

.MYANMAR

Torture of Ethnic Minority Women

“The United Nations Commission on Human Rights..deplores...

c) The continued violations of the human rights of, and widespread discriminatory practices against, persons belonging to minorities, including extrajudicial executions, rape, torture, ill-treatment...

(d) The continuing violations of the human rights of women, in particular forced labour, trafficking, sexual violence and exploitation, often committed by military personnel, and especially directed towards women who are returning refugees, internally displaced or belong to ethnic minorities”

E/CN.4/RES/2001/15, CHR 2001 resolution on the situation of human rights in Myanmar, 18 April 2001

Torture and other forms of cruel, inhuman and degrading treatment of men, women and children, both in ethnic minority areas and in central Myanmar, has taken place for decades. This report examines the torture and ill-treatment of women from ethnic minorities in particular by the *tatmadaw* (armed forces). Ethnic minorities, who make up a third of the country's population, mainly live in seven states in the country. Armed opposition groups from each of the seven ethnic minority states in the country have been in conflict with central authorities to gain independence or greater autonomy, since the country's independence from the United Kingdom in 1948. According to authorities 17 ceasefires have been signed with armed groups, which however have not led to permanent political arrangements. Three armed opposition groups are still active in the Shan, Kayah (Karen), Kayah (Karenni) and Mon states and Tanintharyi Division. Amnesty International has also received credible reports of acts of torture and ill-treatment by members of armed opposition groups.

Amnesty International has documented serious human rights violations by the *tatmadaw*: extra-judicial executions, “disappearances,” torture and cruel treatment of ethnic minority civilians, including the rape and sexual abuse of women. Torture in ethnic minority areas generally takes place in the context of forced labour and portering; forced relocation, and in detention at army camps, military intelligence centres, in people's homes, fields and villages. Many individuals have died as a result of torture or been killed after being tortured. Force and the threat of force is regularly used to compel members of ethnic minorities to comply with military directives - which may range from orders for villages to relocate; to provide unpaid labourers to military forces; to not harvesting their crops. Torture, including rape, is particularly widespread in those states where armed resistance continues and the army is engaged in counter-insurgency operations against armed groups. The *tatmadaw* unlawfully detains and tortures ethnic

minority civilians and suspected members of ethnic armed opposition groups. The military have carried out these violations with virtual impunity, as reports of torture and ill-treatment are not investigated, and members of the army are not punished. Hundreds of thousands of members of ethnic minorities have fled to bordering countries as a result of human rights violations, including torture and extrajudicial killings associated with the ongoing conflict and forced labour or relocation programs.

During Interrogation and Unlawful or Arbitrary Detention

In 1998 a 20 year old woman from Kayin State took food to her father, who had been tied up for three days as a punishment by members of the *tatmadaw* for harvesting his crop contrary to their instructions. She was severely beaten by soldiers to the point of unconsciousness, and did not come around for two days. After her family fled to Thailand, she received ongoing medical treatment for injuries sustained.

Torture is commonplace in detention, both in central Myanmar and in ethnic minority areas, particularly during the interrogation of criminal and political suspects. Civilians in ethnic minority areas are regularly detained unlawfully and arbitrarily by members of the military. They are sometimes held incommunicado in military camps or military intelligence centres, and are tortured to elicit information about the military activities of armed groups. They are also

detained and interrogated in their villages, when the military passes on counter-insurgency operations. This takes place particularly when they or their relatives are suspected of membership of or holding sympathy for armed opposition groups, or to deter them from providing supplies to armed groups. Women have also been subjected to rape and other forms of sexual abuse in detention.

~~..What is Torture?~~ *..What is Torture? severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected to have committed, or intimidating or coercing him or a third person, or for any reason based on any discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*

United Nations Convention Against Torture, Article 1

Individuals or their relatives who fail to comply with army demands for forced labour or portering are often subjected to torture. When villages do not provide persons to carry out forced labour, male and female village elders, spouses or relatives are often beaten, or taken and punished in their place by being detained at army camps, where women are vulnerable to rape and other forms of torture. Individuals have been held in detention at regional army camps, often in leg-stocks, or in a pit in the ground, and subjected to

deprivation of food, water, medical attention, beatings and often rape or other forms of sexual abuse. Women whose husbands have been taken away to be porters are vulnerable to rape and arbitrary detention by members of the military. In 1991 and 1992 in Rakhine (Arakan) State, large numbers of men were seized as porters: it was widely reported that soldiers returned later to rape their wives, and often unlawfully detained them in the military camp.

During Forced Labour and Forced Portering

I was personally beaten with stick when I took a rest in the afternoon. I could no longer work as I was so exhausted and took a rest. Soldiers found out and beat me with a stick. It was very harsh and painful."

Karenni Baptist farmer (f) who was made to carry out forced labour after being relocated from her village by the authorities, 1998

"We had to do many things - clearing roads and military compounds and fetching water for them to their camp on a hill...As far back as I can remember I had to do this, since I was seven or eight years old. My husband had to go as a porter and sometimes when men didn't go women have to. Women are more docile so they are not beaten so much."

Shan woman who had to perform forced labour 15 times in one month, 2001

A 45-year-old Karen Buddhist widow was often forced to porter for the military after her husband died fighting for an armed opposition group. After she refused to accompany soldiers as a porter in November 1998, six members of the *tatmadaw* beat her. Her son tried to intervene and was shot by soldiers in the stomach at close range; he died instantly.

Torture and other forms of cruel, inhuman and degrading treatment and punishment are common in forced labour and portering. Men, women and children are all made to carry out forced labour, either in the form of portering, which entails carrying heavy loads for the military over rough terrain; or in the form of work on infrastructural construction projects such as roads, railways, and dams, and the upkeep of military camps. All are taken for labour duties, and almost never paid for their work. Beatings are regularly administered as a form of punishment to forced labourers and porters when they are perceived not to be keeping up with work. Amnesty International opposes forced labour and forced portering in Myanmar on the basis that they are a form of arbitrary detention, and on the basis of the human rights violations that have become associated with the practice, including torture and extrajudicial execution.

As well as engaging in construction projects, women are often required to help construct and maintain military camps, and are on occasion required to stay at the camp, during which time women have reportedly been subjected to rape and other forms of sexual abuse by military personnel. Women and girl children have been made to work as porters or guides, and forced to carry heavy supplies as porters for days or weeks at a time. If they are not able to keep up with the military column, they are often severely beaten and kicked by troops. Incidents of sexual assault and harassment are also reported, and individuals are often reportedly killed afterwards. Amnesty International received reports that in 1998 a 12-year-old girl, Naw Po Thu (f) who was taken with two other people to act as guides for troops, was allegedly raped by a major and managed to escape, but was captured and raped again and then shot dead. The major gave the girl's family compensation for her death, which consisted of one sack of rice, one measure of sugar, one tin of condensed milk, and 100 *kyat* (Myanmar's currency).

Rape of women detainees by prison, security or military officials always constitutes torture, and cannot be deemed a "personal" or private act. A number of decisions by international and regional bodies have supported the argument that rape by such officials always amounts to torture, even if committed in the victim's home.

During relocation

The authorities have relocated thousands of villages, and hundreds of thousands of villagers in Shan, Kayah, and Kayin states: in 1996 forcible relocations on a massive scale were initiated in an effort to break up villagers' alleged links with armed groups. Villagers were told that they would be killed if they failed to comply with relocation orders, and that those remaining would be seen as supporters of armed groups. There have been reports of the beatings, rape and killing of women who have remained in villages after relocation deadlines have expired. Relocated villagers have been moved to relocation sites with inadequate provisions and medical care, and labour sites where they are made to participate in labour projects for the military, and are required to provide their own food.

Impunity for Torturers

"If I speak out about this in my country, I will be beaten" Shan refugee (f) in Thailand, 1999

Reports of torture, including rape are rarely investigated and witnesses have reportedly been warned not to pursue the incidents or to speak of what has happened. The State

Peace and Development Council (SPDC, Myanmar's military government) consistently denies that torture occurs, stating that it is against domestic law.

Who are the ethnic minorities in Myanmar?

Ethnic minorities in Myanmar make up a third of the country's population. They mainly live in seven ethnic minority states, which are named after the Shan, Kayah, Karen, Mon, Chin, Kachin, and Rakhine ethnic minorities, and which have no autonomy from the central authorities. Ethnic minorities are often deprived of their economic, social and cultural rights on a large scale. Among the ethnic minorities of Myanmar are the:

Chin: 90 % Christian, have been subjected to forced labour, made to work on large infrastructural projects;

***Karen:** animist, Buddhist and Christian, mainly living in Kayah (Karen) State and the Irrawaddy Delta, have been made to act as military porters; thousands forcibly relocated or displaced. Over 100,000 in refugee camps in Thailand;

Kachins, 90 % Christian, living in Kachin State: reports continue that they are still made to engage in forced labour in spite of a cease-fire;

***Karenni:** animist and Christian, live in the Kayah (Karenni) State; thousands have been forcibly relocated;

Mon: mainly Buddhist, live in the Mon State;

Rakhine (Arakanese): mainly Buddhist, live in Rakhine (Arakan) State. Have been made to take part in forced labour;

***Rohingya:** Muslim, living in Rakhine (Arakan) State; are made to engage in forced labour and relocation: after mass human rights violations in 1991 and 1992, 260,000 fled massive human rights violations to Bangladesh, many of whom have subsequently been involuntarily repatriated;

***Shan:** ethnically related to Northern Thai and Lao, followers of Theravada Buddhism, living mainly in Shan State. Many have been made to be military porters and engage in hard labour. At least 300,000 have been forcibly relocated, and at least 80,000 have fled to Thailand where they are not permitted to stay in refugee camps.

(* denotes ethnic minorities with armed groups who have been engaged in continued armed resistance to authorities since independence)

For further information on the human rights situation of ethnic minorities in Myanmar, please see the following Amnesty International reports, viewable on <http://www.amnesty.org>

Ethnic Minorities, Targets of Repression, June 2001; Exodus from the Shan State, July 2000; Myanmar: Kayah State: Militarization and Human Rights, June 1999; Myanmar: Update on the Shan State, June 1999; 3 years of dislocation in the Kayah State, June 1999

Amnesty International urges the authorities in Myanmar to:

- Issue clear orders to Military Intelligence personnel, armed forces involved in counter-insurgency operations, prison guards, and members of the police to stop the practice of torture and ill-treatment immediately; ensure that they are aware that the rape and sexual abuse of women in custody always constitute torture or ill-treatment and suspected perpetrators will be investigated and brought to trial;
- Ensure that all military personnel are aware that in armed conflicts, torture, including rape, is prohibited by international human rights law and humanitarian law (including the Geneva Conventions) which regulate the conduct of war, and that suspected perpetrators will be investigated and brought to trial ;
- Take steps to end impunity for torturers, including by instituting prompt, thorough and impartial investigations of all allegations of the torture and ill-treatment of women whether they are held in prisons or other official places of detention, or forcibly detained by the military to serve as porters or labourers, and bring alleged perpetrators to justice through fair proceedings;
- Provide women who have been subjected to torture with adequate compensation and other forms of redress;
- Ensure that law enforcement agencies know that it is their duty to investigate all reports of torture and ill-treatment of women, and that they are adequately trained to do so;
- Ensure that policies are developed to raise awareness that torture, including rape, is a crime, and to inform victims on their legal rights and how to obtain remedies;
- Prohibit incommunicado detention and ensure that all detainees have immediate and regular access to relatives, doctors, and lawyers, and keep procedures for detention and investigation under regular review. All detainees should be promptly told of their rights, including the right to lodge complaints about their treatment;
- Accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the UN Convention on the Elimination of all Forms of Discrimination against Women.

KEYWORDS: TORTURE/ILL-TREATMENT1 / WOMEN1 / MINORITIES1 / FORCED LABOUR / SEXUAL ASSAULT / FORCED EVACUATION

What You Can Do

Detach *Amnesty International*: 12 point program for the prevention of Torture by Agents of the State, in Burmese, attached to the this document and send it to:

1) Senior General Than Shwe
Chairman, State Peace and Development
Council; Prime Minister; Minister of
Defence
c/o Ministry of Defence
Ahlanpya Phaya Street
Yangon
Union of Myanmar

2) Lieutenant General Khin Nyunt,
Director General of the National
Intelligence Bureau
Secretary 1
State Peace and Development Council
c/o Ministry of Defence
Ahlanpya Phaya Street
Yangon
Union of Myanmar

3) Major General Thein Sein
Chairperson Shan State (East) Peace and
Development Council; Commander,
Triangle Area Military
Keng Tung

with a letter expressing concern at

* the high prevalence of torture in ethnic minority areas in Myanmar, and particularly at the torture and ill-treatment, including rape of women;

* urging that they take all necessary steps to investigate reports of torture, to provide redress for those who have been tortured and to prevent its recurrence, including by implementing AI's 12 point plan;

* urging that authorities ratify the United Nations Convention on Torture and other Cruel, Inhuman or Degrading Treatment.

with a copy to the diplomatic representatives of Myanmar in your country.

Shan State, Union of Myanmar

4) Chairperson
Kayah State Peace and Development
Council
Loikaw
Kayah State, Union of Myanmar

5) Chairperson
Kayin State Peace and Development
Council
Hpa-an
Kayin State, Union of Myanmar

6) Chairperson
The Myanmar National Working
Committee for Women's Affairs
(MNBCWA)
c/o Ministry of Defence
Ahlanpya Phaya Street
Yangon
Union of Myanmar

Amnesty International

12-Point Program for the Prevention of Torture by Agents of the State

Torture is a fundamental violation of human rights, condemned by the international community as an offence to human dignity and prohibited in all circumstances under international law.

Yet torture persists, daily and across the globe. Immediate steps are needed to confront torture and other cruel, inhuman or degrading treatment or punishment wherever they occur and to eradicate them totally.

Amnesty International calls on all governments to implement the following 12-Point Program for the Prevention of Torture by Agents of the State. It invites concerned individuals and organizations to ensure that they do so. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to end torture and to work for its eradication worldwide.

1. Condemn torture

The highest authorities of every country should demonstrate their total opposition to torture. They should condemn torture unreservedly whenever it occurs. They should make clear to all members of the police, military and other security forces that torture will never be tolerated.

2. Ensure access to prisoners

Torture often takes place while prisoners are held incommunicado — unable to contact people outside who could help them or find out what is happening to them. The practice of incommunicado detention should be ended. Governments should ensure that all prisoners are brought before an independent judicial authority without delay after being taken into custody. Prisoners should have access to relatives, lawyers and doctors without delay and regularly thereafter.

3. No secret detention

In some countries torture takes place in secret locations, often after the victims are made to "disappear". Governments should ensure that prisoners are held only in officially recognized places of detention and that accurate information about their arrest and whereabouts is made available immediately to relatives, lawyers and the courts. Effective judicial remedies should be available at all times to enable relatives and lawyers to find out immediately where a prisoner is held and under what authority and to ensure the prisoner's safety.

4. Provide safeguards during detention and interrogation

All prisoners should be immediately informed of their rights. These include the right to lodge complaints about their treatment and to have a judge rule without delay on the lawfulness of their detention. Judges should investigate any evidence of torture and order release if the detention is unlawful. A lawyer should be present during interrogations. Governments should ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups. The authorities responsible for detention should be separate from those in charge of interrogation. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

5. Prohibit torture in law

Governments should adopt laws for the prohibition and prevention of torture incorporating the main elements of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other relevant international standards. All judicial and administrative corporal punishments should be abolished. The prohibition of torture and the essential safeguards for its prevention must not be suspended under any circumstances, including states of war or other public emergency.

6. Investigate

All complaints and reports of torture should be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. The methods and findings of such investigations should be made public. Officials suspected of committing torture should be suspended from active duty during the investigation. Complainants, witnesses and others at risk should be protected from intimidation and reprisals.

7. Prosecute

Those responsible for torture must be brought to justice. This principle should apply wherever alleged torturers happen to be, whatever their nationality or position, regardless of where the crime was committed and the nationality of the victims, and no matter how much time has elapsed since the commission of the crime. Governments must exercise universal jurisdiction over alleged torturers or extradite them, and cooperate with each other in such criminal proceedings. Trials must be fair. An order from a superior officer must never be accepted as a justification for torture.

8. No use of statements extracted under torture

Governments should ensure that statements and other evidence obtained through torture may not be invoked in any proceedings, except against a person accused of torture.

9. Provide effective training

It should be made clear during the training of all officials involved in the custody, interrogation or medical care of prisoners that torture is a criminal act. Officials should be instructed that they have the right and duty to refuse to obey any order to torture.

10. Provide reparation

Victims of torture and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation.

11. Ratify international treaties

All governments should ratify without reservations international treaties containing safeguards against torture, including the UN Convention against Torture with declarations providing for individual and inter-state complaints. Governments should comply with the recommendations of international bodies and experts on the prevention of torture.

12. Exercise international responsibility

Governments should use all available channels to intercede with the governments of countries where torture is reported. They should ensure that transfers of training and equipment for military, security or police use do not facilitate torture. Governments must not forcibly return a person to a country where he or she risks being tortured.

This 12-Point Program was adopted by Amnesty International in October 2000 as a program of measures to prevent the torture and ill-treatment of people who are in governmental custody or otherwise in the hands of agents of the state. Amnesty International holds governments to their international obligations to prevent and punish torture, whether committed by agents of the state or by other individuals. Amnesty International also opposes torture by armed political groups.

