

VALUED LESS THAN A MILK TIN



Discrimination Against Ethnic Minorities in Burma
by the Ruling Military Regime

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Discrimination Against Ethnic Minorities in Burma by the Ruling Military Regime

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EarthRights International (ERI) is a non-government, non-profit organization combining the power of law and the power of people to protect earth rights. Earth rights are those rights that demonstrate the connection between human well-being and a sound environment and include the right to a healthy environment, the right to be free from discrimination, the right to speak out and act to protect the environment, and the right to participate in development decisions. ERI is at the forefront of efforts to link the human rights and environmental movements.

Security is ERI's first priority, and those willing to speak out against oppression in Burma put themselves at risk. Therefore, all sources for ERI interviews remain confidential, and all interviewees remain anonymous. The individuals pictured throughout this report are not the same as those who were interviewed.

“I think [the military treats Shan people so harshly] because we are not the same ethnicity as the Burmans. The Burmese military doesn't value Shan people even as much as one milk tin. They look down on Shan people and don't want to recognize us as human.”⁷²



“The military in [the] township received orders to tear down the old [Shan] temple and build a Burman Buddhist pagoda in its place. The monk at the temple cried and asked the soldiers to stop, but they refused to listen.”

didn't allow the community to celebrate the Karen New Year either.

Our families have also faced difficulties in getting education and jobs. The brother of one of us, a Karen, tried to go to bible school in Rangoon, but he was forced to leave because the military accused him of being a spy. The brother of another of us, also a Karen, had to repeat his last year of high school for three years. He managed to graduate and then go to college, but even after he finished college, he could not find a job. So he helped his uncle take care of elephants for several years. But how can you use your knowledge and skills from school by taking care of elephants? Many people suffered similarly because they came from Karen villages in the mountains.

We have had to endure the destruction of our ethnic cultural institutions. In the village where one of us lived, there was a Shan Buddhist temple that was one hundred years old. His village restored this temple, but a week after the village held a ceremony to celebrate the restoration, the military in his township received orders to tear down the old temple and build a Burman Buddhist pagoda in its place. The monk at the temple cried and asked the soldiers to stop, but they refused to listen. The military forced people from the area to destroy the temple, and ordered people with cars and tractors to carry the sand, rocks and bricks for construction of the new pagoda.

Those of us who are women have also suffered because we are female as well as ethnic. When the military came into Karen State a number of years ago, the commander told his troops to completely occupy one area. As a reward for this accomplishment, the soldiers could do whatever they wanted to Karen women who wore the traditional white dress, the clothing on unmarried virgin women. Soldiers raped and killed women.

The discrimination we have lived, like that described in this report, still goes on. This report sheds light on the suffering of ethnic minorities in Burma today, and we hope it encourages people to pressure the military rulers to change and to treat all people, no matter which group they are from, with dignity and respect. ◆

To be an ethnic minority in Burma, where one of the world's most repressive regimes holds power, means discrimination is a part of life. The military has brought severe hardship and environmental degradation to all people in Burma, yet the military has placed an extra burden on the ethnic minorities in the country. Many in the military see ethnic minorities as the enemy, terrorists, inferior, and perhaps as not even human. In the midst of a decades-long civil war and years of practicing divide-and-conquer tactics, the military has successfully discriminated against ethnic minorities with impunity. Such violations of basic principles of human decency should not go untold. This report brings the voices of ethnic minorities from Burma to light. Their words speak the loudest of all and deserve the attention of those from around the world.

This report makes several findings. First, it documents state-sponsored discrimination in schools and government institutions, which have sought to restrict and sometimes destroy ethnic minorities' cultures, languages, histories and even identities. Second, the report documents the common discriminatory practices of the military during forced labor, where minorities commonly receive worse treatment because of their ethnicity. Finally, the report documents how ethnic minority civilians suffer violent abuses and discrimination, both surrounding forced labor and because of the armed conflicts in Burma. As the perceived enemy of the military, unarmed civilians from minority groups are targets of brutality, and they sometimes pay with their lives because of their ethnicity.

The World Conference Against Racism is an important place to acknowledge these facts and illuminate the persecution and discrimination that ethnic minorities in Burma currently endure. Discriminating against minorities because of their ethnicity is a violation of international principles. In light of these findings, EarthRights International (ERI) makes the following recommendations to address the issue of discrimination in Burma, bridge gaps between the various peoples in the country, and alleviate the human rights violations perpetrated against Burma's ethnic minorities.

- Burma should sign and ratify the International Convention on the Elimination of Racial Discrimination (CERD), including taking steps to eliminate discrimination against ethnic minorities.

EXECUTIVE SUMMARY

INTRODUCTION



INTRODUCTION

The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance marks a time to focus on the challenges faced by ethnic minorities around the world. In Burma, these minorities face severe discrimination, often in the form of physical and psychological abuse at the hands of the ruling military regime, one of the most notorious human rights violators in the world. Ethnic minorities in Burma comprise about one third of the country's population, with majority Burmans constituting the remainder.¹ Burma has been at war with itself for decades, the lines of conflict drawn often along ethnic lines: minority groups fighting against the Burman-dominated military regime in Rangoon, the capital.

The “ethnic question” is especially important in Burma because of the size of the ethnic minority population, ongoing civil war, and the need for ethnic communities to be involved in any future political dialogue. As author Christina Fink notes, “There are two key political issues in Burma today: the restoration of democracy and the resolution of the political rights of ethnic nationalities. . . . Resistance to military rule has come from both pro-democracy supporters and ethnic minority groups who value greater independence.”²

Moreover, political and military struggles in Burma have long bred rampant human rights abuses. For decades, ethnic minorities frequently have been the particular victims of the military authorities whose brutal behavior the international community repeatedly condemns. In April 2001, for example, the United Nations Human Rights Commission reiterated its annual criticism of Burma's military leadership, deploring among other conduct “[t]he continued violations of the human rights of, and widespread discriminatory practices against, persons belonging to minorities[.]”³ Along with persecution of the opposition pro-democracy movement and the pervasive use of forced labor, discrimination against ethnic minorities is one of the key human rights tragedies in Burma today.

It is important to explain at the outset that this report discusses discrimination by Burma's regime and military authorities, not Burmans as a people. While animosity and distrust exist between Burma's majority and minority populations, this should be viewed primarily as a byproduct of what

one Burman calls the regime’s “policy of divide and rule.”⁴ That is, the regime employs its soldiers to oppress ethnic minorities in part to foster divisions among Burma’s citizenry who, as this individual notes, are all suffering. Thus:

In the civil war, when the Burmese army goes to the war zone they loot, rape, kill people. The military tortures Karen people and treats them more brutally. [The Karen are one of Burma’s largest ethnic minorities.] The Karen people think that Burman people kill Karen people, because the Burmese army is mostly Burman and they speak Burmese. When they come to the villages they kill and rape, and the Karen start to think that the Burman people do these things to the Karen, and they hate the Burmans. . . . Some Karen who live in the high mountains and have never seen any Burmans hate the Burmans anyway. Sometimes they will burn down Burman villages because they hate the Burman people. . . . It is not the Burman people killing Karen, it is the military only. The military is racist.⁵

This individual is surely correct to focus attention on the harshly discriminatory behavior of the military authorities. To the extent, however, that ethnic minorities equate the military with Burmans, and Burmans view minorities as “terrorists” or somehow inferior, the regime’s efforts have been successful. There are attempts to bridge the gap between the largely Burman pro-democracy movement and ethnic minorities’ opposition groups, but as Christina Fink suggests, much work remains to consolidate the gains that have been made to create trust between the peoples of Burma.⁶ Ethnic minorities in Burma have historically been excluded from the political arena. If ethnic minority communities continue to confront such oppressive forms of discrimination and exclusion, however, deep-seated distrust will persist and lasting peace and democracy will be much harder to attain.

This report examines the discrimination that ethnic minorities face in various areas. Part I: The Setting for Discrimination, outlines the historical context and presents a brief overview of the fundamental right to be free from discrimination under international law. Part II: State-Sponsored

Favoritism, documents the underlying discriminatory attitudes of the military and government institutions and how these bodies disadvantage ethnic minority populations in the educational, cultural and employment spheres. Part III: Forced Labor and Development, discusses how ethnic minorities face discriminatory treatment in the forced labor context. Part IV: Violence Against Ethnic Minorities, highlights the violence and brutality ethnic minority civilian populations experience both during forced labor and because of the ongoing struggle between Rangoon and ethnic armed resistance groups. ◆



PART ONE:

THE SETTING FOR DISCRIMINATION

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Burma has been ruled by the military since 1962, when General Ne Win took power. Burma has also been at civil war for more than five decades, with the Burmese military fighting against numerous anti-Rangoon groups, many from ethnic minority communities. Despite the country’s enormous development potential and bountiful natural resources, by the 1980s the economy had stagnated, and by 1987 the United Nations had recognized Burma as a Least Developed Nation.

The year 1988 brought a massive popular uprising calling for democracy and human rights. It also brought a violent and bloody crackdown and the emergence of the newly formed military regime, the State Law and Order Restoration Council (SLORC). Thousands were killed. Since then, Burma’s army has doubled in size, and the country has seen a sharp decline in a host of social indicators including education and health.⁷ The human rights situation had similarly deteriorated, but despite the 1988 crackdown, elections were held in 1990. Nobel Peace Prize laureate Daw Aung San Suu Kyi’s party, the National League for Democracy (NLD), won more than 80% of the parliamentary seats in a free and fair election, but the military regime never recognized the results and maintains its grip on power to the present.

In 1997, SLORC changed its name to the State Peace and Development Council (SPDC) and reshuffled its cabinet. The change in name has meant little or nothing for most people in terms of democratic principles and fundamental freedoms. The civil war continues as do human rights abuses. Armed Shan, Karen, and Karenni groups, among others, continue to resist Rangoon. Ethnic minority populations continue to suffer the brunt of human rights violations, though no one is immune. Abuses are particularly severe in remote rural border regions, especially where fighting continues between Rangoon and anti-Rangoon groups. Peace, democracy, and protection of human rights and the environment are still far off in Burma.

Freedom from Discrimination: A Fundamental Right

Addressing the discrimination that ethnic minorities in Burma face is of utmost importance to the

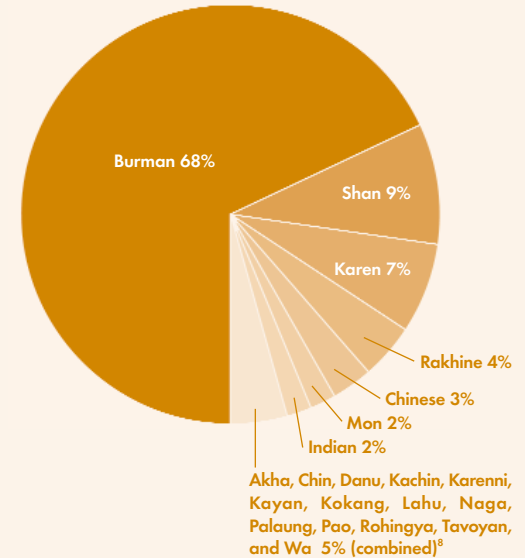
protection of their fundamental rights under international law as well as for lasting peace in their country. As defined in Article 1(1) of the International Convention on the Elimination of Racial Discrimination (CERD), racism is:

Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or *ethnic origin* which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms; in the political, economic, social, cultural or any other field of public life. (emphasis added)⁹

This expansive definition of racism explicitly encompasses discrimination suffered by ethnic minorities, including those in Burma. Besides CERD, many of the comprehensive international human rights instruments prohibit racial discrimination, including the Universal Declaration of Human Rights,¹⁰ the Covenant on Civil and Political Rights,¹¹ and the Covenant on Economic, Social, and Cultural Rights.¹² Moreover, systematic racial discrimination is, along with certain abuses such as genocide and slavery, considered a violation of customary international human rights law.¹³ In other words, all individuals have a fundamental right to be free from racial discrimination. Racial discrimination violates customary international law when it is practiced systematically as a matter of state policy; that is, when practiced, encouraged or condoned by the government of a state as official policy. A government is presumed to have encouraged or condoned acts that are prohibited if its officials act repeatedly or blatantly and no steps have been taken to stop or punish the perpetrators.¹⁴

For purposes of this report, discrimination is explored in two ways: 1) by demonstrating there was *intentional* action to discriminate against a person or group, and 2) by showing a group suffered a *disproportionate* or *disparate impact* because of the policies or actions of

Ethnic Groups in Burma (% of total population)



another group.¹⁵ While discriminatory intent is not necessary to show disparate impact, disparate impact is often a significant factor in determining whether an intent to discriminate exists.¹⁶ In Burma, ethnic minorities have suffered both intentional forms of discrimination *and* the disparate impact of other abuses such as forced labor at the hands of the ruling military.

This report includes diverse illustrations of both kinds of discrimination. Here are two examples to highlight the distinction between discriminatory intent and disparate impact. One form of intentional discrimination is the official prohibition against the teaching of ethnic minority languages in state schools. Individuals from the Karen ethnic minority, for instance, describe how the regime prevents the teaching of their language:

The military opened the school. . . . The teacher was Burmese. We were not allowed to study our own language; we had to study in Burmese. Sometimes we went to Sunday school, and the teacher there would teach us in Karen. She was Karen. The military did not know that we were learning Karen in Sunday school; we would just go to church and learn there. The military said that they built the school in the village for “national development,” that they wanted the kids to read and write. . . . [T]he military said that everyone in Burma should be able to speak Burmese. I sometimes feel upset that they built a school to teach everyone to speak Burmese even though we couldn’t learn Karen, but I couldn’t do anything because they are over us and can do whatever they want.¹⁷

The intentional discrimination of disallowing Karen language instruction contrasts with this Shan villager’s description of disproportionate impact:

Every house has to cut and send bamboo to the military. The bamboo is used by the battalion for buildings and fences. The villagers do not get paid for their labor and

lumber. They don't want to participate, but they fear punishment if they refuse. I believe that only the Shan have to provide bamboo. For example, I noticed that another village, populated by Chinese people and other ethnics, didn't have to give bamboo, nor am I aware of any Burmans who must contribute bamboo. This may be partly due to the fact that most if not all Burmans in the area do not have farms, so they don't have any bamboo. The government only asks Shan people because Shan live on the farms and have bamboo.¹⁸

That Shan people must give bamboo because they are the only farmers in the area does not mean that discrimination is absent. It indicates instead that while there may not be intent to discriminate against Shan here, the military's behavior does have a clear discriminatory effect, or disparate impact, on the Shan community. Evidence of discrimination in this case is thus gleaned from the impact of the conduct rather than clear intent.

This report focuses on Burma's two largest ethnic minorities, the Shan and Karen, who have suffered greatly at the hands of the military regime.¹⁹ The regime's abuses against the Shan and Karen have occurred both in the context of industrial development projects and during conflict with armed insurgent groups. Both of these circumstances merely help explain, and in no way justify or excuse, the extensive human rights violations including discrimination committed by the military against large numbers of civilians. This report documents how in various areas of life such as cultural identity, language, education and employment, Shan and Karen must endure discriminatory treatment by Burman-dominated military and governmental bodies. It further shows that ethnic discrimination often is closely entwined with other egregious human rights abuses including forced labor, acts of violence, and forcible relocation of entire communities.

This report relies heavily on interviews with individuals from Shan and Karen communities in Burma. The words of these individuals are the most vivid proof of the discrimination they

States and Divisions in Burma



experience. Beyond the interviews quoted here are many more that are referenced in the notes section. The courageous people who gave these interviews did so at considerable risk to themselves and their families. Their names and villages are omitted to protect them from possible retribution. The individuals pictured throughout this report are not those who provided interviews. ◆



PART TWO:

STATE-SPONSORED FAVORITISM

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STATE-SPONSORED FAVORITISM

In Burma, the military is the largest institution in the country, dominating the civilian, economic, and political arenas. The military regime is composed primarily of Burmans, especially at the higher levels, and it has carried out policies that have severely disadvantaged ethnic minorities in the country in the educational, cultural and employment spheres. Indeed, in some areas, there has been a strong effort to “Burmanize” the society, which has resulted in blatantly discriminatory treatment of and effects upon ethnic minorities.

Cultural Identity

Individual and community identities in Burma are often very closely linked to ethnicity. Language is one of the most prominent features of this identity, and consequently one element of the military regime’s Burmanization program is concerted suppression of ethnic languages in the state educational system. People from minority communities are aware of the regime’s attempt to curtail their ability to communicate in their own languages. In particular, these individuals point to the connection between this policy and denial of their culture and even their identity as a people. According to this Karen:

We should be able to speak and read and write our own language. Otherwise our own nationality will be lost. When your nationality is lost, even if you are still alive, you feel like a dead person because you cannot stand up like a Karen person. . . . Other Karen who are forced to speak Burmese feel the same way. The people who are in town are already dead; they can’t speak their own language. They can understand it, but they cannot speak it. In town the Karen only speak Burmese because they go to school where everything is taught in Burmese. When they go home to their houses, they are not familiar enough with Karen to speak it. . . . I don’t know if we can maintain our culture if we no longer speak or read.²¹

Shan people view the impact of language repression in comparable terms. “I think it is important that all Shan people learn Shan language too—Shan reading and writing. They are not allowed to

learn that in the school. I think it is a problem. The language will disappear and the culture will disappear if Shan don't learn their language."²² "If the Shan people don't know how to read and write the Shan language, then we will lose our Shan identity."²³

Beyond language, the military regime's discrimination against the cultural life of minorities in Burma takes many other forms. It can, for instance, include banning holiday ceremonies in some regions. Says this Karen:

I do not celebrate the Karen New Year because the Burmese do not allow it. [Ethnic minorities sometimes call ethnic Burmans the "Burmese."] If we were to celebrate it, I don't know what would happen, so we don't dare. Even when we celebrate Christmas and the regular New Year's Day, the military will come and listen and ask people to translate for them to make sure they are not celebrating Karen holidays. I never had a chance to celebrate Karen holidays, and I don't even know when they are.²⁴

In Shan State, troops have damaged or destroyed Shan Buddhist pagodas, sometimes replacing them with Burman structures.²⁵ In one instance during 2001, Burmese soldiers repainted traditionally white Shan pagodas in different colors. According to this Shan:

No one was happy about it, because in Shan culture we just paint them in plain white. These were very different colors that they used to paint the pagoda. Some people complained that it was being painted a strange color. . . . The Burmese soldiers refused to listen to the villagers' ideas as to what they wanted for the pagoda. The pagodas have Shan religious and cultural significance. The white means purity and cleanliness. People feel unhappy because of the pagoda's different colors. Shan people think it is very much against Shan culture. They feel oppressed for their religion. The pagoda was defiled by the military and tainted. . . . All of the people, old and young, believe that the Burmese



"When you speak another language, that is Burmese, you become Burman instead of Karen. When this happens you're already dead as a Karen person."²⁰



“If the dam is constructed blocking the river, not only will the Salween River stop flowing but so will Shan history.”²⁸

soldiers are trying to go against Shan culture and Buddhism. Even though the Burmese are Buddhist also, that is different from Shan Buddhism. They are trying to replace the Shan religious life with the Burmese religious life. They don't want Shan people to improve or develop. The Shan believe they have something good spiritually in their bodies, and they can achieve what they want because of that good spirit. I believe that the Burmese soldiers are trying to push down our good spirit. . . . The Burmese soldiers can do whatever they want to Shan people, because they believe that Shan people are inferior.²⁶

Sometimes, the cultural discrimination appears to be heedless, a by-product of other activity with an allegedly positive “development” purpose. For example, in Shan State, at the village of Tasang along the Salween River, the regime has been investigating the possibility of building a huge dam whose construction would cause major environmental harm to the river as well as surrounding terrestrial ecosystems.²⁷ Shan communities, who have had no say in whether the project should proceed, foresee equally dire socio-cultural impacts if the dam is ever built. “If the dam is constructed blocking the river,” says one, “not only will the Salween River stop flowing but so will Shan history. Our culture will disappear as our houses, temples, and farms are flooded.”²⁸ “Our culture depends on the Salween River in the history of the Shan,” affirms another Shan. “[I]f we lose our culture it is the same as if we lose the race of the Shan people.”²⁹

An additional effect of the military's dominance over ethnic minorities is the shift in the role of the village headman, a position traditionally considered to be a cultural honor. Now, however, that position is one in which the central criterion for selection revolves around the ability to deal with the military, including being able to speak Burmese. As this Shan notes:

The soldiers order the villagers to have one headman, and that is why we hired someone to be headman. The Burmese soldiers set qualifications for the headman. They want him to be able to speak Burmese so they can communicate with them, and they want the

headman to have a little more knowledge than the regular villages. He must also be a good person to organize the villagers and get them together to do things. If the military has a problem with the headman, he will be arrested and tortured and beaten.³⁰

In both Karen and Shan communities, increased military presence has meant that village headmen face greater demands, threats and intimidation. Some headmen are unable to handle the pressure from the military and have fled their villages.

Whether by restricting the use of ethnic languages, damaging or altering religious sites, through its environmentally harmful development policies, or controlling the selection of village headmen, the ruling military regime’s assault on ethnic minority cultures and identities is widespread and institutionalized. The discriminatory policies in the educational sector provide further concrete illustration of this extensive assault.

Education

Over the past decade, Burma’s military rulers have severely neglected the country’s public education system. By the late 1990s, the regime’s expenditure on (civilian) education equaled only 1.2% of the country’s Gross National Product—compared to 3.8% for developing countries—and had declined 70% in real terms since 1990.³¹ Meanwhile, school attendance has also dropped nationwide, partly because of rising school fees. Schools in some parts of the country have closed down due to lack of state funding.³²

In other areas such as rural villages in ethnic minority regions, the regime refuses to build enough schools to service the communities.³³ This shortage can hit the villagers particularly hard, for they lack the money needed to send their children to school in a nearby town. Thus, according to a Shan villager: “The Shan level of education is lower than that of Burmans because to continue a child’s education, the parents must send him into town. . . . Most Shan people cannot afford to provide for their children’s education.”³⁴ This villager points to the general consequence: “The biggest problem in Shan State is that the status of Shan people . . . is very low, including [in]

education. Most of the villagers are uneducated, and they have no one who can help them.”³⁵

Where Burma’s dilapidated educational system does function, there has been a concerted effort by the military regime to use education as a means to instill in minorities a notion of Burman superiority. Not only is Burmese the only language of instruction in state primary and secondary schools, but the teaching of ethnic minority languages even as a second language is impermissible during the school year.³⁶ “The Shan language is still forbidden at the government schools, but it can be taught at the temple,” explains one Shan.³⁷ Another Shan agrees: “If villagers want to teach Shan language, they must come together to help each other and teach it in the temple. After a student finishes primary school and starts 5th standard he is not allowed to speak Shan language at all in the school. I’m not sure why this is so, but as soon as a student arrives in the class he is not allowed to speak Shan.”³⁸ A third Shan offers this assessment of the authorities’ attitude toward the Shan language:

I don’t know how to say it, but the Shan people are treated badly. We are looked down upon. I heard from other people that the soldiers or government people look down on the Shan language. They said the Shan language doesn’t have the same standard as the Burmese language, it is a lower standard than Burmese. They let people learn Burmese and force them to speak Burmese and don’t know or learn about the Shan language.³⁹

Karen individuals describe similar efforts by the regime to prevent the teaching of their language in state schools. The teaching of ethnic minority cultural history is treated in much the same way, and the prospect of losing this history is clearly of little concern to the regime. While offering instruction about Burman historical accomplishments, for example, state schools in Shan State do not provide classes in Shan history or culture:

The school teachers are mostly Burman. . . . There is no Shan language or culture taught at the school. They let the students learn about Burman history, and the good things that

Burmans are doing. They don't teach about Shan—they don't say anything good or bad about the Shan culture.⁴⁰

Another Shan puts the point more strongly:

There are no Shan teachers in the official school. I don't know why. The teachers just came from Mandalay or Rangoon, but I don't know why they are not Shan teachers. Maybe the military doesn't want them to be Shan teachers because they want the students to learn the Burmese language. If Shan people have a chance to learn Shan language, they will have to learn Shan history. The military would like to conceal Shan history and culture so that the children would not gain knowledge about that. This prevents Shan people from rebelling. I didn't learn Shan history and culture from the temple, but the older Shan people told me about Shan history, and I learned from them. It is very important that Shan people should know about Shan history. It is not enough that one person knows, but every person must know. It is like sesame seeds—one sesame seed is not enough to make oil.⁴¹

With educational institutions set up to cater to Burmese speakers, ethnic minorities that do not have access to education or who do not speak Burmese as their first language suffer the discriminatory consequences in many areas of society. Discrimination against minorities may, for instance, occur in the courts:

There are a lot of Burmans in Taungyi [capital of Shan State]—the common language in the market is actually Burmese. There was a trial involving two students—one Shan and one Burman—who got into a fight with one another. The Shan student had been out of school for one year by the time the trial happened, and because he was Shan and didn't use Burmese outside of school, he didn't speak the Burmese language very well. The trial was



“There is no Shan language or culture taught at the school. . . . They don't teach about Shan—they don't say anything good or bad about the Shan culture.”⁴⁰

held in Burmese, and he could not speak as well as the Burmese student. So he lost the case because he could not communicate as well.⁴²

Discrimination also appears prominently in the sphere of employment, especially government sector jobs that require Burmese language skills as a minimum requirement.

Employment

In Shan State, the discrimination Shan face in the area of education seems to be motivated by several impulses, including ethnic intolerance and a fear of encouraging Shan dissent to Rangoon's iron-fisted rule. Some Shan perceive an additional motive underlying their discriminatory treatment, however.⁴³ "My opinion on this," notes one, "is that the Burmese military doesn't want Shan people to develop . . . because they don't want them to compete with the Burmese."⁴⁴ A second Shan echoes this view:

The government, they are trying to treat the Shan people very badly, and they don't want them to be educated the same as Burmans, to compete with them. At the school and in town, if you have ten educated people, nine people will be Burman and just one will be Shan. If the Shan people are not educated, all the jobs will go to Burmans and not Shan.⁴⁵

Restrictions on employment opportunities parallel the discriminatory limitations Shan face regarding education. As a result, even educated Shan have considerable difficulty finding jobs. "Most Shan are not employed after they graduate from school; they don't get jobs," says one individual.

They could never become a general in the military or some other high ranking official. . . . When these educated people apply for jobs and don't get work, they just leave by themselves because they are disappointed that although they have the same education level, they can't apply for and get the same jobs.⁴⁶



"It is very important that Shan people should know about Shan history. It is not enough that one person knows, but every person must know."⁴¹

As this individual suggests, Shan face severely restricted employment access in the state sector. Another Shan elaborates:

The Burmans are mostly government officers with the military. There are some Shan who have government jobs, but the Shan cannot get the higher positions. They just work as clerks in the office do, in low-level positions. . . . I don't know why the Shan can't get the higher positions. Mostly the higher positions are brought in from the central government. Maybe the reason is that Burmans want to oppress Shan people.⁴⁷

A third Shan recounts her experience of employment discrimination when attempting to become a midwife, an occupation that in Burma is deemed a state job and one over which the regime exercises control:

My school was mostly Shan, but more Burmans graduate. I don't know why exactly, but it may be because of their race. I noticed that we are discriminated against by race. I know because of my own experience in applying to be a midwife. I went to apply . . . where they have the midwife training school. When I went to apply I said I was not planning to work as a midwife for the government, just for the Shan people. I just wanted to be the midwife for the Shan village because I knew as a Shan, I couldn't be a government worker. I just wanted to help the Shan people, not be a government worker, but they still didn't want me. The one I applied to said it was because I was a Shan. He said I could apply, but then he asked the military to help me get a chance at the training school, and the military head said he wouldn't help because I am Shan. I don't know who he was, but he was Burman.⁴⁸

Furthermore, relatives of the military usually receive preferential treatment even at the entry level in a host of state-sector jobs. This has disproportionately benefited Burmans and disproportionately

harmed ethnic minorities, including Shan:

Every government program is run by the military. They give preference to getting jobs to people from soldiers' families. Most of the soldiers are Burman; a few are from the other ethnic groups. Out of 100 soldiers, 90% would be Burman; 10% would be ethnic, and not just Shan. Because they work for the government, they give special treatment to the families of the military. These jobs include midwives, nurses, teachers, engineers, and post office employment. When these people apply for jobs they don't have to give a gift [which Shan typically offer as a bribe to potential employers]. Most of the families are Burman, and they get special treatment. My two cousins who are daughters of a Burman soldier and a Shan woman applied for nurse and midwife jobs. They didn't have to give gifts. When ethnic women marry Burman soldiers, they consider the children to be Burman. My cousins got the jobs.⁴⁹



“When ethnic women marry Burman soldiers, they consider the children to be Burman.”⁴⁹

Of particular note in the above quote is the portion that states, “When ethnic women marry Burman soldiers, they consider the children to be Burman.” The Burmese military’s policies of Burmanization have been so successful that some individuals now identify themselves with the majority group even though they may be of various ethnic origins and indeed may have no Burman blood at all. This is also reflected in people’s self-selection of their names and honorific titles—the very core of their identities. For example, the Karen equivalent of the honorific Mr. is “Saw”, the Shan equivalent “Sai”, and the Burmese equivalent “U”. For Mrs., the Karen is “Naw,” Shan “Nang”, and Burmese “Daw”. To succeed in school or gain employment, it is not uncommon for ethnic peoples to feel pressure to change their names or honorific titles to be perceived as more Burman. This is perhaps the ultimate indication of how far the military regime’s policies have taken the country, and how deeply rooted the discrimination is that ethnic minorities must continually endure. ♦



PART THREE:

FORCED LABOR
AND DEVELOPMENT

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he military also practices unparalleled exploitation of its people, including ethnic minorities, through the widespread and systematic use of forced labor. The military has long considered its citizenry to be a ready source of free labor and thus has tried to develop Burma literally on the backs of its peoples, especially ethnic minorities. As a result, one of the most pervasive human rights abuses in the country is forced labor. Despite being a signatory to the International Labour Organization's (ILO) Convention Against Forced Labor, Burma's military regime flaunts its violation of this treaty. In 1998, the ILO published a report of a Commission of Inquiry into forced labor in Burma that revealed severe and pervasive transgressions.⁵⁰ In 1999, the ILO took the unprecedented step of expelling Burma from future meetings. And in November 2000, frustrated by Burma's refusal to implement recommendations of the Commission of Inquiry, the ILO called on its Member States as well as employer and worker groups to reevaluate their relationship with Burma so as to avoid any projects that contribute to forced labor. Burma is the first Member State to face such action by the ILO.

Despite such international condemnation, forced labor persists in Burma today.⁵¹ The military conscripts people for many types of work: clearing land for road construction, for buildings such as barracks or heliports; cutting bamboo and trees in the jungle and carving out tree stumps to level ground; digging trenches; building fences; and making posts and boards to construct or repair barracks. Typically, the military calls on heads of villages to send laborers on a rotational basis, with each group going for one to two weeks and leaving only when a replacement group arrives. Villagers who cannot work have to pay fees. Those who work usually must bring their own food and tools, and also must make their own shelters in which to sleep while they are conscripted. The military's labor orders are often accompanied by demands to provide wood and bamboo for the barracks, or thatch for the barracks' roofs.⁵²

Besides forcing villagers to do various kinds of construction work, troops stationed across Burma frequently require the local population to porter supplies such as food or ammunition, sometimes in active combat areas where the danger is multiplied. These people are also typically conscripted on a

“There were 15 of us working that day. . . . We just did what the soldiers ordered us to do. We were all men because we were going to build a building. When I have done forced labor at other times in the past, when it wasn’t as hard—like clearing or digging ground—women would have to work too. Four of the men were my age, and the others were over 40. We were all Shan, and the soldiers were almost all Burman. . . . I didn’t want to work, but I didn’t have a choice because they forced me.”

—A Shan forced to work for the military, May 2001⁵³

Even [among] the Karen, there are Buddhist Karen and Christian Karen, [and] the Christian Karen are considered to be against the military more than the Buddhist, because the DKBA [Democratic Karen Buddhist Army] which realigned with the SPDC [State Peace and Development Council] was Buddhist. The Christian Karen were treated even worse than the other Karen. The military asked me if I was Karen or not. I said yes, I’m Karen, and they said because you Karen are still fighting against us, that’s why if we ask you to be porters, it’s not enough, we have to ask you to be porters and also kick you and hit you. The Shan and Karen are the same in terms of who is against us.⁵⁸

As this Karen suggests, Christian Karen may suffer discrimination from the military because of their religion as well as their ethnicity.

Another Karen offers a similar account of discriminatory treatment while portering:

The Burman porters would receive more food while the Karen porters would receive very little. The military also made the Karen porters carry heavier things than the Burmans, and if the Karen porters were sick while they were carrying things, they would be punched and hit and left behind. If the Burmans became sick or couldn’t carry things, however, they could just go back. I don’t know why we were treated differently; it is probably because we are Karen, but I can’t say for sure. The soldiers were probably all Burman because they all speak Burmese.⁶⁰

Shan who have been conscripted to work describe how the bond between Burman villagers and Burman troops creates a dynamic that leads to anti-Shan discrimination during forced labor. “Even though Burmans also have to work for the military,” asserts one Shan, “it is worse for the Shan because they don’t speak Burmese. Even though Burmans work alongside Shan . . . since Shan don’t understand the soldiers’ instructions they get tortured.”⁶⁴ This individual explains:

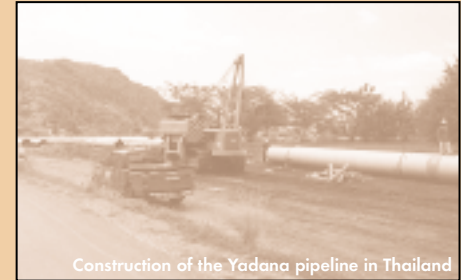
Large-Scale Development Projects: Human Rights Disasters for Ethnic Minorities

Because of the military regime’s reliance on forced labor and brutal treatment of ethnic minorities, large-scale development projects in Burma often lead to massive human rights violations.

For example, the Yadana gas pipeline project in Burma has become infamous during the past decade. This venture involves an international consortium that includes Burma’s military regime as well as two transnational corporations, Unocal of the United States and TotalFinaElf of France. The Yadana pipeline was built in southern Burma, in a region populated largely by ethnic minorities such as the Karen, Tavoyan and Mon who work primarily as farmers, fishers and local traders. There are several armed resistance groups in the region, but the large majority of these ethnic peoples in the area are simply civilians working to support themselves and their families. These peoples had no say whatsoever in the decision to proceed with the Yadana pipeline. They have suffered most as a result of the pipeline’s construction, for despite consistent company denials, a huge amount of evidence now exists that the Yadana project has led to murder, torture, forced labor, forced relocation and many other violations by the military, which is guarding the pipeline. In the face of this misery, construction of a second pipeline—Yetagun, financed and operated by the British firm Premier Oil—began in the same area during the late 1990s and finished in 2000.⁶¹

More recently, the Burmese regime and an energy company from Thailand have been considering building a huge dam on the Salween River at Tasang

in Shan State. The military presence in the area increased as feasibility studies were conducted, leading to portering and other forced labor by villagers. “I helped construct a building near the dam site for the soldiers,” a Shan explains. “I received no payment for my work, and I did not want to do the work. But I knew that if I refused to work, I would be arrested.”⁶² If this venture is pursued, it will surely entail more forced labor and suffering for the Shan in the area.



Construction of the Yadana pipeline in Thailand

These large-scale industrial ventures not only lead to human rights abuses. They also harm the environment. Such environmental degradation occurs particularly in countries such as Burma where local people have no say whatsoever in how development proceeds and where no checks exist on the ruling regime or its corporate partners. Projects like Yadana and Yetagun—and the Tasang dam, if it is built—therefore threaten people’s earth rights. Earth rights are those rights that demonstrate the connection between human well-being and a sound environment and include the right to a healthy environment, the right to be free from discrimination, the right to speak out and act to protect the environment, and the right to participate in development decisions.⁶³ For more information, visit www.earthrights.org.



“Most Shan people don’t speak Burmese. . . [they] don’t understand what the soldiers are ordering them to do, and so they may make mistakes and get beaten and tortured by the soldiers. Therefore it does make a difference whether a porter is Burman or Shan.”⁶⁵

Most Shan people don’t speak Burmese. When they are portering, many Shan don’t understand what the soldiers are ordering them to do, and so they may make mistakes and get beaten and tortured by the soldiers. Burman people understand the instructions because they speak the same language. Therefore it does make a difference whether a porter is Burman or Shan; the Burmans tend to get treated better since they understand what is being asked of them. I have never seen a Burman get beaten after failing to follow an order while portering.⁶⁵

Other Shan agree. This Shan describes the multiple ways in which the discriminatory impact of forced labor, including the length of work and psychological trauma, is specifically felt because the Shan do not understand what is happening:

The Burmans can speak with the soldiers in their language, and so they can switch the date of their work with the soldiers. The Shan people have a tougher time, so it is harder to change the work. If they have a Burman group and a Shan group, the Shan group works for two days and the Burman only one day. They can speak to the soldiers and get off earlier, and it is not fair. The Shan can’t communicate and are scared. . . . Some Shan don’t understand, and if they make a mistake then they will get punished.⁶⁶

The fear that Shan experience also affects how much work they do and whether they can take breaks:

The Burman group, when they are going to work for the military, don’t do very well when they do the job. They always want to take rests. Since they can speak Burmese they can speak to the soldiers and tell them that the work is difficult. The Shan can’t do that so it is easier for the military to make them work harder. Even the Shan who do speak some Burmese are afraid to tell the soldiers that it is hard work, and so they end up working the whole time.⁶⁷

But ability to speak a common language is not the only factor behind Shan mistreatment, for even Shan who typically speak Burmese, such as village headmen, can do little to avoid increased persecution by the military. This provides a strong indication not only of the disparate impact of forced labor on Shan workers, but also of intentional discrimination against Shan workers by the military:

I once saw the head of the Burman group argue with the soldiers and then the soldiers came and began yelling at the group of Burmans. The leader of the group then spoke with the soldiers, and the group left. I never saw the Shan group speak to the soldiers like that. . . . Only a few Shan refused to work, and if one person refused then the military would come to the headman of the section and would make him responsible for collecting money [for labor fees]. When the Burmans refused to work, they would not even pay money, so then some of the Shan would have to pay money instead. . . . The headman, who is Shan, can't control the Burmans, so they end up working less and being treated differently. I don't know how differently we are treated. I don't know how to say it, but when the Shan don't want to work they always have to give money.⁶⁸

Some Shan also report differences in the kind of work they must perform for the military. They attribute differences in treatment to ethnicity and deliberate decisions on behalf of the military to favor one group over another. According to this Shan:

In and around my village there are also some Burman farmers. The Burman farmers also have to work for the military, like the Shan villagers, but the work is different. Burman people have to work on road construction, and have to do things like plant flowers and tend gardens in the camp. I have never seen a Burman porter, and I have never seen a Burman bring thatch to the military. I myself have also never worked on clearing the road.⁶⁹

“In 2001, my village had to supply porters to carry food for soldiers three times. One time they asked for five porters in rotation. Porters had to carry rice and cooking oil for the soldiers, . . . and they had to spend one night on the way. When I left my village, villagers had to provide 1000 pieces of bamboo and 200 four-foot long posts for the soldiers to build their camp.”

—A Karen describing forced labor and requisitioning in his village, June 2001⁵⁵

“I heard that sometimes when there is fighting between Karen soldiers and the military, the military will come back and say bad things to the porters, that Karen people are bad and not good enough to live and deserve to die.”

—A Karen forced to porter for Burma's military⁵⁹

“I think the reason the Burmans do different work than the Shan is because they are the same as the military–Burman,” this individual continues.

The Burman military chooses the light, easy work for the Burman people. But the Burman military hates Shan people, and so when they have something very hard and difficult to do they give it to the Shan people. . . . I don't know how to explain it except to say that the Burman military wants to oppress Shan people.⁷⁰

And while the military routinely steals livestock and other property belonging to ethnic minorities, one Shan reports that soldiers behave differently with Burman civilians: “[E]ven though the civilians have stores and have all of these things they [the soldiers] just go to their stores and pay them for the things. They don't take things from the Burmans the way they take things from the Shan. The shopkeeper gives the military a very, very low price, but sometimes the soldiers just pay the price without any argument at all.”⁷¹

Asked to explain why the military treats Shan people so harshly, one Shan sums up the situation this way: “I think it is because we are Shan—because we are not the same ethnicity as the Burmans. The Burmese military doesn't value Shan people even as much as one milk tin. They look down on Shan people and don't want to recognize us as human.”⁷² ♦

A sepia-toned photograph of a group of men in a field. Some men are holding rifles. The image is overlaid with a title box on the right side. The title box has a black background with a yellow border and contains the text 'PART FOUR: VIOLENCE AGAINST ETHNIC MINORITIES' in white serif font. The background image shows a group of men in a field, some holding rifles, suggesting a military or conflict-related scene.

PART FOUR:

VIOLENCE AGAINST ETHNIC MINORITIES

PART FOUR: VIOLENCE AGAINST ETHNIC MINORITIES

Whether during forced labor or in the context of the civil war in Burma, ethnic minority civilians face violence because of their ethnicity. A person suspected of having any contact with armed opposition groups may be tortured, killed or simply disappear. Discrimination in Burma thus has particularly extreme ramifications, with some ethnic people paying the ultimate sacrifice. Many ethnic minorities suffer violent abuse often by default, because they are perceived as the enemy, as different, as inferior, or as linked to armed groups simply because of their shared ethnicity – a distinction that can spare Burman civilians the same brutality at the hands of the military.

This violence is rooted in a prevailing atmosphere of intolerance towards ethnic minorities that Burma’s regime encourages. The discrimination ethnic minorities experience in this context is both intentional and the result of the disparate impact of other forms of discrimination, such as increased suffering caused by misunderstandings during forced labor.

Military violence against ethnic minorities is commonplace. “The military treats Karen people badly all the time and oppresses us and wants to beat us,” says a Karen. “I don’t know why; when the military comes, we just run away. We don’t think about it.”⁷³ Another Karen offers more detail:

The military just comes into the village to oppress people. Whenever they see villagers they will hit them or shoot at them. The military sometimes comes into the village, and the people run away and hide in the jungle for three or four days, or a week, or six or seven days. When they get back, they find that the military has taken all their belongings that they couldn’t carry with them. The soldiers then burned down the households, so they couldn’t live there. Then people will go and live in the jungle in four or five groups, like a small village, but then the soldiers will come, and they’ll run away again. . . . In my village everyone is Karen—there are no Burmans. It is the same in the other villages in the area. The military soldiers are only Burman. I know because they come and oppress us all the time. I don’t know why, but they see us as the enemy or as being against them.⁷⁴

This woman speaks from horrific personal experience:

I was shot by the military. . . . Near the rainy season, I asked my son to go get hens from another house, but at that time the military came and shot at him. I went to grab my son, and then I was shot by the military, and then my son was shot and killed. He was four years old. The other people ran away and escaped. When I was shot, it wasn't in the village. The military came into the village a long time ago, so we had escaped and were

Forced Relocation and Displacement

Violence or the threat of violence has also accompanied the forcible relocation of both Karen and Shan villages.⁷⁶ In Shan State since 1996, for example, Burma's military has systematically forced hundreds of thousands of Shan to leave their homes and move elsewhere. This sweeping relocation of people was motivated partly by armed conflict between Rangoon and Shan insurgents and partly by the military's effort to improve access to laborers for conscription purposes.⁷⁷ Regardless, the discriminatory effect of this relocation against Shan is as massive as the relocation itself. This Shan describes how the military uprooted thousands of households in the effort to find a small handful of insurgents:



I was one of fifteen Shan soldiers hiding in the township, and the Burmese military wanted to arrest us. They thought that the soldiers were able to live

in the area because the people in the villages were giving them food. To get them out, the soldiers relocated the villagers to block the SSA [Shan State Army] from getting food. Eighteen villages in the township were forced to move. There were [thousands of] households forced to move.⁷⁸

In addition to the Shan, there are hundreds of thousands of other ethnic minorities who have been displaced, many internally within Burma and many outside the country. For example, according to the Burma Ethnic Research Group (BERG), some 30% of the Karen population of 480,000 in southeastern Burma are currently displaced internally or in Thailand.⁷⁹ The number of refugees on the Thai/Burmese border is approximately 130,000 in camps, and many refugees live outside the camps as well. An overwhelming portion of these refugees are ethnic minorities, another indication of the disparate impact that these communities endure under the military repression in Burma.⁸⁰



“[The soldiers] . . . grabbed my neck and punched me on the side of my face. They also hit me with their guns on my side and kicked me until I fell over.”⁸¹

living in the jungle with four or five households. I was living outside the village one year before I got shot. After I got shot, I saw everyone had run away again. I went back to my house and stayed there, and I saw the military had come to the house and taken all the belongings and then left, so I stayed in the house. I stayed there the whole night by myself, and the next morning the villagers came back. . . . I was pregnant when they shot me. My daughter was born in the jungle two months later.⁷⁵

Another Karen woman was unable to flee:

The Burmese soldiers came into my house and asked me if I support the KNU [Karen National Union, which is fighting Rangoon]. I said no, I don't support them, I can't hear you very well. They said, don't pretend you can't speak Burmese, speak to us. But I have a hearing problem and I don't speak Burmese, so I said I can't even hear you and I can't speak Burmese. They didn't believe me, so they grabbed my neck and punched me on the side of my face. They also hit me with their guns on my side and kicked me until I fell over. At the time, I was pregnant, and I had a miscarriage. Then they took all our belongings, the clothes, money, rice, everything. Our family had saved 40,000 kyat, and the soldiers took it all, and all our good clothes.⁸¹

Shan people provide equally grim accounts. “We are not allowed to go far from the village both to fish and hunt, which supports us with income,” asserts one Shan villager. “We are beaten and investigated about the Shan resistance army if they see us in the forest, along the river bank, and outside of the village.”⁸² Such “investigations” are frequently conducted with torture:

In October 2000, Burmese soldiers called the villagers together to come and see when they investigated and questioned a villager. They said he was a Shan spy, and the soldiers asked

Multiple Levels of Discrimination: Ethnicity, Gender and Violence Against Women

Many participants in the World Conference Against Racism undoubtedly will be familiar with the term “intersectionality” as it applies to women of color. In this context, intersectionality refers to people who experience overlapping bigotry and prejudice because they belong to multiple disadvantaged or minority groups. The problem of intersectionality in Burma manifests itself most clearly in the Burmese military’s campaign of “Burmanization.” The Burmanization movement consists, in large part, of Burman soldiers engaged in efforts to sexually abuse ethnic minority women. They do this to strike terror into the very heart of the ethnic minority communities; to force ethnic minority women into pregnancies resulting from rape by men who are members of the ethnic majority; and to prevent ethnic women from bearing more ethnic minority children. According to this theory of Burmanization, the ethnicity of the father—the rapist—is the only one that is relevant in determining the ethnicity of the child. So, even though an ethnic minority woman is raped, her child bears the ethnicity of the father, in her eyes as well as the eyes of the rapist. By spreading this idea, that children of rape are their fathers’ children first, the rapists commit double violence: against the woman, and against the entire ethnic minority community. In Burma, only ethnic minority women can suffer this particular kind of violence. Their ethnicity, which is ordinarily such a source of pride, combines with their gender, to create this double oppression.

It is impossible to know how many women experience this type of double discrimination in Burma, but it is clear that too many ethnic minority women from the border regions of Burma in particular are familiar with sexual violence. Such statistics are unavailable for many reasons: women are reluctant to tell anyone if they have been raped; some of them are dead; many of them live in remote areas;

and those who are documenting the abuses cannot safely go into Burma to find out how often this happens. Enough anecdotal cases have been documented, however, to confirm that such discrimination happens frequently:

I left Shan State because life was very difficult there, especially for young women. Women must be careful about going outside and working on the farms, yet, if they stay at home, they will not have any food to eat. If the Burmese soldiers saw young women, they would maybe sometimes rape them if there were no men around. Women are sometimes taken by the soldiers and made to stay one or two nights with them and sleep with them. It is rape.⁸⁵

One of the many tragic consequences of this sexual violence is the illness that is left behind. Women who are raped are vulnerable to sexually transmitted diseases, including HIV and AIDS. It is a common rumor in refugee camps inhabited by ethnic minority exiles that the military sends soldiers who are HIV-positive to rape ethnic minority women, in the hopes of spreading the disease to the ethnic populations. Whether true or not, the fact that such a belief exists speaks volumes to the horror of the discrimination perceived by ethnic minorities. To suffer from AIDS is terrible and shameful, in the eyes of Burmese people. To suffer from AIDS as a result of a rape is a double stigma that ethnic minority women sometimes have to bear; and when this happens, they live with the shame and the disease without adequate medical, emotional or financial support. The intersection of gender and ethnic discrimination in Burma thus leads, sometimes, not only to psychological and physiological damage, but also to a violation of a fundamental right without which no other right can survive—the right to life.

him where he sent food and rice to the SSA [Shan State Army]. The villager said he never sent any food to the SSA, and the Burmese soldiers said that if you had never sent food to the SSA then you would not have been arrested or tortured. The soldiers then beat him until his arm was broken and he was bleeding. Then with a knife the Burmese soldiers cut his arms and fingers, trying to get him to tell everything he did. After the Burmese soldiers tortured him, they just left him there.⁸³

Another Shan describes a terrible incident where failure to understand the Burmese language again contributed to tragedy:

A year ago while I was in my old village, my friend and I went back to check on our animals. We saw about 30 soldiers fifteen yards away from us, and they shouted at us in Burmese which I knew was Burmese, but I did not understand the words. We started running away together. Burmese soldiers fired at us and my friend was hit. He died from being shot. The soldiers spent two more nights there. Two days after they left, I went back and saw the body of my friend where he had been shot. I helped to bury him. He and I grew up together, and after he died I was so upset that I could not eat. I do not know why the soldiers shot us. At the time, we were wearing Shan pants, and it was obvious that we were farmers.⁸⁴

Much military violence against ethnic minorities occurs during forced labor. “I was beaten by a soldier while doing forced labor a year ago,” a Shan explains.

I was clearing the grass in the battalion camp, and the soldier thought I was not doing a good job, so he beat me three times on my back. I could not understand what the soldier said to me, but I understood that he was not satisfied with my work. Other villagers were also beaten, including women. . . . The soldiers were holding sticks and supervising. If they

did not approve of the work being done by a villager, they would beat them. I saw three villagers beaten by the soldiers because the fencing was not good enough.⁸⁶

Portering also provides numerous occasions for brutalization of Shan and Karen, as this Shan woman relates:

I had to go porter in November 2000. . . . The SPDC [State Peace and Development Council] soldiers arrested us in the village. At the moment, my son was not at home. They asked for porters. I told them there were no men to go porter. They said women had to go instead of men. I do not think I could say no. They pulled my hands to the loads and ordered me to carry. We had nine women porters. The soldiers beat up a twelve-year-old girl because she refused to go. One of the women porters was almost killed because the soldiers suspected that she had the relationship with the Shan resistance army. But the interpreter rescued her explaining to the soldiers that she was a villager. . . . The soldiers beat all nine women up including me with sticks because we did not want to carry the loads.⁸⁷

Karen who porter are equally susceptible to physical abuse:

[A]round October [1999], I was portering and on the way, one of the soldiers stepped on a landmine, so the military accused the porters of having contact with the KNU [Karen National Union] leaders, so they tied us up. I was also the headman of the village. They beat us up many times and with other people. I was beaten all over my body and also on my head, many times, and when I fell down, they kicked me with their boots until I fell unconscious. After that, when I woke up, I pretended to have to go to the bathroom, and that's when I escaped.⁸⁸



“Burmese soldiers fired at us and my friend was hit. He died from being shot. I helped to bury him. He and I grew up together, and after he died I was so upset that I could not eat.”⁸⁴



“I was beaten all over my body and also on my head, many times, and when I fell down, they kicked me with their boots until I fell unconscious.”⁸⁸

And village headmen who fail to supply the military with enough laborers face harsh retribution. Even reasonable explanations for not meeting the demands of the military are attributed by some soldiers as support for the ethnic minority armed groups. This individual was a headman in a Karen village:

When they need porters, the military writes a letter to the headman. Porters were instructed to build a road and to work at the military base, so when the military asked for 25 porters, there were not enough people (as many people were already working on the road and the military base). I could only provide 15 people. So the military came to the village and took me away and tortured me. They took me to the military base, which was three miles away from the village. I know that because the soldiers were speaking and mentioned it (I speak Burmese, so I understood them). The military accused me of working for the opposition group (like the Karen group). When I explained that some people were already working and others were sick, they accused me and took me away to another place and tortured me for seven days. They only fed me once a day. After that, they took me to be questioned, but I explained the situation to the officers and what the military had done to me, and the next day they let me go. I do not know the soldiers’ names, but before they let me go, they warned me not to let this happen again. After they tortured me, I suffered a lot, over a month, and I took a lot of medicine, but I didn’t go to the hospital.⁸⁹

In Burma, ethnic discrimination often gets translated into violence by the army against the ethnic minorities. Such violence is committed against forced laborers, women, and other civilians. Under international law such as the Geneva Convention, civilians are supposed to be protected from such violence, even during internal civil wars.⁹⁰ Yet for Burma’s ethnic minority groups, such international protection remains elusive. ◆



CONCLUSION

CONCLUSION

Burma's military discriminates against ethnic minorities on a massive scale. Hundreds of thousands of people have been forced to flee their homes and seek refuge in foreign countries. Similar numbers have been forced to relocate within Burma or have simply fled into the jungles to avoid the military. Millions have had to endure forced labor. Unknown numbers have been raped, tortured or killed because of their ethnicity.

The toll on the individual, on the family, and on the community is no less striking and disturbing; fathers and sons killed; mothers and daughters raped; entire villages uprooted and forced to move because they are Shan, Karen, communities unable to speak their native tongues for fear of retribution. These stories epitomize the human side of discrimination and explain why international law so strongly condemns racial and ethnic discrimination.

The far-reaching and pervasive nature of discrimination against ethnic minorities in Burma raises the question of whether the actions of the military constitute crimes against humanity—human rights abuses such as murder, enslavement, or other inhumane acts perpetrated against a given group of people in a systematic and widespread manner.⁹¹ There are intentional practices and policies by the military that indicate the systematic nature of the discrimination. These practices and policies are accompanied by widespread discriminatory impacts on minorities caused by human rights abuses including forced labor, violence and forcible relocation. At the very least, this tragic situation should compel the international community to take urgent action to push the military regime to institute reforms to alleviate the oppression and suffering that ethnic minorities in Burma experience today. ♦

Endnotes

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- 4 ERI Interview MT7 (on file with authors).
- 5 ERI Interview MT7 (on file with authors).
- 6 Fink, op. cit. 2, at 13.
- 7 See generally Tyler Giannini, EarthRights International, *Destructive Engagement: A Decade of Foreign Investment in Burma* (October 1999).
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- 10 United Nations G. A. Res. 217 (III 1948), December 10, 1948, Art. 7.
- 11 G. A. Res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 59, U.N. Doc A/6316 (1966), 999 U.N.T.S 171 entered into force March 23, 1976, Arts. 2 and 4.
- 12 G. A. Res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S 3, entered into force January 3, 1976, Art. 2.
- 13 Restatement (Third), The Foreign Relations Law of the United States sec. 702(1) Comment i (1987). Customary international law refers to the "general and consistent practice of states followed by them from a sense of obligation," and is derived from national practices, judicial decisions, and juridical writings. Id. at sec. 102(2) (1987).
- 14 Id. at sec. 702(1) Comment b (1987).
- 15 This methodology draws on American jurisprudence. See, e.g., Keith R. Fentonmiller, *The Continuing Validity of Disparate Impact Analysis for Federal-Sector Age Discrimination Claims*, 47Am. U. L. Rev. 1071, 1075-6 (1998); Alice Kaswan, *Environmental Laws: Grist for the Equal Protection Mill*, 70 U. Colo. L. Rev. 387, 409-414 (1999).

- 16 Kaswan, id. at 413.
- 17 ERI Interview M1 (on file with authors).
- 18 ERI Interview S43 (on file with authors).
- 19 See generally EarthRights International, *Total Denial Continues: Earth Rights Abuses Along the Yadana and Yetagun Pipelines in Burma* (2000); The Shan Human Rights Foundation, *Dispossessed: Forced Relocation and Extrajudicial Killings in Shan State* (1998).
- 20 ERI Interview M1 (on file with authors).
- 21 ERI Interview M1 (on file with authors).
- 22 ERI Interview S46 (on file with authors).
- 23 ERI Interview S42 (on file with authors).
- 24 ERI Interview M1 (on file with authors).
- 25 ERI Interviews S4 and S28 (on file with authors).
- 26 ERI Interview S49 (on file with authors).
- 27 EarthRights International, *Fatally Flawed: The Tasang Dam on the Salween River* (2001).
- 28 EarthRights International Field Survey (on file with authors).
- 29 ERI Interview S18 (on file with authors).
- 30 ERI Interview S46 (on file with authors). See also ERI Interviews S38, S44, S45, S50, M1, M5 (all on file with authors), as well as *Total Denial Continues*, op. cit. 19, at 101.
- 31 Human Development Report 2000, United Nations Development Program, pp. 194-7, at www.undp.org/hdr2000/english/book/back2.pdf; "Burma," 1999 Country Reports on Human Rights Practices, Released by the Bureau of Democracy, Human Rights, and Labor, United States Department of State, 25 February 2000, www.state.gov/www/global/human_rights/1999_hrp_report/burma.html.
- 32 "Burma," U.S. Department of State, op. cit. 30.
- 33 ERI Interview S42 (on file with authors).
- 34 ERI Interview S44 (on file with authors).
- 35 ERI Interview S44 (on file with authors).
- 36 "Burma," U.S. Department of State, op. cit. 30.
- 37 ERI Interview S43 (on file with authors). According to one Shan, however, this is true only for boys, not girls:

There is one school in the village, and they teach Burmese and English. If Shan boys want to learn Shan language they can go to the temple. Shan girls have nowhere to go if they want to learn Shan language. Sometimes their parents find books

for them, and sometimes parents help them a little bit. So they try to learn by themselves. [See ERI Interview S54 (on file with authors).]

- 38 ERI Interview S44 (on file with authors).
- 39 ERI Interview S42 (on file with authors).
- 40 ERI Interview S42 (on file with authors).
- 41 ERI Interview S45 (on file with authors).
- 42 ERI Interview S55 (on file with authors).
- 43 ERI Interview S44 (on file with authors).
- 44 ERI Interview S44 (on file with authors).
- 45 ERI Interview S42 (on file with authors).
- 46 ERI Interview S44 (on file with authors).
- 47 ERI Interview S47 (on file with authors).
- 48 ERI Interview S42 (on file with authors).
- 49 ERI Interview S55 (on file with authors). Other interviewees confirm such accounts. According to this Shan:

[I applied for a government media position because] I wanted to live in a big city. . . . I felt like I could help the Shan people [in this job]. When you apply to work there, they investigate about your past. I was questioned about who my father was, and all of the other staff was asked too. But for ethnic people, not many people would apply for that program, so they have less people to question. The Burmese staff were mostly from military families, and when I applied they asked how many people in the military I knew. The more military people you know the more opportunities you will be allowed. I knew one of my friend's fathers was one position lower than a Major, and I wrote that down. [See ERI Interview S56 (on file with authors).]

Says this Burman:

There are many government departments. Agriculture, industry, so many departments. Also the government opens factories, and many people work for the government as clerks, managers, [or other] workers. Under the military rules, ethnic people cannot get the good jobs and positions. Before 1992, all of the ethnic peoples had armies and were fighting against the military. So the military was always suspicious of every

ethnic person. Even if they had very good ability the government would prevent them from getting good jobs. Even now, when some resistance groups gave cease-fire, they still have armies. The military knows that cease-fires can be broken, so they still expect the ethnic people can penetrate the government system and investigate. When they do not get the job or the promotion, the ethnics are never told why, but it is clear to see. Even if someone is skillful, he cannot get the job. In a factory, the managing director is the highest position, but the ethnic people cannot get the job and will always be second-class citizens. . . . My father was a civil servant, and he would always talk about the guys at work who were really skilled and should have better jobs but couldn't get them because they were ethnic. It is still the policy. [See ERI Interview MT7 (on file with authors).]

- 50 Forced Labour in Myanmar (Burma). Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29). Geneva, 1998, at www.ilo.org.
- 51 See e.g., EarthRights International, A Report to the International Labour Organization on Forced Labor in Burma From December 2000-April 2001 (June 2001), at www.earthrights.org.
- 52 See generally, Total Denial Continues. op. cit. 19.
- 53 ERI Interview S41 (on file with authors). EarthRights International has collected many interviews with individuals in Burma who describe being conscripted for forced labor (road building, road clearing, fencing, building structures, portering, etc.). Recent ERI Interviews not discussed in this report include S1, S2, S3, S4,S5, S7,S8, S9, S10, S11, S12, S13, S15, S17, S18, S20, S22, S26, S28, S30, S32, S35, S36, S40, GF1, GF2, GF3, GF4, GF7, GF9, and GF19 (on file with authors). Additionally, EarthRights International has collected numerous other interviews, portions of many of which are in Total Denial Continues, op. cit. 19.
- 54 Total Denial Continues, op. cit. 19, at 53-61.
- 55 ERI Interview GF15 (on file with authors).
- 56 ERI Interview M4 (on file with authors).
- 57 In some interviews, the interviewees assert that no Burmans had to work. See e.g., ERI Interview S52 (on file with authors).

- 58 ERI Interview M4 (on file with authors).
- 59 ERI Interview M5 (on file with authors).
- 60 ERI Interview M1 (on file with authors).
- 61 Total Denial Continues, op. cit. 19.
- 62 ERI Interview S34 (on file with authors).
- 63 See generally Jed Greer and Tyler Giannini, Earth Rights: The Quest for Human Rights and Environmental Protection (1999).
- 64 ERI Interview S44 (on file with authors).
- 65 ERI Interview S44 (on file with authors).
- 66 ERI Interview S41 (on file with authors).
- 67 ERI Interview S41 (on file with authors).
- 68 ERI Interview S41 (on file with authors).
- 69 ERI Interview S46 (on file with authors).
- 70 ERI Interview S46 (on file with authors).
- 71 ERI Interview S52 (on file with authors).
- 72 ERI Interview S50 (on file with authors).
- 73 ERI Interview M1 (on file with authors). EarthRights International has many other interviews with individuals describing violence (beatings, torture, killings) not discussed in this report. In the forced labor context, these include ERI Interviews S11, S15, S18, S22, S23, S28, S37, S38, S39, S44, and M6 (on file with authors). In other contexts, they include ERI Interviews S13, S25, S26, S30, S32, S33, S45, M3, and M5 (on file with authors).
- 74 ERI Interview M2 (on file with authors).
- 75 ERI Interview M2 (on file with authors).
- 76 Total Denial Continues; Dispossessed, both op. cit. 19.
- 77 ERI Interview S47 (on file with authors); Dispossessed, op. cit. 19.
- 78 ERI Interview S48 (on file with authors).
- 79 Burma Ethnic Research Group and Friedrich Naumann Foundation, Forgotten Victims of a Hidden War: Internally Displaced Karen in Burma (April 1998) at 4.
- 80 Burma Border Consortium Camp Numbers, July 2001.
- 81 ERI Interview M3 (on file with authors).
- 82 ERI Interview S7 (on file with authors).
- 83 ERI Interview S48 (on file with authors).
- 84 ERI Interview S36 (on file with authors).
- 85 ERI Interview S51 (on file with authors).
- 86 ERI Interview S37 (on file with authors).
- 87 ERI Interview S30 (on file with authors).
- 88 ERI Interview M5 (on file with authors).

- 89 ERI Interview M1 (on file with authors).
- 90 Geneva Convention relative to the Protection of Civilian Persons in Time of War, 75 U.N.T.S. 287, entered into force Oct. 21, 1950. Burma acceded to this convention on August 25, 1992. In times of armed conflict, civilian populations are protected by Article 3, which is common to the Geneva Conventions:

Art. 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions: (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples. (2) The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

- 91 In some circles, discussion has already begun about the possibility of charging members of Burma's military regime with crimes against humanity for its persecution of ethnic minorities. See, e.g., Satya Sivaraman, "Momentum Builds for Criminal Tribunals in

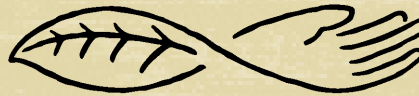
Asia,” Inter Press Service, July 9, 2001. Definitions of crimes against humanity vary, but according to Professor M. Cherif Bassiouni, all definitions share these common aspects: “1) they refer to specific acts of violence against persons irrespective of whether the person is a national or nonnational and irrespective of whether these acts are committed in times of war or peace; and 2) these acts must be the product of persecution against an identifiable group of persons irrespective of the make-up of that group or the purpose of the persecution. Such a policy can also be manifested by the ‘widespread and systematic’ conduct of the perpetrators, which results in the commission of the specific crimes contained in the definition.” When first defined in international law in Article 6(c) of the 1945 Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis and Charter of the International Military Tribunal at Nuremberg, crimes against humanity included:

murder, extermination, enslavement, deportation and other inhumane acts committed against civilian populations, before or during war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

This category of crimes has since been included in the statutes of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, as well as in the statute of the International Criminal Court. The last additionally includes the crimes of enforced disappearance of persons, apartheid, forcible transfer of population, torture, and forced pregnancy. Crimes against humanity are distinguishable from genocide in that they do not require an intent to destroy a given group of people. Rather, says Professor Bassiouni, they require only that the alleged perpetrators “target a given group and carry out a policy of ‘widespread and systematic’ violations.” For more information see M. Cherif Bassiouni, “Crimes Against Humanity,” at www.crimesofwar.org.

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A Note About the Scripts:
Throughout this report, the script running across the top of each page is Karen, and the bottom is Shan. Both the Karen and Shan fonts repeat the words Freedom, Peace, Unity, Equality.



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