

# **Neglected Suffering**

Sexual violence and barriers to justice faced by villagers in Southeast Burma since the 2021 coup

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### 1. Introduction

Sexual violence has been perpetrated against villagers, particularly women and girls, in Southeast Burma (Myanmar)1 in the past, and has remained ongoing. A weak rule of law and multiple barriers to access justice have hindered villagers' protection and the eradication of such violence. Since the 2021 coup2, the military conflict in Southeast Burma has exacerbated such challenges, worsening the enactment of the rule of law in many areas and impeding justice. Barriers that villagers face include weakened law enforcement, particularly against armed actors; inaccessible justice systems in areas with active conflict; fears of the perpetrator's retaliation; no avenues for prosecution of Burma Army<sup>3</sup> soldiers; financial burdens; social stigma; or long and unfamiliar court procedures. These conditions render impunity to most perpetrators, leave villagers unprotected and vulnerable to violence, make justice unattainable, and foster a lack of faith in the justice system, protracting sexual violence

in Southeast Burma.

This briefing paper presents evidence of sexual violence perpetrated against villagers in locallydefined Karen State4 since the February 2021 coup until September 2024, and the barriers to obtaining justice reported by survivors, families and community members. The first section provides a brief overview of the context of sexual violence in Southeast Burma and the situation of such crime since the 2021 coup, as well as an overview of the different justice systems in the region. The second section presents a factual summary of incidents of sexual violence and the difficulties to access justice, as well as a summary of cases that received action, along with the strategies villagers use to protect themselves from this crime. The third section offers a security and legal analysis of the situation, followed by a set of policy recommendations for local and international stakeholders.

### 2. Contextual overview

# Historical context of conflict-related sexual violence in Burma

Burma has been in armed conflict since it gained independence in 1948 due to the Burma Army's efforts to put the whole country under their military rule. Throughout Burma's oppressive history, there have been three military coups upending efforts at democracy in 1962, 1988, and most recently in 2021. The Burma Army has subjected Burma's citizens and diverse ethnic groups to gross human

rights violations, including extrajudicial killings, torture, arbitrary arrests, forced displacements, looting and extortion, and forced labour under their clearance operations and military activities.<sup>5</sup> Documentation has provided clear evidence of those abuses in Southeast Burma, including widespread sexual violence committed against villagers by Burma Army personnel, which became ingrained in their military tactics by using rape and other forms of sexual violence as a "weapon of

<sup>&</sup>lt;sup>1</sup> In 1989, the then-ruling military regime changed the name of the country from Burma to Myanmar without consultation from the people. KHRG prefers the use of Burma because it is more typically used by villagers, and since the name change to Myanmar is reflective of the military regime's longstanding abuse of power.

On February 1st 2021, the Burma Army (or Tatmadaw) deposed the democratically elected government led by the National League for Democracy (NLD), transferred power to Min Aung Hlaing, the Commander-in-Chief of Myanmar's Armed Forces, and invalidated the NLD's landslide victory in the November 2020 General Election.

<sup>&</sup>lt;sup>3</sup> The terms Burma military, Burma Army, and SAC are used interchangeably throughout this report to describe Burma's armed forces. Villagers themselves commonly use Burma Army, Burmese soldiers, or alternatively the name adopted by the Burma military regime at the time -since the 2021 coup, the State Administration Council (SAC).

<sup>&</sup>lt;sup>4</sup> Karen State, or Kaw Thoo Lei, as defined by the Karen National Union (KNU), covers Kayin State, Tanintharyi Region and parts of Mon State and Bago Region. The KNU uses different boundaries and location names for the areas under its control, dividing Karen State into seven districts. Karen State, located in Southeastern Burma, is primarily inhabited by ethnic Karen people. Most of the Karen population resides in the largely rural areas of Southeast Burma, living alongside other ethnic groups, including Bamar, Shan, Mon and Pa'Oh.

<sup>&</sup>lt;sup>5</sup> KHRG, <u>Undeniable: War crimes, crimes against humanity and 30 years of villagers' testimonies in rural Southeast Burma</u>, December 2022.



war".6 These actions amount to war crimes and may amount to crimes against humanity.

KHRG received numerous testimonies over the years from women and children in Southeast Burma who are survivors/victims of conflict related sexual violence, including rape, gang rape, forced marriage, sexual assault, and sexual harassment. Armed actors who committed sexual violence against civilians did so in various settings, including when victims/survivors were detained, during forced labour particularly during forced portering, but also in the victim/survivor's homes.<sup>7</sup>

Perpetrators of conflict-related sexual violence have remained unpunished. The 2008 Burma Constitution granted the military full control to "administer and adjudicate all affairs of the armed forces," ensuring that no military personnel would be tried in a civilian court, resulting in a lack of transparent due process and accountability for military perpetrators. Burma Army soldiers have been shielded from accountability in the courts, resulting in a system of impunity.

# Sexual and gender-based violence (SGBV) and the justice system in Southeast Burma

Conflict-related sexual violence is part of the broader sexual and gender-based violence (SGBV) that has affected villagers in Southeast Burma. Patriarchal attitudes, such as the perception of men's dominance, have condoned incidents of domestic and sexual violence against women and girls. The psychological impacts of sexual and gender-based violence are numerous and lasting and the constant threat of sexual violence has caused many villagers to be fearful for their safety. Even though many instances of sexual violence have been reported to KHRG throughout

the years, many incidents remain unreported due to social stigma, threats or fear of retribution from perpetrators, and a lack of trust in the judiciary systems.

There are three justice systems predominantly in use in Southeast Burma: the customary justice system, the Karen National Union (KNU)11 system, and the Burma government system. Customary justice is the most commonly used system by villagers in Southeast Burma: when disputes arise, villagers often approach their village head or village tract head for negotiation and adjudication since village administrators are seen as trusted and neutral decision makers.12 A case is only brought before the Burma government or the KNU court system when the issue concerns specific circumstances, often criminal cases in need of harsher sentences. However, which system the case falls under is dependent upon which actors are in control of that territory. Due to ongoing armed conflicts in the region, many territories can change hands multiple times, which creates a confusing, inadequate, and inaccessible justice system for many local villagers in Southeast Burma. 13

The Karen National Union (KNU) established its own justice system in the 1970s<sup>14</sup>. Civilians from different ethnic backgrounds in Karen State rely on the KNU system to seek justice for the crimes perpetrated against them, including sexual violence. The Burma government justice system is another avenue for villagers, although villagers have reported that the government's court system is corrupt. The court processes are also conducted in Burmese, a language that many villagers in rural Karen State do not speak. Both the Burma government and the KNU have criminalised rape in their penal codes, although the definitions of many sexual-related crimes differ

KHRG, <u>Undeniable</u>, above. Also: UN General Assembly, "<u>Report of the Independent International Fact-Finding Mission on Myanmar</u>", A/ HRC/42/50, 8 August 2019; Human Rights Watch, "<u>Sexual Violence by the Burmese Military Against Ethnic Minorities: Testimony of Skye Wheeler at the Tom Lantos Human Rights Commission</u>", July 2018.

<sup>&</sup>lt;sup>7</sup> KHRG, <u>Undeniable</u>, above. Also: Karen Women's Organisation, "Shattering Silences: Karen Women speak out about the Burmese Military Regime's use of Rape as a Strategy of War in Karen State", April 2004.

<sup>&</sup>lt;sup>8</sup> Republic of the Union of Myanmar, Constitution of the Republic of the Union of Myanmar, 2008.

<sup>&</sup>lt;sup>9</sup> Women's League of Burma, "Barriers at Every Turn. Gender-based violence against ethnic women in Burma", December 2021.

<sup>&</sup>lt;sup>10</sup> KHRG, <u>Suffering in silence? Sexual violence against women in Southeast Myanmar</u>, December 2018. See also, <u>Foundation of Fear: 25 years of villagers' voices from southeast Myanmar</u>, October 2017.

The Karen National Union (KNU) is the main Karen political organisation. It was established in 1947 and has been in conflict with the government since 1949. The KNU wields power across large areas of Southeast Myanmar and has been calling for the creation of a democratic federal system since 1976. Although it signed the Nationwide Ceasefire Agreement (NCA) in 2015, following the 2021 coup staged by Burma Army leaders, the KNU officially stated that the NCA has become void.

<sup>&</sup>lt;sup>12</sup> KHRG, 'Beyond the Horizon': Local Perspectives on Peace, Justice and Accountability in Southeast Myanmar, November 2019.

<sup>&</sup>lt;sup>13</sup> KHRG, <u>Beyond the Horizon</u>, above.

<sup>&</sup>lt;sup>14</sup> Danish Institute for International Studies, "<u>Justice Provision in Myanmar</u>", March 2017.

<sup>&</sup>lt;sup>15</sup> KHRG, *Beyond the Horizon*, above.



significantly from the standards under international law.<sup>16</sup>

In December 2018, a Joint Communiqué on the Prevention and Reparation of Conflict-related Sexual Violence was signed between the Burma government and the United Nations, acceding to reforms to support survivors of sexual violence. In March 2019, a national committee was created to develop an action plan, but this lacked legal reforms or a survivor-centred approach.<sup>17</sup> The process was stalled after February 2021.

#### The situation of SGBV since the 2021 coup

Since the 2021 coup, the Burma Army, under the control of the State Administration Council (SAC)<sup>18</sup>, has reinvigorated and intensified their military tactics and operations against civilians throughout Burma.<sup>19</sup> Many reports since the 2021 coup have highlighted the increased vulnerability to sexual and gender based violence that many women in Burma have faced, as a consequence of increased militarisation in the country.<sup>20</sup> According to a study developed by UNDP and UN Women in 2022, one in five women in Burma had seen violent behaviour against a woman or girl in their neighbourhood and one in three women felt unsafe in their home at night.<sup>21</sup>

Ongoing attacks from the SAC against civilians amid nationwide armed conflict have included soldiers committing sexual violence. 22 According to the Assistance Association for Political Prisoners (AAPP), the SAC has arrested over 5,000 women from February 2021 to February 2024, with many reporting that Burma Army soldiers subjected detainees to sexual abuse while imprisoned and some committed rape. 23 Due to these military activities and the threat of SGBV, many villagers remain afraid of encountering armed actors.

The weaker rule of law as a direct consequence of the ongoing conflict has created an unsafe environment for all villagers. SAC armed actors can only be prosecuted in military courts, out of civilian accountability, and hence soldiers face little responsibility for their actions due to the system of impunity. Crimes committed in KNU-administered areas are being prosecuted under the KNU justice system which is still functioning, although with fewer resources and less security.<sup>24</sup> The current conflict situation inhibits the legislation and justice mechanisms in place, notwithstanding that they already fell short of ensuring adequate protection for survivors.

REDRESS and Global Survivors Fund, "MYANMAR STUDY ON OPPORTUNITIES FOR REPARATIONS FOR SURVIVORS OF CONFLICTRELATED SEXUAL VIOLENCE - Beyond Survival", March 2023.

<sup>&</sup>lt;sup>17</sup> REDRESS and Global Survivors Fund, "Myanmar Study", above.

The State Administration Council (SAC) is the executive governing body created in the aftermath of the February 1st 2021 military coup. It was established by Senior General Min Aung Hlaing on February 2nd 2021, and is composed of eight military officers and eight civilians. The chairperson serves as the de facto head of government of Myanmar and leads the Military Cabinet of Myanmar, the executive branch of the government. Min Aung Hlaing assumed the role of SAC chairperson following the coup.

<sup>19</sup> KHRG, "Why would they target us?": Exploring patterns of the Burma Army's retaliatory abuses against villagers across Southeast Burma, June 2023.

Karen Women's Organisation, <u>"Stop Violence Against Women in Burma"</u>, November 2022. Also: UNDP and UN Women, <u>"Regressing Gender Equality in Myanmar: Women living under the pandemic and military rule"</u>, March 2022; Women's League of Burma, <u>"Barriers at Every Turn. Gender-based violence against ethnic women in Burma."</u> December 2021.

<sup>&</sup>lt;sup>21</sup> UNDP and UN Women, "Regressing Gender Equality in Myanmar", above.

Women's League of Burma, "July - December 2023 Situation Update of Burma/Myanmar", February 2024; Progressive Voice, "Voices of Resilience, Calls for Justice", December 2024; Assistance Association for Political Prisoners (AAPP), "Accountability for the Junta Criminals': Evidence of Crimes Against Humanity Perpetrated by the Armed Wing of the Junta in Burma Since the 2021 Coup", July 2022

<sup>&</sup>lt;sup>23</sup> AAPP, "Women Subjected to Sexual Violence during the Spring Revolution under the Military Coup", March 2024; AAPP, ""Accountability for the Junta Criminals", above.

<sup>&</sup>lt;sup>24</sup> KHRG and KWO, "Girl's rights and protection challenges in Southeast Burma", October 2022.



# 3. Factual Summary: sexual violence against villagers and constrained avenues to justice amidst armed conflict

Since the February 2021 coup and until September 2024, KHRG has received 19 reports of sexual violence, all committed by men (and two boys) against women and girls, in Southeast Burma. At least five of the perpetrators were armed actors and 16 were villagers. The perpetrators targeted 15 girls and four adults in varying locations, including the victims/survivors' homes, illustrating that nowhere is safe for villagers in Southeast Burma.

Some survivors tried reporting the crimes to local leaders to access justice, with some attaining some sort of judicial action. Some survivors/victims or their family members were reticent to report the case due to a lack of trust in the protection of judiciaries, the fear of perpetrators' retaliation, the fear of social stigma, and financial barriers to bring the case to court. KHRG documentation shows an increase in challenges faced by villagers to access the justice system to report crimes of a sexual nature against all perpetrators in Southeast Burma since the 2021 coup, which includes poor law enforcement in both KNU and Burma government legislations due to the escalation of armed conflict and weak rule of law to protect children and women from sexual violence. For crimes perpetrated by armed actors, survivors and victims of sexual violence have faced impossible circumstances to access justice.

This section presents evidence of crimes of a sexual nature committed in Southeast Burma since the 2021 coup until September 2024, and the barriers to justice many victims/survivors in Southeast Burma have faced. This section begins with (3.1.) a summary of the documented difficulties to obtaining justice for sexual crimes, rendering villagers vulnerable to SGBV, including (a) attacks being perpetrated against vulnerable population; (b) granted impunity for perpetrators; (c) financial barriers to access courts; (d) social stigma; and (e) lack of knowledge regarding the laws and reporting mechanisms. This section ends with (3.2.) a summary of the cases that have been successfully reported to the courts and that obtained repercussion for perpetrators and the circumstances that led to it, along with (3.3.) some strategies villagers have adopted to protect themselves.

# 3.1 Weakened rule of law and barriers to accessing justice

Due to the ongoing armed conflict in Southeast Burma, the rule of law has become difficult to exercise in some places, with many villagers reporting feeling a pervasive sense of dread and fear as a consequence of various attacks from armed groups. Nowhere is safe for villagers, which includes safety from sexual violence. As documented by KHRG in the reporting period (February 2021 to September 2024), perpetrators committed sexual violence in different locations, including in the victim/survivor's own home. Perpetrators also targeted villagers of all ages, although the majority were underage girls, and women with mental illnesses. Barriers to justice faced by survivors or family members were numerous: villagers faced difficult and sometimes impossible situations in attempting to access justice because of perpetrator's impunity, lack of action taken by local authorities, unaffordable costs of legal procedures, social stigma misplaced on survivors, or a lack of knowledge on the judicial systems.

#### a) Attacks to vulnerable population

Perpetrators of sexual violence targeted women and girls, regardless of their age or marital status. However, from the 19 incidents of sexual violence perpetrated, 15 victims were children and four were women with mental of physical disabilities.

#### Sexual violence against children:

During the reporting period, KHRG received information indicating that perpetrators, all men (and two boys), committed sexual violence against 15 minors. The perpetrators include armed actors, relatives of the victims/survivors, and villagers. This is illustrative of a persistent ideology of 'male dominance', and of patriarchal societal and familial structures, which remain in the communities in Southeast Burma. Perpetrators of sexual violence against children often committed such crimes repeatedly, or for a prolonged period of time, before the abuse was discovered by (or reported to) guardians, trusted adults or community agents.

One incident concerns a 31-year-old SAC Sergeant from Light Infantry Battalion (LIB)<sup>25</sup> #340, in C--village, Meh Klaw village tract, Bu Tho Township, Mu Traw District, who sexually abused a sevenyear-old girl in the army camp were they both lived. The Sergeant committed sexual violence several times in March 2023. The perpetrator was the stepfather of the survivor. The survivor's mother, named D---, explained: "I did not know when he [perpetrator] started to sexually abuse my elder daughter. [...] On that morning, at about 5:30 am, I woke up and saw he was coming out from my daughter's bedroom. I think he has been sexually abusing my daughter for a long time. Then [on that morning], I went to the toilet and came back to my daughter's room. My daughter was silently still on her bed. I looked at her head and face. I did not see anything strange. When my husband went to his office, at about 8 am, I asked my daughter what happened to her. I asked my daughter 'Did he come to your room last night?'. My daughter said: 'Yes, he did. He opened my mosquito net.' My daughter was afraid to speak up about what had happened. [...] Then, I asked her to tell me exactly what had happened. [...] She also told me that the perpetrator had committed sexual abuse several times at this and that place [at different places in the house's compound]." 26

After the mother became aware of the incident, she secretly left the army camp with her daughter on April 1st 2023 without reporting the case to the SAC administration fearing for her and her daughter's safety. She did not look for justice under the SAC administration or report the case to the Burma government justice department due to a lack of trust in the system. She informed the local Karen National Liberation Army (KNLA)<sup>27</sup> authorities about the incident on her way to her father's village, when she was stopped at a KNLA checkpoint. The KNU justice administration could not take action against the perpetrator because the SAC Sergeant is not under their jurisdiction. Instead, the KNLA soldiers supported the survivor and her mother to reach a safe place.

Another incident involves a villager named U<sup>28</sup> F---, who raped a 17-year-old named Naw<sup>29</sup> E--- in October 2022. The survivor became pregnant as a result. U F--- is Naw E---'s uncle. The crime occurred in G--- village, K'Maw Thway village area, Ler Doh Soh Township, Mergui-Tavoy District. The case was reported to the Ler Doh Soe Township KNU authority. Naw E--- was under the care of a Karen Women's Organisation (KWO) protection centre during her pregnancy, and she later safely delivered her baby.

## Women and girls with mental illness and physical disability:

Perpetrators committed sexual violence against girls and women with mental or physical disabilities, and tended to a repetition of the abuses, when survivors/victims did not report the violence due to the perpetrators' threats or an inability to immediately report the case. Some cases were revealed only after someone else witnessed the abuse or the survivor expressed feeling physical pain. During the reporting period, KHRG documented incidents of sexual violence against two villagers with a mental illness and two villagers with physical disabilities. One of the cases received judicial action under the KNU justice system.

A local monk, Saw<sup>30</sup> H---, from Kruh Tuh Township, Dooplaya District, raped Naw G---, who has an intellectual disability, over a period of two years. The abuse was reported only after a friend of Naw G--- witnessed the incident in March 2023 and reported it to the local authorities. The perpetrator threatened Naw G--- to not report the case, telling her that he would cut her neck if she ever told others. After the case was reported, Naw G--- went under the care of the Karen Women's Organisation (KWO). The case was to be investigated by the local Karen National Police Force (KNPF)<sup>31</sup> and tried by KNU court authorities but no updated information could be obtained by KHRG as of November 2024.

A Light Infantry Battalion (LIB) comprises 500 soldiers. Most Light Infantry Battalions are under-strength with less than 200 soldiers, yet up-to-date information regarding the size of battalions is hard to come by, particularly following the signing of the NCA. LIBs are primarily used for offensive operations, but they are sometimes used for garrison duties.

<sup>26</sup> KHRG, "Mu Traw District Incident Report: An SAC sergeant sexually abused a 7-year-old child in an army camp, March 2023", November 2023.

<sup>&</sup>lt;sup>27</sup> The Karen National Liberation Army is the armed wing of the Karen National Union.

<sup>&</sup>lt;sup>28</sup> 'U' is a Burmese title used for elder men, used before their name.

<sup>&</sup>lt;sup>29</sup> 'Naw' is a S'gaw Karen female honorific title used before a person's name.

<sup>&#</sup>x27;Saw' is male honorific title in S'gaw Karen language.

The Karen National Police Force is the law enforcement agency of the Karen National Union. It was established in 1991.



Another incident occurred on August 5th 2024, at noontime, when Saw I---, a 40-year-old married man, held and squeezed the breasts of a 15-yearold girl, Naw J---, in K--- village, Day Lo Muh Nuh Lah area, Daw Hpa Hkoh Township, Taw Oo District. Naw J--- has been living with a physical disability on her leg and a verbal impairment. The incident occurred while she was babysitting and cooking in her own house. Her guardians and most of the villagers were working on their farms and plantations at the time of the abuse. Naw J--suffered from the pain on her breast so she cried and ran to her neighbour's house and told her neighbour what happened to her. The case was reported to the village head on the next day, August 6th, who referred the case to the KNU leader in the area for further investigation. No new information was obtained by KHRG as of December 2024.

During the reporting period, KHRG received documentation of one incident which involved an elderly woman. On November 12<sup>th</sup> 2023, SAC soldiers entered A--- village, Htee Day village tract, Daw Hpa Hkoh Township, Taw Oo District, and looted, burned and killed villagers' livestock during a skirmish between SAC troops against local KNLA combined forces with People's Defence Force (PDF)<sup>32</sup> near A--- village. Villagers were fleeing and hiding in fear of the fighting and the SAC presence in the village, but Daw<sup>33</sup> B--- (90 years old) was in her own house because she could not run due to her old age. During the fighting, an SAC soldier entered her house, choked her, and raped her. Daw B--- testified:

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"I am very afraid whenever I think about this incident. Whenever I think about it, his [the perpetrator's] face always comes to my mind. [...] When I shouted out [with fear], he held my throat tightly like this. My throat is still painful. [...] I am not shy to talk about this [the attack]."34

Following the incident, the survivor felt unsafe to report the case to the SAC authorities due to an absence of a secure Burma government justice system in the area. Instead, the survivor informed local armed resistance groups (PDF and KNLA) about the incident, but the KNU justice administration also could not take action against the SAC soldier so the survivor remains without access to justice or support.

#### b) Impunity for perpetrators of sexual violence

KHRG documentation since the 2021 coup indicates sexual violence has been committed by both armed actors and villagers on many occasions with complete impunity. Out of the 19 cases that KHRG documented during the reporting period, 14 cases were reported to the KNU justice jurisdiction, one case was reported to local leaders under the Burma government administration, and four cases were not reported to any authority. Even when authorities took action, the investigations were often improper or dragged out, frustrating villagers and using up their resources.

There were numerous challenges blocking the way for survivors to seek justice. One such challenge is the impunity that has been enjoyed by the majority of perpetrators, due to lack of action taken by the authorities, the perpetrator not admitting to the case unless there was an eyewitness, perpetrators and authorities pressuring survivors/victims to withdraw the case, and/or authorities refusing to refer the case to higher positioned authorities.

#### Impunity for military actors:

During the reporting period, four incidents of conflict-related sexual violence were perpetrated by military actors: three incidents were committed by Burma Army soldiers (including one sergeant), and one incident was committed by a KNU/KNLA Peace Council (KNU/KNLA-PC)<sup>35</sup> soldier.

In one instance, a KNU/KNLA Peace Council (KNU/KNLA-PC) named Saw Thar Soe committed sexual violence against two minors in 2023, but

The People's Defence Force (PDF) is an armed resistance established independently as local civilian militias operating across the country. Following the February 1st 2021 military coup and the ongoing brutal violence enacted by the junta, the majority of these groups began working with the National Unity Government (NUG), a body claiming to be the legitimate government of Burma/Myanmar, which then formalized the PDF on May 5th 2021 as a precursor to a federal army.

<sup>33 &#</sup>x27;Daw' is a Burmese female honorific title used before a person's name.

KHRG, "Taw Oo District Incident Report: An SAC soldier committed conflict-related sexual violence against a 90-year-old villager in Daw Hpa Hkoh Township (November 2023)", September 2024.

The KNU/KNLA-PC is an armed group based in the Htoh Kaw Koh village tract area, Hpa-an District. It split from the Karen National Union (KNU) and signed a ceasefire agreement with the Myanmar government in 2007, but refused to transform into a Border Guard Force (BGF) in 2010. It signed the Nationwide Ceasefire Agreement in October 2015 (and are still part of it after the 2021 coup). They currently operate in Hpa-an and Dooplaya districts.



remained exempt from punishment. During the first incident, on April 24th 2023, he attempted to rape a 16-year-old girl named Naw L---, at about 11 pm, on a road nearby M--- village, Meh Theh village tract, Kruh Tuh Township, Dooplaya District. Naw L--- escaped from his attack, but he managed to forcibly kiss her and grab her breast. Naw L--felt unsafe to tell anyone about the incident. On September 9<sup>th</sup> 2023, at about 12 am, the same perpetrator raped a 16-year-old girl named Naw M--- while she was accessing internet connection at the perpetrator's house. The perpetrator, Saw Thar Soe, verbally threated to kill the survivors if they reported the case. However, Naw M--reported the case to Kruh Tuh Township's Karen National Police Force (KNPF) office on September 13th 2023, after she learned that the same perpetrator had also sexually abused her friend Naw L--- months prior. As explained by a local Karen Women Organization (KWO) staff, Naw N---, when the KNPF went to arrest Saw Thar Soe for the crime he committed, his Commander, Zar Tin Mar, protected him from trial: "His [KNU/KNLA-PC] Commander, Zar Tin Mar, said: 'He is my soldier', so the police [KNPF] returned [did not arrest him]. He [the KNU-KNLA-PC Commander] said that he [the perpetrator] was his member [under his command]." but did not take any further actions for justice.36 KHRG received an update on August 2024 that the perpetrator had fled to Thailand so the case could not be pursued any further. The survivors were assisted by the KWO's staff but did not receive formal support.

The same impunity is received by Burma Army soldiers (now under the SAC) who commit conflict-related sexual violence, as listed above, because neither the KNU nor the Burma government civilian courts have jurisdiction or power to take action against them.

#### Lack of action taken by local authorities:

One of the main barriers blocking survivors from accessing any kind of justice is that, regardless of survivors trying hard to seek justice, in some situations local authorities did not take action on

the reported cases and even pressured many survivors to withdraw their case.

In one instance, a villager named Maung<sup>37</sup> Q--sexually assaulted and attempted to rape a 19-year-old married woman, Nan<sup>38</sup> O---, while she was sleeping in her house her with sevenmonth-old child on April 23rd 2023 in Kyaikdon Town, Kaw T'Ree Township, Dooplaya District. The perpetrator, who was the neighbour of Nan O---, entered her bedroom at about 1 am and attempted to rape her. She was able to escape from his initial hold, but Maung Q--- hit the infant that was sleeping in the bed, causing the baby to cry out. The cries of the seven-month-old made the perpetrator afraid that he would be discovered so he ran away. Nan O--- was able to see the perpetrator because of a candle she kept next to her bed. As a result, she reported the case the next morning to the leader of her Town's section, who is under SAC administration. The section leader asked the perpetrator about the incident, but the perpetrator did not admit to the crime. Subsequently, the section leader refused to take further action for the survivor. Later, on May 2<sup>nd</sup> 2023, the section leader told Nan O--- and her family to withdraw the case, but she refused to withdraw the case and requested him to refer the case to the KNU justice authorities. The section leader did not accept and instead pressured her to refer the case to the Border Guard Force (BGF)39, threatening Nan O--- that she would lose the case if she did not sign the referral letter to the BGF. Feeling coerced, she signed the paperwork to have the case referred to the BGF instead. As of December 2023, the case remained unsolved as the BGF had not taken any action.40

In another incident, a school committee member, named S---, sexually assaulted a 15-year-old girl, Naw R---, on November 26<sup>th</sup> 2021, in T--- village, Noh Taw Plah village tract, Noh T'Kaw Township, Dooplaya District. The survivor and her two friends had gone to the perpetrator's house to help him peel betel nut for some pocket money after school. Naw R--- reported the case to her mother and then informed two teachers the day

<sup>&</sup>lt;sup>36</sup> KHRG, "Dooplaya District Incident Report: A KNU/KNLA-PC soldier raped a child and attempted to rape another child in Kruh Tuh Township (April and September 2023)", October 2024.

Maung is a Burmese male honorific title used before a person's name.

<sup>&</sup>lt;sup>38</sup> 'Nan' is a Pwo Karen title used for women, before their name.

<sup>&</sup>lt;sup>39</sup> Border Guard Force (BGF) battalions of the Tatmadaw were established in 2010, and they are composed mostly of soldiers from former non-state armed groups, such as older constellations of the DKBA, which have formalised ceasefire agreements with the Burma/Myanmar government and agreed to transform into battalions within the Tatmadaw.

<sup>&</sup>lt;sup>40</sup> KHRG, "Dooplaya District Incident Report: Man attempts to rape a 19-year-old villager in her home, Kaw T'Ree Township, April 2023", December 2023.



after the incident, but no action was taken against the perpetrator. On June 2022, it was reported to KHRG that the perpetrator, S---, left his position at the school because it was the end of his three-year contract as a school committee member. Although the incident was initially brought to the school authorities, the case was not investigated by any judicial bodies and the victim's family also did not feel confident to move the process any further: they had concerns they would not be able to incriminate the perpetrator in court as the perpetrator was perceived as being very eloquent. The family believed he would reject the accusation.<sup>41</sup>

# c) Financial barriers for court proceedings and reparations

Financial concerns was a primary factor for the survivors/victims of sexual violence to access emergency medical treatment, for cases to be reported to authorities, and to be able to be present for the trial appointments. Lack of finances has proven to be a significant barrier for many villagers, with some reporting that they could not go through the court process due to the transportation costs and court fees. Some family members of victims/ survivors also reported to KHRG that they did not have money to access adequate medical treatment following sexual violence. Since finances are a major concern for villagers, some survivors and their family members viewed reparations as a recourse for justice.

As explained by Naw V---, the mother of a 4-year-old survivor, from W--- village, Htaw Wa Law village tract, Kaw T'Ree Township, Dooplaya District:

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"I do not have strength [money] to go further [take to a higher court]. [...] If we go further [to KNU's Township court], we will have to rent a car and pay for food [as the court is located far from the incident place]. We do not have money for these expenses because we will have to pay for these. His [perpetrator's] parents also told us not to make the case go longer and end the case here, in the village tract level."

The mother of another 4-year-old survivor, X---, from Y--- village, Noung Ta Hkon village tract, Noh T'Kaw Township, Dooplaya District, expressed:

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"I could not describe the feeling now. I also feel sad. It [rape] happened [to my child] when I am in the situation that [I] do not have [money] so I cannot do anything [to respond]. I am about to be in a mental illness state. Sometimes, I was talking alone [to myself] and crying. I was sad when looking at my child. [...] I haven't taken her to the clinic yet because I am now struggling for food to eat."

The father of the survivor also expressed: "I want the case to be handled based on the law. I also want compensation for the child for her medical fee[s] and her future life. It is not that I am [being] thirsty for money. [...] We are now trying to make her live happily. I am afraid that she will be sad. We also [want] her to eat what she likes and live how she prefers to be. But I worry that I could not do it for her anymore, because we are just daily workers."

#### d) Social stigma on survivors:

Social stigma and discriminatory cultural stereotypes also prevented survivors/victims and their families from reporting the case. KHRG documented two incidents that were reported only after the survivors were brought in for medical treatment. A local medic, who provided medical treatment to a 4-year-old girl survivor from Y---village, Noung Ta Hkon village tract, Noh T'Kaw Township, Dooplaya District, on September 12<sup>th</sup> 2024, testified: "They [the parents] came [and

KHRG, "Dooplaya District Incident Report: A 15-year-old female student reported being sexually assaulted by a school committee member, November 2021", July 2022.



brought the girl] to me during the night, at about 10 pm, two days after the incident [happened on September 10<sup>th</sup> 2024], when the girl had a fever. They [family] might feel shameful to show me [what had happened to their daughter]." The medic later reported the case to the Democratic Karen Benevolent Army (DKBA)<sup>42</sup> local authorities.

Another incident regards a long period of domestic and sexual violence that was perpetrated by a 45-year-old man, U Aa---, in Z--- village, Ka Ma Reh Gkyi village tract, Kruh Tuh Township, Dooplaya District. U Aa--- and his wife, along with their six children, migrated from Irrawaddy Region to Z--village for their family's livelihood. U Aa--- had not been supporting his family's livelihood because he was taking drugs, had been stealing money from his wife to gamble, and abused, both physically and mentally, his wife and children, culminating in one incident where he broke one of his wife's hands. He also raped his 14-year-old daughter, Ma<sup>43</sup> Ab---, on multiple occasions. The case was revealed by the youngest child who witnessed an incident of rape around the last week of July 2024, and as Ma Ab---'s womb was injured from being raped several times. She was sent to Az--- clinic, Ka Ma Reh Gyi village tract, Kruh Tuh Township, for medical treatment. The case was reported after the medical test in late July 2024 showed that she had received injuries from rape. The survivor's mother, Daw Ac--- (50 years old) testified: "[My daughter] had experienced it [rape] since last year [2023]. He [U Aa---] always [threated] to kill us. He always violated his children and [threatened] to kill the children if the children answered back. Therefore, our children did not dare to tell me [about the rape case]. I got to know the case only when the youngest one told me [about the incident]. [...] As the place we lived in did not have people [living] nearby and no [other] man [lived] with us, we were afraid to be killed [by the perpetrator]. We lived close to a monastery, there were monks but we did not dare to call out loud [for help]. In the next morning when the light came,

I said [a lie to U Aa---] to be planting the paddy here [near KNU's Township office] and reported the case. [...] My older sons felt ashamed to report the case to our village head [in their village] so we just came here in secret and reported the case to the [armed resistance] group because he [U Aa---] had been torturing us many times." After the case was reported to local KNU Kruh Tuh Township leaders, the local KNPF authorities managed to take the perpetrator into detention and the court process is currently ongoing [as of August 2024].

Social stigma and fear of retaliation also remained a high concern for the survivors and their family members, especially when the survivors are young girls. As a Naw V---, the mother of the 4-year-old survivor from W--- village, Htaw Wa Law village tract, Kaw T'ree Township, Dooplaya District, expressed: "We have to think about it [dignity and future] for when she grows up [into an adult]. [...] Then I have concerns [for retaliation], the boy [underage perpetrator] probably might hate her when they grow up. [...] I think we will just end the case here [at the village level] because we are neighbours and [distant] relatives in the same community so we will not persecute each other. Therefore, we think [it best] to finish the case here in order to restore the dignity of my daughter and just [ask for compensation for her] medicine fee [for her injury]."

After perpetrators commit sexual violence, some survivors faced barriers to continue their live in the community or their education. After sexual violence was committed by the 54-year-old school committee member, against a 15-year-old girl in T--- village, Noh Taw Plah village tract, Noh T'Kaw Township, Dooplaya District, the survivor faced difficulties to resume her studies. The girl expressed: "Actually, I want to study, but I am afraid to continue to study and stay here. I feel embarrassed staying among my friends. I don't want this kind of situation happening to my friends." 44 The girl's mother explained in 2022:

In 1994, the Democratic Karen Buddhist Army (DKBA) split from the KNLA over religious considerations. In 2010, the majority of DKBA troops transformed into BGFs, but one faction refused and changed its name to Democratic Karen Benevolent Army in 2012. Confusingly, there are currently two groups using the acronym DKBA: the main 'Benevolent' DKBA (Democratic Karen Benevolent Army) and the splinter faction 'Buddhist' DKBA (Democratic Karen Buddhist Army). The 'Benevolent' DKBA signed the 2015 Nationwide Ceasefire Agreement but the new 'Buddhist' DKBA splinter faction did not. The latter are still actively engaged in armed clashes with the Tatmadaw in multiple areas in Karen State.

<sup>43 &#</sup>x27;Ma' is a Burmese female honorific title used before a person's name.

<sup>44</sup> KHRG, "Dooplaya District Incident Report: A 15-year-old female student reported being sexually assaulted by a school committee member, November 2021", July 2022.



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"My daughter wanted to come back with me. I am afraid the news about this will spread that is why I let her stay there [school dormitory]. I will let her finish school there this year. Next year, I will remove her from the school. She will surely be embarrassed among her friends. She is convincing herself and her friends also [try to] convince her to finish her studies [the academic year]. I don't want this kind of situation to happen in the future so my daughter will be able to study without any disturbance."

# e) Lack of education regarding the law and reporting mechanisms

Another barrier victims/survivors have faced to access justice is a low awareness of the laws concerning sexual and gender-based violence (SGBV) and the mechanisms for reporting. Some community-based organisations (CBOs) such as the Karen Legal Assistance Centre (KLAC) have been providing legal awareness to the communities, but there are still many communities which have not had access to the awareness trainings yet.

One survivor reported to KHRG how this lack of awareness impeded her ability to access justice. Although a member of an ethnic service organisation committed the rape in December of 2021, the survivor did not report the incident to the local KNU authorities until March 2024. She explained:

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"Regarding to this [reporting the incident years later], if we look back, there are weaknesses [not enough knowledge], as we are women. We have not received training. And at that time, we did not know how to go with the structure [procedures to take the case to the court]."

# 3.2 Cases submitted to the KNU which received official judgement

Despite political and armed conflict in Southeast Burma, local KNU administration departments have continued to operate, including jurisdiction in their territory. Some incidents documented by KHRG received action under the KNU justice system, however, many are currently ongoing with the trial process. Out of 13 incidents that were reported to the KNU justice system, only four cases have received a final judgement, with the perpetrator being arrested and the survivors receiving compensation.

For instance, the four perpetrators of the killing and rape of two children in Ag--- village, Kwee K'Saw Kyee village tract, Waw Ray (Win Yay) Township, Dooplaya District, on April 2022, were convicted under the KNU justice system. The girls, that had disappeared the day before, were found dead on April 25<sup>th</sup> 2022 in a place about one mile (1.6 kilometres) away from the village and their bodies were found with extensive wounds and bruises. Local authorities including village security officers, the village head, the KNPF, the KNLA and health workers from the Karen Department of Health and Welfare (KDHW)<sup>45</sup> and Burma Medical Association (BMA) examined the bodies and believed the girls to have been brutally tortured and raped before they were killed. With the help of the victims' family, villagers, local leaders, the KNPF and local KNLA Company #2, the four perpetrators were found on May 26th 2022 and confessed to committing the abuse. The four perpetrators were Saw Maung Chit Soe, Saw Soe Win Than, Saw Eh Doh Htoo and Saw Hpa Eh Tee (the victims' uncle) from the same village. On September 28th 2022, the KNU Dooplaya District court determined the punishment for each of the perpetrators. Saw Eh Doh Htoo was sentenced to 10 years imprisonment and hard labour, Saw Soe Win Than was sentenced to 17 years imprisonment and hard labour, whereas the two others were given the death sentence. KHRG did not receive further information about whether the latter two were put to death.46

Another incident that obtained judicial action happened in October 2023, concerning a married 48-year-old man, Saw Ak---, who raped a 13-year-

The Karen Department of Health and Welfare (KDHW) is the health department of the Karen National Union. It was established in 1956 to address the lack of public healthcare resources in rural Southeast Myanmar. It currently operates a network of community-based clinics in the region, but its capabilities remain limited due to funding constraints.

KHRG, "Dooplaya District Incident Report: Rape and killing of two adolescent sisters in Waw Ray Township, April 2022", January 2023.



old girl who has a mental illness several times in Ay--- village, Waw Ray Towship, Dooplaya District. The survivor herself reported the case to her village head, who is also a close friend of hers, about two months after the incident, on December 22<sup>nd</sup> 2023. The incident happened while her parents were absent from the house, collecting bamboo in the forest. The girl and her family did not live in the village because of an SAC army camp is based nearby so they moved to a plantation for their family's livelihood and security. The case was settled under the KNU justice system. KHRG received an update on September 7th 2024 stating that the perpetrator had been arrested, sentenced with a life sentence of 20 years, and had to pay 1,500,000 kyat (714.69 USD)<sup>47</sup> as compensation to the survivor.

Another incident taken to court under KNU jurisdiction involved a 60-year-old man, Saw An---, who raped two 12-year-old girls twice, on separate occasions in April 2023. The perpetrator was their neighbour in Ao--- village, Way Th'Lweh village tract, Kruh Tuh Township, Dooplaya District. In the first incident, Saw An--- raped the two girls in his house after giving them an unknown drink which gave them a sore throat, made them feel dizzy and gave them a headache. Several days after the first incident, Saw An--- raped one of the girls again on a pastureland outside of the village after she put the cows out to graze. After the case was reported to local KNU authorities, the KNPF arrested the perpetrator. The KWO assisted the two survivors with protection and counselling, while the case was taken by local KNPF into the KNU Dooplaya District court.<sup>48</sup> On January 16<sup>th</sup> 2024, the perpetrator was found guilty and sentenced to death, however, the sentence was later changed to a life sentence after the perpetrator appealed to the KNU Chairperson.

# 3.3 Villagers' strategies to protect women and girls from sexual violence

The fear and trauma of sexual violence against women and girls perpetrated by Burma Army soldiers has been ingrained in civilians in Southeast Burma, after years of experiencing such violence during military operations. 49 Concerns have increased after the 2021 coup. Therefore, local villagers, especially young women and girls, apply self-protection strategies to avoid sexual violence by armed actors or others, as a highest priority. Many villagers in Southeast Burma try to evade encountering Burma Army soldiers (and allied forces) at all costs to protect themselves from sexual violence, such as by avoiding checkpoints or fleeing militarised areas.<sup>50</sup>

Displacement is one of the common strategies applied by local villagers to avoid encountering Burma Army and allied soldiers and protecting themselves from sexual violence. In one instance on August 10<sup>th</sup> 2021, SAC and BGF soldiers from Lay Kay army camp entered Ap--- village, Htee Hpa Doh Hta village tract, Bilin Township, Doo Tha Htoo District, to go to Yo Klah army camp. Due to the soldiers' base in the village's monastery, a villager from Ap--- village, named Naw Aq---, reported fear of sexual violence based on past experiences, especially when SAC and BGF soldiers are based in the village and male villagers have fled from the village due to the fear of arrest for forced porter or navigator. Naw Aq--- stated:

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"It [sexual violence] happens to the women the most [in the past]. [...] We worry that if they [SAC or BGF soldiers] get drunk, they will rape the women. So, we ask teenage girls to go and sleep in

All conversion estimates for Kyat in this report are based on the official market rate as of December 12th 2024 at 1 USD = 2,098.80 MMK, conversion rate available at <a href="https://www.xe.com/currencyconverter/">https://www.xe.com/currencyconverter/</a>.

<sup>&</sup>lt;sup>48</sup> KHRG, "Dooplaya District Incident Report: A 60-year-old male villager raped two children in Kruh Tuh Township, April 2023." November 2023.

<sup>&</sup>lt;u>Undeniable</u>, above.

KHRG, Resilience and Resistance: Challenges and threats faced by Human Rights Defenders (HRDs) in Southeast Burma since the 2021 coup, September 2024.



the west [the western part of the village, far from the monastery where the troops were staying]." <sup>51</sup>

Villagers in As--- village, P'Ya Raw village tract, Bilin Township, also reported avoiding encounters with SAC and BGF soldiers before they arrived to the village. Villagers fled from their village on April 20<sup>th</sup> 2022 before fighting broke out at Lay Kay army camp, and then more SAC and BGF soldiers arrived to Lay Kay area. Some of the soldiers stopped in As--- village and forced villagers who hid nearby to return to the village on May 12<sup>th</sup> 2022. Young girls who returned with their parents faced sexual harassment by the BGF and

SAC soldiers such as teasing, making jokes and chasing them in the village so parents secretly had to send their young daughters to hiding places far from the village to prevent them from further sexual violence. A As--- villager named Naw At--- testified:

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"I do not let my younger sister return to the village because I am afraid [sexual violence will happen to her]. We just have to wait and see the situation from afar [at the hiding site]." 52

# 4. Security and legal analysis: dysfunctional (inter)national justice systems

Since the 2021 coup, the ongoing armed conflict in Southeast Burma has fostered an environment where sexual violence can be committed with almost blatant impunity. Men, both armed actors and civilian perpetrators, are targeting young girls and women in their houses, plantations, and villages. Since the 2021 coup, KHRG has received an increase in reports of sexual violence each year the conflict continues: 2023 and 2024 saw the highest number of incidents with seven and six incidents respectively, meaning that 70% of incidents from the reporting period have occurred within the last two years. 2024 was also the year that KHRG received reports of armed actors committing conflict-related sexual violence, echoing past brutal experiences of mass rape from Burma Army soldiers in Southeast Burma. This trend, which could indicate an uptick in incidents of sexual violence as the conflict drags on and rule of law becomes weaker, highlights the reality that perpetrators become more emboldened to commit their crimes with impunity. Villagers have relied on displacement as a strategy to avoid armed actors, in addition to limiting their travelling to

avoid checkpoints.

Villagers have faced numerous barriers to obtaining justice. Only four incidents, out of the 19 documented, received judicial sentences: the perpetrators were civilians, the cases were reported to the KNU justice system, and the victims were underage. No adult victims/survivors have seen justice in their cases so far and no armed actor perpetrators have been investigated or tried, which leads to a culture of impunity. Many documented incidents are still awaiting investigations or trials. Villagers also faced high costs in both time and energy to receive justice.

Justice is an integral part of the rule of law of a country. The 1948 United Nations Declaration of Human Rights (UDHR) enshrines the right of everyone to an "effective remedy by the competent national tribunals."<sup>53</sup> To this end, national courts need to be impartial, independent, and transparent to best uphold the rule of law. However, the reality on the ground in Burma has been the opposite. Before the 2021 coup, the Burma Army was violating human rights due to civilian courts having

<sup>51</sup> KHRG, "Doo Tha Htoo District Short Update: Forced labour, looting and skirmishes between the SAC and the KNLA, August 2021", December 2021.

<sup>52</sup> KHRG, <u>Human, Not for Shield: Attack on civilians in Bilin Township, Doo Tha Htoo District, April 22nd to May 22nd 2022.</u> December 2022.

United Nations Declaration of Human Rights (UDHR), 1948, article 8.



no jurisdiction over them, a practice that is still observed to this day. After the 2021 coup, access to stable and predictable national legal mechanisms has disappeared. Reportedly, villagers encounter high costs through the court system, a lack of transparency, and a lack of understanding the justice system or their rights to remedy as large barriers to justice.

There are also many shortcomings in the protection of women and girls from sexual violence under national legislation. Burma's penal code criminalises the act of rape (defined as 'sexual intercourse'), however, husbands are excepted from the crime of rape against their wives, rendering marital rape not penalised under Burma law.<sup>54</sup> The lack of reporting on this crime could be due to a lack of official criminalisation. The age of consent is set at 12 years old.<sup>55</sup> The Penal Code also criminalises abortion and only provides for an exception in cases where it would save the life of the woman,<sup>56</sup> although customary practices in Southeast Burma accept abortion when pregnancy was caused by a rape.<sup>57</sup>

Burma(/Myanmar) acceded to the Convention on the Elimination of Discrimination against Women (CEDAW) in 1997. This convention, which also includes gender-based violence under the broad term of discrimination, outlines responsibilities that governments must take to ensure women receive equal treatment in society, which includes making legislative changes where necessary and investigating and prosecuting those who commit sexual and gender-based violence (SGBV).58 As this report has shown, none of the cases of SGBV reported to KHRG since the 2021 coup have been prosecuted by Burma's national judiciary, even though they have the responsibility to do so. The CEDAW also indicates that the Burma government has the responsibility to provide gender-sensitive

trainings to judicial and law enforcement officers, which would greatly improve the protection of survivors. Burma(/Myanmar) is also a signatory to the Convention on the Rights of the Child (CRC) which outlines the responsibilities of states to safeguard children's safety and security, including protection from "all forms of physical or mental violence". <sup>59</sup> Evidence documented by KHRG show that perpetrators committed sexual violence against at least 15 girls during the reporting period, demonstrating that urgent action at governmental level is needed to protect children.

Under International Humanitarian Law (IHL), military actors are prohibited from committing rape. The Additional Protocol II (AP II) of 1977, which covers armed conflicts of a non-international character, prohibits rape and other 'humiliating and degrading treatment'. 60 Even though Burma has not ratified the AP II, many of the articles within are considered customary international law, including the article prohibiting rape. The reports of sexual violence perpetrated against civilians by armed actors, three involving Burma Army soldiers under the SAC, clearly violate IHL.

Under international criminal law, rape is seen as a *crime against humanity* when committed as "part of a widespread or systematic attack directed against any civilian population" and as a war crime when committed against persons protected under the Geneva Conventions, of which civilians are.<sup>61</sup> The Burma Army has historically used rape as a weapon of war, which would entail a widespread attack against civilians<sup>62</sup>, with complete impunity. Incidents reported and analysed in this briefing paper illustrate how the Burma Army has used conflict situations to perpetrate sexual violence against villagers, actions that constitutes a war crime, and may amount to a crime against humanity.

Myanmar Penal Code 1861 (as amended in 2016), s 375; HRC, "Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts", September 2019, UN Doc A/HRC/42/CRP.4, para 32.

<sup>55</sup> Myanmar Penal Code 1861 (as amended in 2016), ss 375, 354.

<sup>&</sup>lt;sup>56</sup> Myanmar Penal Code 1861 (as amended in 2016), s 312.

<sup>&</sup>lt;sup>57</sup> KHRG, <u>Foundation of Fear: 25 years of villagers' voices from southeast Myanmar</u>, October 2017.

<sup>&</sup>lt;sup>58</sup> Convention on the Elimination of Discrimination Against Women (CEDAW), articles 2(a) – 2(e); article 3

Convention of the Rights of the Child (CRC), Geneva, 20 November 1989, Article 19 (1)

<sup>60 1977</sup> Additional Protocol II, Article 4(2)(e)

<sup>61 1998</sup> Rome Statute of the International Criminal Court, Articles 7(1)(g) & 8(2)(b)(xxii)

<sup>62</sup> International Human Rights Clinic at Harvard Law School, "Crimes in Burma," Cambridge, MA: International Human Rights Clinic at Harvard Law School, 2009.



#### 5. Recommendations

For international stakeholders, non-governmental organisations (NGOs), local authorities, and regional and foreign governments:

- Acknowledge that the SAC is the root cause of the current human rights crisis in Burma, and refrain from giving them any political legitimacy;
- Take immediate action to bring military leaders in Burma who permitted and perpetuated sexual and gender-based violence (SGBV) to justice in international courts and tribunals;
- Adopt a victim-centred approach in criminal proceedings, in a way that prevents the revictimisation of survivors, ensures their safety, and protects their identity;
- Undertake further appropriate measures to punish and combat sexual violence committed by military personnel, police officers and villagers;
- Acknowledge the difficulty for survivors to seek justice under the current political and conflict situation, leading to an even greater need for protection services and support;
- Direct funding earmarked for protection services for victims of SGBV and other forms of violence to local existing CSO/CBOs (in Burma and neighbouring countries) already operating on the ground so that they can expand and develop support programmes and services, including child protection services;
- Assist in the creation of shelters for victims of sexual and gender-based violence, both locally and across the border;
- Address the root causes of sexual violence, including the traditional gender perceptions that remain;
- Increase gender sensitivity and gender based education at all levels of society.

### Front cover photo note

This photo was taken in December 2023 in Hpa-an District at a celebration for the 75th Human Right's Day, organised by KHRG. The photo shows a group of young Karen girls performing a traditional Karen bamboo dance. [Photo: KHRG]

#### **About KHRG**

Founded in 1992, Karen Human Rights Group is an independent local organisation committed to improving the human rights situation in Southeast Burma. KHRG trains local people to document and gather evidence of human rights abuses, and publishes this information to project the voices, experiences and perspectives of local communities. More examples of our work can be seen online at <a href="https://www.khrg.org">www.khrg.org</a>.