Sergeant Zaw Lwin also promised he would do whatever they, Ma Aah Pan and her family, wanted him to do.

Now he has left them and ignores them totally. They did not push the case forward as they didn't know how to inform the army of the case. Now Ma Aah Pan doesn't know what to do with her life and is facing social stigma and feeling very ashamed. She said she felt miserable with her life, and she would never forgive him and will feel bitter towards him all the rest of her life.

**Case Relevant Human Rights References**

<b>BPFA:</b>	Paragraphs;113,115,131,132,136,142c,143c,144,145c,d,e,231h,269
<b>B+5:</b>	Paragraphs; 69b,c,96,b,99c,d,f,m
<b>CEDAW:</b>	Articles;2f, 15
<b>CRC:</b>	Articles;3,19,34,37
<b>UDHR:</b>	Articles;3,5,6,7,8
<b>1949GC:</b>	Articles:3,27
<b>ICC:</b>	Article: 7(1), (g)-1, 7(2) (g)
<b>ASEAN:</b>	VAW Declaration: Paragraphs 2, 3,4
<b>Penal Code:</b>	Articles 375 & 376 of the Myanmar Penal Code

## **Appendix Three:**

### **Relevant Articles from the Human Rights Conventions and Documents which the SPDC have signed.**

#### **Beijing Platform for Action (BPFA) – Critical Area Violence Against Women**

##### **Para 113**

The term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the following:

Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

##### **Para 114**

Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection.

##### **Para 121**

Women may be vulnerable to violence perpetrated by persons in positions of authority in both conflict and non-conflict situations. Training of all officials in humanitarian and human rights law and the punishment of perpetrators of violent acts against women would help to ensure that such violence does not take place at the hands of public officials in whom women should be able to place trust, including police and prison officials and security forces.

#### **Beijing Platform for Action (BPFA) – Critical Area Armed Conflict**

##### **A recognition that massive human rights violations include systematic rape by the armed forces**

##### **Para 131.**

Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. Massive violations of human rights, especially in the form of genocide, ethnic cleansing as a strategy of war and its consequences, and rape, including systematic rape of women in war situations, creating a mass exodus of refugees and displaced persons, are abhorrent practices that are strongly condemned and must be stopped immediately, while perpetrators of such crimes must be punished.

##### **A recommitment to the Geneva Conventions and the Vienna Declaration**

##### **Para 132.**

The Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 1949, and the Additional Protocols of 1977 [24] provide that women shall especially be protected against any attack on their honour, in particular against humiliating and degrading treatment, rape, enforced prostitution or any form of indecent assault. The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, states that "violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law".[25] All violations of this kind, including in particular murder, rape, including systematic rape, sexual slavery and forced pregnancy require a particularly effective response.

##### **Sexual violence, Refugee and IDP women**

##### **Para 136.**

Women and children constitute some 80 per cent of the world's millions of refugees and other displaced persons, including internally displaced persons. They are threatened by deprivation of property, goods and

services and deprivation of their right to return to their homes of origin as well as by violence and insecurity. Particular attention should be paid to sexual violence against uprooted women and girls employed as a method of persecution in systematic campaigns of terror and intimidation and forcing members of a particular ethnic, cultural or religious group to flee their homes. Women may also be forced to flee as a result of a well-founded fear of persecution for reasons enumerated in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, including persecution through sexual violence or other gender-related persecution, and they continue to be vulnerable to violence and exploitation while in flight, in countries of asylum and resettlement and during and after repatriation. Women often experience difficulty in some countries of asylum in being recognised as refugees when the claim is based on such persecution.

#### **Actions to be taken: The Police and Judiciary**

##### **Para 142: By Governments and international and regional intergovernmental institutions:**

c. Ensure that these bodies are able to address gender issues properly by providing appropriate training to prosecutors, judges and other officials in handling cases involving rape, forced pregnancy in situations of armed conflict, indecent assault and other forms of violence against women in armed conflicts, including terrorism, and integrate a gender perspective into their work.

##### **Para 143:By Governments:**

c. Take action to investigate and punish members of the police, security and armed forces and others who perpetrate acts of violence against women, violations of international humanitarian law and violations of the human rights of women in situations of armed conflict;

##### **Para 144: By Governments:**

Respect fully the norms of international humanitarian law in armed conflicts and take all measures required for the protection of women and children, in particular against rape, forced prostitution and any other form of indecent assault;

##### **Para 145**

c. Urge the identification and condemnation of the systematic practice of rape and other forms of inhuman and degrading treatment of women as a deliberate instrument of war and ethnic cleansing and take steps to ensure that full assistance is provided to the victims of such abuse for their physical and mental rehabilitation;

d. Reaffirm that rape in the conduct of armed conflict constitutes a war crime and under certain circumstances it constitutes a crime against humanity and an act of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide; [27] take all measures required for the protection of women and children from such acts and strengthen mechanisms to investigate and punish all those responsible and bring the perpetrators to justice;

e. Uphold and reinforce standards set out in international humanitarian law and international human rights instruments to prevent all acts of violence against women in situations of armed and other conflicts; undertake a full investigation of all acts of violence against women committed during war, including rape, in particular systematic rape, forced prostitution and other forms of indecent assault and sexual slavery; prosecute all criminals responsible for war crimes against women and provide full redress to women victims;

#### **Beijing Platform for Action (BPFA) – Critical Area The Girl Child**

##### **Para 269.**

Sexual violence and sexually transmitted diseases, including HIV/AIDS, have a devastating effect on children's health, and girls are more vulnerable than boys to the consequences of unprotected and premature sexual relations. Girls often face pressures to engage in sexual activity. **Due to such factors as their youth, social pressures, lack of protective laws, or failure to enforce laws, girls are more vulnerable**

**to all kinds of violence, particularly sexual violence, including rape, sexual abuse**, sexual exploitation, trafficking, possibly the sale of their organs and tissues, and forced labour.[emphasis added].

## **Beijing Platform for Action (BPFA) – Critical Area Human Rights**

### **Para 231 h.**

Establish effective cooperation between the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees and other relevant bodies, within their respective mandates, taking into account the close link between massive violations of human rights, especially in the form of genocide, ethnic cleansing, systematic rape of women in war situations and refugee flows and other displacements, and the fact that refugee, displaced and returnee women may be subject to particular human rights abuse;

## **Beijing + 5 ( B+5) Outcomes Document - E. Women and armed conflict**

### **A. Actions to be taken at the national level, by Governments:**

**69 ( b )** Prosecute the perpetrators of all forms of violence against women and girls and sentence them appropriately, and introduce actions aimed at helping and motivating perpetrators to break the cycle of violence and take measures to provide avenues for redress to victims;

**69 ( c )** Treat all forms of violence against women and girls of all ages as a criminal offence punishable by law, including violence based on all forms of discrimination;

### **D. Actions to be taken at the national and international levels, by Governments, regional and international organisations, including the United Nations system, and international financial institutions and other actors, as appropriate:**

**96 ( b )** Increase awareness and knowledge of the Rome Statute of the International Criminal Court,<sup>7</sup> which affirms that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence constitute war crimes and, in defined circumstances, crimes against humanity, with the aim of preventing such crimes from occurring, and take measures to support the prosecution of all persons responsible for such crimes and provide avenues for redress to victims; also increase awareness of the extent to which such crimes are used as a weapon of war;

**99 ( c )** Take measures to eliminate violations of international law and the Charter of the United Nations. Many of these violations have a negative impact on the promotion and protection of the human rights of women;

**( d )** Address the root causes of armed conflict in a comprehensive and durable manner, as well as the differences in the impact of armed conflict on women and men, and take them into account in relevant policies and programmes in order to, *inter alia* , enhance the protection of civilians, particularly women and children;

**( f )** Develop and support policies and programmes for the protection of children, especially girls, in hostilities, in order to prohibit their forced recruitment and use by all actors and to promote and/or strengthen mechanisms for their rehabilitation and reintegration, taking into account the specific experiences and needs of girls;

**( m )** Take measures to ensure the protection of refugees, especially women and girls, and their access to and the provision of gender-sensitive appropriate basic social services, including education and health.

## **Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)**

### **Article 2 ( f )**

To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

### **Article 15**

1. States Parties shall accord to women equality with men before the law
2. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

### **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

### **Convention on the Rights of the Child (CRC)**

#### **Article 3**

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

#### **Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

#### **Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;

#### **Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In

particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

### **Universal Declaration of Human Rights (UDHR)**

#### **Article 3.**

Everyone has the right to life, liberty and security of person.

#### **Article 4.**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

#### **Article 5.**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### **Article 6.**

Everyone has the right to recognition everywhere as a person before the law.

#### **Article 7.**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

#### **Article 8.**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

#### **Article 9.**

No one shall be subjected to arbitrary arrest, detention or exile.

#### **Article 10.**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

#### **Article 11.**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

### **Geneva Conventions, (GC1949) and Additional Protocols (AP1977)**

#### **Common Article 3:**

This article, common to all four Geneva Conventions, applies to non-international armed conflicts and prohibited "outrages upon personal dignity, in particular humiliating and degrading treatment" against protected persons (i.e. those not taking active part in the hostilities).

**Article 27** of the Fourth Geneva Convention, relating to the protection of civilian persons in time of war, states: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault"

**Article 75 Additional Protocol I**, relating to the protection of victims of international armed conflicts, prohibits: “outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault.”

**Article 76** calls for special protection of women in armed conflict.

**Article 4 of Protocol II**, relating to internal armed conflict, prohibits: “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault.”

### **Forced Labour Convention, (FLC 1930)**

#### **Article 1**

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

#### **Article 2**

For the purposes of this Convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

#### **Report of the Commission of Inquiry appointed to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), Geneva, 2 July 1998, 5) Concluding observations**

542. The Commission considers that the impunity with which government officials, in particular the military, treat the civilian population as an unlimited pool of unpaid forced labourers and servants at their disposal is part of a political system built on the use of force and intimidation to deny the people of Myanmar democracy and the rule of law. The experience of the past years tends to prove that the establishment of a government freely chosen by the people and the submission of all public authorities to the rule of law are, in practice, indispensable prerequisites for the suppression of forced labour in Myanmar.

#### **Myanmar Penal code**

**Article 375:** A man is said to be commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five descriptions:

First, -- Against her will.

Secondly, --Without her consent.

Thirdly, -- With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly, -- With her consent, when the man knows that he is not her husband, and that her consent is given because

she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly,-- Penetration is sufficient to constitute the sexual intercourse necessary to the offence or rape.

**Exception,** -- Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

#### **Article 376: Punishment for rape:**

Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

## Appendix Four:

### The definition of the Crimes of Rape and Sexual Violence in International Humanitarian Law

#### The Statute of the International Criminal Court

##### Rape

In the Statutes of the International Criminal Court rape is defined in the context of crimes against humanity in Article 7 (1) (g)-1, as:

1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent. (Emphasis added)
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.”

##### Sexual Slavery

Article 7(1)(c) – Enslavement, meaning the exercise of any or all powers attaching to the right of ownership over a person, including the exercise of such power in the course of trafficking in persons, in particular women and children.

The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty. (emphasis added)

The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.

##### Persecution

Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, *gender* as defined in paragraph 3, or other grounds that are universally recognised as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court. (Emphasis added)

Article 7(2)(g)

"Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

International Jurisprudence on Rape as Torture

In 1998, decisions in both the ICTR<sup>74</sup> and the ICTY<sup>75</sup> confirmed that when rape was committed by a public official or other person acting in an official capacity, or with the consent, instigation or acquiescence of that person, the rape constituted torture.

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<sup>74</sup> ICTR, Akayesu decision, 2 September 1998, para 596.

<sup>75</sup> ICTY, Celibici judgement, 16 November 1998, para 496

**3. *From the Celebici judgement of the ICTY (16 November 1998):***

The Trial Chamber considers the rape of any person to be a despicable act which strikes at the very core of human dignity and physical integrity. The condemnation and punishment of rape becomes all the more urgent where it is committed by, or at the instigation of, a public official, or with the consent or acquiescence of such an official. Rape causes severe pain and suffering, both physical and psychological. The psychological suffering of persons upon whom rape is inflicted may be exacerbated by social and cultural conditions and can be particularly acute and long lasting. Furthermore, it is difficult to envisage circumstances in which rape, by, or at the instigation of a public official, or with the consent or acquiescence of an official, could be considered as occurring for a purpose that does not, in some way, involve punishment, coercion, discrimination or intimidation. In the view of this Trial Chamber this is inherent in situations of armed conflict. (para. 495) Accordingly, whenever rape and other forms of sexual violence meet the aforementioned criteria, then they shall constitute torture, in the same manner as any other acts that meet this criteria. (para. 496)

**2. *From the Akayesu decision of the ICTR (2 September 1998):***

Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when 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. The Chamber defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. (para. 597)

## **Appendix 5:**

### **Declaration on the Elimination of Violence Against Women in the ASEAN Region**

The Acting Minister of Foreign Affairs of Brunei Darussalam, the Senior Minister and Minister of Foreign Affairs and International Cooperation of the kingdom of Cambodia, the Minister for Foreign Affairs of the Republic of Indonesia, the Deputy Prime Minister and Minister of Foreign Affairs of the Lao People's democratic Republic, the Minister of Foreign Affairs of Malaysia, the Minister for Foreign Affairs of the Union of Myanmar, the Secretary of Foreign Affairs of the Republic of the Philippines, the Minister for Foreign Affairs of the Republic of Singapore the Minister of Foreign Affairs of the Kingdom of Thailand and the Minister of Foreign Affairs of the Socialist Republic of Vietnam;

RECALLING the Declaration on the Elimination of Violence against Women adopted by the United Nations General Assembly in its Resolution 48/ 104 of 20 December 1993, and the Convention on the Elimination of all Forms of Discrimination Against Women;

CONCERNED that violence against women is an obstacle to the achievement of equality, development and peace, as embodied in the Beijing Declaration and Platform for Action adopted in

September 1995 by the Fourth World Conference on Women and reiterated in the twenty-third special session of the General Assembly, entitled "Women 2000: Gender Equality, Development and Peace for the 21<sup>st</sup> Century";

DESIRING to intensify the aims and purposes of the ASEAN Declaration (Bangkok Declaration) of 1967, the Declaration of ASEAN Concord of 1976 , the Manila Declaration of 1987, the Declaration of the Advancement of Women in the ASEAN Region of 1988 and the Ha Noi Plan of Action of 1998;

RECOGNISING that violence against women both violates and impairs their human rights and fundamental freedoms, limits their access to and control of resources and activities, and impedes the full development of their potential;

#### **DO HEREBY DECLARE THAT:**

In the context of strengthening regional cooperation, collaboration and coordination for the purpose of eliminating violence against women in the region, each Member Country, either individually or collectively, in ASEAN shall endeavour to fully implement the goals and commitments made related to eliminating violence against women and monitor their progress as follows:

To encourage greater regional and bilateral cooperation in the systematic research, collection, analysis and dissemination of data, including disaggregated by sex, age, and other relevant information, on the extent, nature and consequences of violence against women and girls, and on the impact and effectiveness of policies and programmes for combating violence against women;

To promote an integrated and holistic approach to eliminate violence against women by formulating mechanisms focusing on the four areas of concerns of violence against women, namely, providing services to fulfill the needs of survivors, formulating and taking appropriate responses to offenders and perpetrators, understanding the nature and causes of violence against women and changing societal attitudes and behaviour;

To encourage gender mainstreaming to eliminate all forms of violence against women through policies and programmes as well as systems, procedures and processes;

To enact and, where necessary, reinforce or amend domestic legislation to prevent violence against women, to enhance the protection, healing, recovery and reintegration of victims/survivors, including measures to investigate, prosecute, punish and where appropriate rehabilitate perpetrators, and prevent re-victimisation of women and girls subjected to any form of violence, whether in the home, the workplace, the community or society or in custody;

To take all necessary measures to eliminate all forms of discrimination against women and to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves against violence;

To intensify efforts to develop and/or improve existing legislative, educational, social measures and support services aimed at the prevention of violence against women, including adoption and monitoring the implementation of laws, the dissemination of information, active involvement with community-based players, and the training of legal, judicial, enforcement officers, social workers and health personnel;

To strengthen collaboration between and among countries, through bilateral, regional and international cooperation for resource mobilization and technical exchange programmes, including sharing of best practices and experience in raising awareness, developing advocacy programmes on preventing and tackling violence against women;

To support initiatives undertaken by women's organisations and non-governmental and community-based organisations on the elimination of violence against women and to establish and/or strengthen networking as well as collaborative relationships with these organisations, and with public and private sector institutions.

**DONE in Jakarta, Indonesia, this Thirtieth day of June in the Year Two Thousand and Four, in one single copy in English.**

## Women's League of Burma (WLB) Members



Burmese Women's Union (BWU)



Kachin Women's Association - Thailand (KWAT)



Karen Women's Organization (KWO)



Kuki Women's Human Rights Organization (KWHRO)



Lahu Women's Organization (LWO)



Palaung Women's Organization (PWO)



Pa-O Women's Union (PWU)



Rakhaing Women's Union (RWU)



Shan Women's Action Network (SWAN)



Tavoy Women's Union (TWU)



Women's Rights & Welfare Association of Burma (WRWAB)