



“NO ONE CAN PROTECT US”

WAR CRIMES AND ABUSES IN MYANMAR’S RAKHINE STATE

AMNESTY
INTERNATIONAL



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First published in 2019
by Amnesty International Ltd
Peter Benenson House, 1 Easton Street
London WC1X 0DW, UK

Index: ASA 16/0417/2019
Original language: English

amnesty.org



Cover photo: A Myanmar border guard police officer mans his station at the Goke Pi police outpost, in Buthidaung Township, northern Rakhine State, 07 January 2019.
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MAP OF MYANMAR



MAP OF RAKHINE STATE



GLOSSARY

WORD	DESCRIPTION
AA	Arakan Army, an ethnic Rakhine armed group formed in 2009.
BGP	Border Guard Police
ICC	International Criminal Court
IDP	Internally displaced person
IED	Improvised Explosive Device, typically a landmine-like or bomb-like weapon.
INGO	International Non-Governmental Organization
LIB/IB	Light Infantry Battalion (<i>Hka Ma Ya</i> , in Burmese) and Infantry Battalion (<i>Hka La Ya</i>), Myanmar Army units that are subordinated to a higher command, such as a Light Infantry Division or Regional Command.
LID	Light Infantry Division (<i>Tat Ma</i> , in Burmese), one of two types of “combat divisions” in the Myanmar Army. There are 10 LIDs, which in turn have around 10 infantry battalions or light infantry battalions (IBs/LIBs). They are often deployed rapidly around the country.
MOC/OCC	Military Operation Command or Operation Control Command (both translations of <i>Sa Ka Hka</i> , in Burmese), which is the second of two types of “combat divisions” in the Myanmar Army. This report uses the term MOC. There are 20 MOCs in the Myanmar Army; three are based in Rakhine State: MOC 15, MOC 9, and MOC 5.
Tatmadaw	The official name of the Myanmar Armed Forces.
Village tract	An administrative subdivision in rural areas of Myanmar. In Rakhine State, it comprises a collection of villages, often of mixed ethnicity.

EXECUTIVE SUMMARY

“We heard an explosion... [soldiers] started shooting. It kept going most of the night. When the sun rose... we fled. I want to go back but I’m afraid the same thing will happen again... No one can protect us from the military.”

A 33-year-old ethnic Rakhine woman from Buthidaung Township, whose village was attacked by Myanmar soldiers in February 2019, interviewed on 30 March 2019.

On 4 January 2019 the Arakan Army (AA), an ethnic Rakhine armed group, launched coordinated attacks on four police posts in northern Rakhine State, killing 13 police officers and injuring nine others. The attacks – which came after months of low-level yet steadily increasing clashes between the group and the Myanmar military – triggered a major escalation in the conflict.

Since then, Rakhine State – the site of the military’s horrific attacks on the Rohingya population in October and November 2016, and again from August 2017 – has plunged further into crisis. Days after the AA attacks, a government spokesperson announced that the military, officially known as the Tatmadaw, had been instructed to “crush” the AA. The military deployed additional combat division troops to the region, and the authorities suspended humanitarian access for most UN agencies and international humanitarian organizations. In the months that have followed, the fighting has intensified with regular clashes between the two parties. As is so often the case in Myanmar, civilians have paid the heaviest cost.

This briefing documents violations of international humanitarian law and human rights abuses in Rakhine State since 4 January 2019, the overwhelming majority of which have been committed by the Myanmar military. It is based on research undertaken between January and May 2019, including 81 interviews with people directly affected by the conflict, 54 of which were done in-person in Rakhine State in March 2019 and another 27 by telephone. In addition, Amnesty International interviewed local and international humanitarian officials; local human rights activists; and journalists covering the conflict. The organization also reviewed photographs and videos related to human rights violations and analysed satellite imagery of the affected areas.

Amnesty International’s research found that the military has fired indiscriminately in civilian areas, killing and injuring civilians and damaging homes and other property. Compounding the situation, soldiers have at times obstructed access to medical treatment for civilians injured by such attacks. In late January, a seven-year-old ethnic Rakhine boy died after a mortar exploded in Tha Mee Hla village, Rathedaung Township, during fighting between the AA and Myanmar military. Although he was severely injured, it took several hours before soldiers gave his family permission to take him to a hospital; he died the following day. In another incident in early April, a helicopter opened fire on Rohingya workers cutting bamboo in the forest close to the Sai Din waterfall in Buthidaung Township, killing at least six civilians and injuring at least 13 more. An ethnic Rohingya man who was severely injured during the attacks told Amnesty International, “*The helicopter came from behind the mountain. Within minutes it fired rockets... I was running for my life thinking about my family and how I would survive.*”

The Myanmar security forces have also arrested and detained civilians – usually ethnic Rakhine men of fighting age – whom they appear to target on the basis of their ethnicity and an assumed involvement with the AA. Arbitrary arrests usually occurred in areas with ongoing or recent clashes. Detainees were often subjected to torture and other ill-treatment in an attempt to obtain information about the group. In early May 2019, Myanmar soldiers extrajudicially executed six ethnic Rakhine men who were among several hundred detained villagers in Kyauk Tan village, Rathedaung Township. Separately, Amnesty International documented the enforced disappearance of six men – one ethnic Mro and five ethnic Rakhine – in mid-February. A witness said she last saw one of the men in military custody. Since then, families have had no information about the fate and whereabouts of their loved ones. *“I want to get information about him – I want to know what happened... Even if he is dead, I need to know,”* one relative explained.

While searching homes and villages for AA fighters, Myanmar soldiers have engaged in looting and confiscation of property, taking valuable items – including gold, livestock, food, and solar electricity panels. In some cases, villagers saw the military taking their property; in others, they returned home after fleeing fighting to find their houses ransacked and their belongings stolen or destroyed.

Continuing a practice that dates back decades, the Myanmar Army has also subjected civilians to forced labour, including making them transport soldiers, weapons and ammunition, and food supplies. Ethnic Rohingya men appear to be particularly targeted, and are often made to perform sentry duty at night. In addition to using civilians as forced labourers in support of military operations, Amnesty International documented several instances where Myanmar soldiers used schools as barracks, which can put the life and physical safety of children at risk and restrict their access to education.

As the fighting has intensified and moved closer to civilian areas, people from all communities have been forced to flee their homes and villages. At the time of publication, more than 30,000 had been displaced by the ongoing conflict in Rakhine State, many seeking shelter in temporary displacement camps, schools, and monasteries. Despite this, the Myanmar authorities – both civilian and military – have imposed severe restrictions on humanitarian access, preventing most UN agencies and international humanitarian organizations from assisting people in need.

The authorities have further exacerbated the situation by imposing arbitrary restrictions on the transport of medication, medical supplies, and food within and between conflict-affected townships. Such measures exemplify the Myanmar military’s “Four Cuts” counterinsurgency strategy, which is designed to deprive armed groups of “food, funds, intelligence, and new recruits”, often by imposing measures which punish the wider population. The ongoing conflict and instability is likely to have a significant impact on long-term food security in a region where a large percentage of the population are subsistence farmers, and where many have been unable to access fields and forests to forage or plant rice for the next harvest. A displaced Mro farmer explained his concerns about the looming crisis: “If we miss a year, it will affect the next year too... We will face the consequences of this for at least two years.”

While the overwhelming majority of violations have been perpetrated by the Myanmar military, the Arakan Army has also committed abuses, including abductions and arbitrary deprivation of liberty. Almost a month after they were abducted by AA fighters in Rathedaung Township, the fate and whereabouts of two ethnic Rohingya men remains unknown. In some instances, AA fighters have conducted operations in a manner that has placed civilian villagers at risk of harm.

Those who report on conflict-related abuses face threats and intimidation. As reports of military violations continue to mount, the Tatmadaw has resorted to tried and tested tactics to silence critical reporting, filing criminal complaints against the editors of three news agencies in recent months. These cases are yet another reminder of the continuing threat to freedom of expression in Myanmar, and underscore the need for the NLD-led government, which holds a Parliamentary majority, to take immediate action to repeal or reform repressive laws.

This is not the first time that the Myanmar military has been accused of serious crimes in Rakhine State. As has been thoroughly documented by the UN, Amnesty International and others, from August 2017 the Myanmar security forces launched a major attack on the Rohingya population in northern Rakhine State, killing thousands of women, men, and children, raping women and girls, torturing men and boys in detention sites, and burning hundreds of Rohingya homes and villages to the ground. The violence forced more than 730,000 people to flee across the border to neighbouring Bangladesh. A UN fact-finding team has called for senior military officials to be investigated and prosecuted for crimes against humanity, war crimes, and genocide. Despite this, members of the Myanmar military continue to enjoy impunity. Investigations into military violations – where they happen at all – are not credible, independent, or impartial, and prosecutions virtually non-existent.

Many of the violations documented in this report were committed by the Myanmar Army's 22nd and 55th Light Infantry Divisions (LIDs), identified by victims based on the distinct patches on their uniforms. The decision to deploy these units, which are usually based in other parts of Myanmar, could only have come from the Office of the Commander-in-Chief, Senior General Min Aung Hlaing, suggesting that the current operation against the AA is being overseen at the highest levels of the Myanmar military. Other violations were committed by soldiers from units under Western Command, the regional military command based in Rakhine State and which has been implicated in atrocities against the Rohingya population. The fact that violations – including war crimes – have been committed not only by units long based in Rakhine State and associated with previous atrocities, but also by newly-deployed units, highlights the institutionalised and systemic nature of military abuse in Myanmar.

Even after the significant international attention of recent years, the Myanmar military has shown no sign of reform. On the contrary, and as this report shows, it appears intent on repeating a decades-old pattern of discrimination and violence. It is clear that the civilian-led government cannot and will not step up to protect civilians and ensure justice and accountability; rather, it may have implicitly encouraged or endorsed violations through its order and subsequent public rhetoric to “crush” the AA. Crimes under international law require an international response. It is time for the international community – specifically the UN Security Council – to send a clear and unequivocal message that the violations by the military must stop and those responsible for atrocity crimes will be brought to justice.

METHODOLOGY

This report is based on 81 interviews with people living in conflict-affected areas of Rakhine State and Chin State, most of which were undertaken during field research in March 2019. Three Amnesty International representatives travelled to Sittwe, where they interviewed 54 people from six different conflict-affected townships: Rathedaung, Ponnagyun, Rathedaung, Buthidaung, Kyauktaw, Mrauk-U and Minbya. For security reasons and as a result of restrictions on access, an additional 27 interviews were conducted by telephone between January and May 2019. Interviews were conducted with people who identified themselves as being of Rakhine, Mro, Rohingya, and Khami ethnicity, and who identified as being of Buddhist, Christian, and Muslim faiths.

The research focused on the period since the Arakan Army attacks on police posts on 4 January 2019, when fighting escalated across the northern townships of Rakhine State. However, Amnesty International representatives also interviewed individuals who were affected by the fighting prior to January 2019 – in particular, individuals displaced during clashes between the Myanmar military and Arakan Army from October 2018.

The vast majority of interviews with victims, witnesses, and relatives were conducted with English translation from Rakhine, Burmese, and Rohingya languages and dialects. Interviews in Rakhine State were carried out in private at a secure location. Transport and other costs were reimbursed when interviewees had to travel to meet with Amnesty International representatives, however, no incentives were provided to interviewees in exchange for their accounts. All interviewees were informed about the nature and purpose of the research as well as how the information they provided would be used. Oral consent was obtained from each interviewee prior to the start of the interview and confirmed again at the end of the interview.

Amnesty International has included the names of certain individuals who were interviewed, based on their informed consent. Other people spoke on condition of anonymity. Most people expressed concern that there would be reprisals – from the Myanmar military, the Arakan Army, or the civilian government – if they were identified as having spoken to the organization. For people who requested anonymity, names and other information that could identify them has been withheld for their security.

In addition to interviews with victims and witnesses, Amnesty International examined photographs and videos related to human rights violations; local government orders; satellite imagery; and relevant media and reports. Amnesty International representatives also travelled to Yangon, where they met with UN and humanitarian officials, activists working in and on Rakhine State, independent analysts, journalists, and diplomats. The organization also sought expert advice from military experts.

Villages in Rakhine State often have several names and can include a Rakhine name, a Rohingya name, and an official one. The official names are often spelled in different ways in English. Throughout this report, Amnesty International identifies villages and village tracts based on the spelling by the UN Myanmar Information Management Unit (MIMU).

On 14 May 2019, Amnesty International wrote to the Office of the State Counsellor and to the Commander-in-Chief of the Myanmar Defense Services with specific questions related to our findings and conclusions. At the time of publication, neither office had replied. On 16 May 2019 Amnesty International also wrote to the head of the Arakan Army with specific questions related to our findings and conclusions. On 24 May 2019, two Amnesty International representatives interviewed Major General Twan Mrat Naing, the Head of the Arakan Army; his responses are reflected in this report.

Amnesty International extends its thanks to the individuals and organizations who consented to meet with its representatives and provided information for this report, particularly activists working in and on Rakhine State who helped to facilitate this research and without whom this report would not be possible. Amnesty International is also deeply grateful the victims, their families and representatives who shared their stories, often at great personal risk, and entrusted Amnesty International with raising their experiences and concerns.

1. BACKGROUND

Myanmar's Rakhine State has been the centre of international attention in recent years, particularly since August 2017, when the Myanmar military launched a devastating campaign of violence against the state's predominantly Muslim Rohingya minority, forcing more than 730,000 women, men, and children to flee to neighbouring Bangladesh. A UN Fact-Finding Mission has called for senior military officials to be investigated and tried for crimes against humanity, war crimes, and genocide.¹

While international attention understandably has focused on the plight of the Rohingya, it should not ignore the plight of other ethnic minorities in Rakhine State, who have also faced decades of human rights violations, including discrimination, land confiscation, forced eviction, and forced labour.²

ETHNIC RAKHINE GRIEVANCES AND THE ARAKAN ARMY'S EMERGENCE

Rakhine State is one of the poorest states in Myanmar, and the people there have suffered decades of under-development and economic marginalization. Myanmar is highly centralized, and most power resides with national leaders who are mainly ethnic Burman, the country's largest ethnic group. The ethnic Rakhine community, who comprise a majority in Rakhine State, have long complained about a lack of political autonomy and involvement in decision making, which has fuelled mistrust of the central government and exacerbated tensions with other communities in the state, particularly the Rohingya.³

When the Arakan National Party (ANP) – the main ethnic Rakhine political party to contest the 2015 elections – won a landslide victory in the state, there were expectations among the ethnic Rakhine population of greater influence over decisions affecting their lives.⁴ Instead, the Myanmar government appears to have further centralized power, and failed to meaningfully include ethnic Rakhine politicians in planning for the state's development. Despite having a majority in the Rakhine State Parliament, the ANP was not able to select the State's Chief Minister, a source of resentment for many Rakhine.⁵

Several recent incidents have further hardened resentment against the central government. In January 2018, members of the security forces shot and killed seven ethnic Rakhine protesters in Mrauk-U town; none of the perpetrators was prosecuted.⁶ Then, authorities arrested and imprisoned ethnic Rakhine political leader Aye Maung on politically motivated charges of high treason.⁷ The central government claims investment and development will resolve tensions in the State, ignoring underlying issues of discrimination and impunity; moreover, the development initiatives that have occurred have resulted in little improvement in most people's lives. Given the restrictions on the Rohingya, such initiatives risk deepening inequality.

When it came to power in March 2016, Aung San Suu Kyi's National League for Democracy (NLD)-led government cited the peace process and national reconciliation among its top priorities. Three years later,

¹ Independent International Fact-Finding Mission on Myanmar (UN FFM), *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, 17 September 2018.

² See for example, Amnesty International, *The repression of ethnic minority activists in Myanmar* (ASA 16/001/2010), 16 February 2010; Fortify Rights, *Myanmar: Investigate Forced Labor of Rakhine Buddhists in Western Myanmar*, 15 March 2016; UN FFM, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, pp. 99-109.

³ See International Crisis Group, *Myanmar: The Politics of Rakhine State*, Asia Report No. 261, 22 October 2014, in particular pp. 14-18.

⁴ The ANP won 22 of the 47 seats in Rakhine State; 12 seats were reserved for military appointees. The elections were marked by the political disenfranchisement of the Rohingya, who were denied the right to vote and stand for office.

⁵ Amnesty International interviews with political analysts, October 2016.

⁶ Reuters, "Myanmar police shoot dead seven protesters in troubled Rakhine", 17 January 2018, <https://in.reuters.com/article/myanmar-arakon/myanmar-police-shoot-dead-seven-protesters-in-troubled-rakhine-idINKBN1F6019>.

⁷ *Frontier Myanmar*, "Aye Maung, Wai Hin Aung handed 20-year sentences for high treason", 19 March 2019, <https://frontiermyanmar.net/en/aye-maung-wai-hin-aung-handed-20-year-sentences-for-high-treason>.

despite the convening of four peace conferences, there has been little progress to end the decades-long internal armed conflicts.⁸ Recent years have seen an escalation of fighting in Kachin and northern Shan States, with civilians often bearing the brunt.⁹ As the 2020 general elections approach, an end to the country's multiple, protracted conflicts looks as distant as ever.

Amid the increasing grievances and political disillusionment, the Arakan Army (AA), an ethnic Rakhine armed group, has come to prominence. Established in Kachin State in 2009, the AA is led by a younger generation of ethnic Rakhine nationalists who initially trained under the Kachin Independence Army (KIA) and fought alongside an alliance of ethnic armed groups in northern Myanmar against the Myanmar military, known officially as the Tatmadaw. In addition to training and combat experience, Kachin State offered ample opportunity to recruit young ethnic Rakhine men from the jade mines of Hpakant. Today, the AA is estimated to have a fighting force of 3,000-7,000 troops.¹⁰

Recent years have seen sporadic clashes between the group and the Myanmar military in western Myanmar, primarily around Paletwa in Chin State.¹¹ Since October 2018, there has been a steady increase in fighting.¹² On 21 December 2018, the Myanmar military announced a four-month unilateral ceasefire covering areas in northern and eastern Myanmar; it extended the ceasefire for two more months on 30 April, saying it was to hold further talks with ethnic armed groups in those regions.¹³ Rakhine State was not included.

On 4 January 2019, the AA launched coordinated attacks on four police posts in Rakhine State, symbolically timed to coincide with Myanmar's Independence Day. Days earlier, a convoy carrying the Rakhine State Chief Minister was targeted by three remotely-detonated improvised explosive devices (IEDs).¹⁴ The attack, which required advance knowledge of the Chief Minister's route and schedule, is widely believed to be the work of the AA, although the group has never claimed responsibility.¹⁵

It is unclear how the AA is financed. The Myanmar authorities have accused the group of making money from the drug trade, a claim the AA denies.¹⁶ However, most analysts agree the group's presence in northern Myanmar – the centre of Myanmar's methamphetamine trade – makes it likely that some resources come from drug trafficking.¹⁷

The group appears well equipped. Recent attacks in Rakhine State as well as promotional videos indicate they have relatively new AK-series assault rifles, machine guns, and sniper rifles.¹⁸ They are reported to have well-trained snipers who target military officers.¹⁹ The group also possesses rocket-propelled grenades (RPGs) and light artillery and is adept in using IEDs. They are believed to receive many of their weapons and logistical equipment from allied ethnic armed groups in northern Myanmar.²⁰

The AA employs a highly sophisticated public relations strategy, including through social media. Evoking memories of the ancient kingdom of Arakan, the former name of Rakhine State, the group advocates for "the way of the Rakhita", which centres on self-determination and restoration of Arakanese sovereignty.²¹ The group enjoys significant support from the ethnic Rakhine population, many of whom are captivated by the narrative of righting historical wrongs and restoring the ancient kingdom's glory.²²

⁸ International Crisis Group, *Myanmar's Stalled Transition*, Briefing N°151, 28 August 2018, p. 5.

⁹ Amnesty International, "All the Civilians Suffer": Conflict, Displacement, and Abuse in Northern Myanmar (Index: ASA 16/6429/2017), 14 June 2017.

¹⁰ Amnesty International interviews with analysts, Yangon, March 2019.

¹¹ Chin Human Rights Organization (CHRO), *Thematic briefing: Armed conflict in Paletwa, southern Chin State*, 15 June 2015; DVB (Democratic Voice of Burma), "Arakan Army claims 10 kills against Tatmadaw in Paletwa", 13 December 2016, <http://english.dvb.no/news/arakan-army-claims-10-kills-tatmadaw-paletwa/73090>; *The Myanmar Times*, "Clashes with Tatmadaw escalate in Chin State: AA", 14 November 2017, <https://www.mmtimes.com/news/clashes-tatmadaw-escalate-chin-state-aa.html>.

¹² Myanmar Institute for Peace and Security (MIPS), *Annual Peace & Security Review 2018*, April 2019.

¹³ Office of the Commander-in-Chief of Defence Services, *Statement on Ceasefire and Eternal Peace*, 21 December 2018, <http://cincds.gov.mm/node/1293>. See also *Frontier Myanmar*, "Military extends unilateral ceasefire to June 30 after Muse peace talks", 1 May 2019, <https://frontiermyanmar.net/en/military-extends-unilateral-ceasefire-to-june-30-after-muse-peace-talks>.

¹⁴ *The Global New Light of Myanmar*, "Rakhine State Chief Minister convoy attacked with remote controlled mines", <http://www.globalnewlightofmyanmar.com/rakhine-state-chief-minister-convoy-attacked-with-remote-controlled-mines/>.

¹⁵ Amnesty International interviews, March and April 2019.

¹⁶ *The Myanmar Times*, "Arakan Army denies drug trade accusations", 1 March 2016, <https://www.mmtimes.com/national-news/19231-arakan-army-denies-drug-trade-accusations.html>.

¹⁷ Amnesty International interviews with analysts, March and April 2019. For more about the methamphetamine trade, see International Crisis Group, *Fire and Ice: Conflict and Drugs in Myanmar's Shan State*, Asia Report N°299, 8 January 2019.

¹⁸ Jane's Intelligence Weekly, "Recent attacks by Arakan Army indicate significant offensives against military likely in Myanmar involving ambushes and IEDs", 11 January 2019, <https://www.ianes.com/article/85662/recent-attacks-by-arakan-army-indicate-significant-offensives-against-military-likely-in-myanmar-involving-ambushes-and-ieds>.

¹⁹ Amnesty International interviews with analysts, March and April 2019.

²⁰ Jane's Intelligence Weekly, "Recent attacks by Arakan Army indicate significant offensives against military likely in Myanmar involving ambushes and IEDs", 11 January 2019.

²¹ *The Irrawaddy*, "What Does the Arakan Army Bring to Rakhine State?", 22 January 2019, <https://www.irrawaddy.com/opinion/guest-column/arakan-army-bring-rakhine-state.html>; and Kyaw Linn, "'Way of Rakhita': dream or nightmare?", *Asia Times*, 28 February 2019, <https://www.asiatimes.com/2019/02/opinion/way-of-rakhita-dream-or-nightmare/>.

²² Amnesty International interviews, Yangon and Sittwe, March and April 2019.

While analysts are split on whether the AA has the funding and resources to sustain a long-term insurgency,²³ the groundswell of resentment brought about by the military's abuses against ethnic Rakhine civilians has increased support for the group and will likely prolong conflict.

MILITARY IMPUNITY

The latest iteration of conflict in Rakhine State erupted less than 18 months after the military launched a massive attack on the Rohingya population in northern Rakhine State. Amnesty International and others documented a range of crimes against humanity committed by the Myanmar military, including murder, rape, torture, and deportation.²⁴ A UN Fact-Finding Mission has called for senior military officials to be investigated and tried for crimes against humanity, war crimes and genocide.²⁵

The prospect of meaningful justice and accountability in Myanmar is almost non-existent, as criminal responsibility goes to the military's senior-most levels. The Myanmar military still operates independent of civilian oversight and retains control of its own judicial processes. To date, only seven soldiers are known to have been investigated and convicted for the crimes against the Rohingya, following a Reuters investigation into the massacre of 10 men and boys in Inn Din village.²⁶ It is unclear whether the seven soldiers remain in detention.²⁷ Other official military investigations have whitewashed the military's crimes.²⁸ On 19 March 2019, the Myanmar military announced the formation of an Investigation Court to examine allegations of human rights violations since 25 August 2017, however the process still involves the military investigating itself and is therefore almost certainly incapable of ensuring meaningful accountability.

For its part, the civilian-led government has shown itself to be both unwilling and unable to ensure accountability for serious human rights violations in Rakhine State and elsewhere in the country. Government officials, including Aung San Suu Kyi herself, have largely dismissed allegations of human rights violations by security forces in Rakhine State, even in the face of overwhelming evidence.²⁹

In response to international pressure, on 31 May 2018 the government announced it would establish an Independent Commission of Enquiry, mandated to investigate crimes committed in Rakhine State since August 2017. The Commission, which includes two international members, lacks the independence, impartiality and competence to investigate atrocities and ensure justice. On 16 August 2018, a day after their first government meetings, the Commissioners held a press conference during which the Chairperson said there would be no "finger-pointing", "blaming", or "saying 'you're accountable'".³⁰

The international community has struggled to deal with the crisis. In the 21 months since the military's campaign of crimes against humanity against the Rohingya in Rakhine State forced more than 730,000 Rohingya across the border to Bangladesh, the UN Security Council has failed to take a stand against the gravest crimes under international law, instead opting for quiet diplomacy. In that time, Myanmar has continued to deny abuses, obstruct access of humanitarian workers and independent investigators, and entrench the system of apartheid under which the remaining Rohingya live.

In the face of Security Council inaction, in September 2018 the UN Human Rights Council established an Independent Investigative Mechanism for Myanmar (IIMM), mandated to collect and preserve evidence of crimes under international law and prepare case files for future prosecutions.³¹ The same month, the Office of the Prosecutor of the International Criminal Court (ICC) announced it had opened a preliminary examination into the deportation of the Rohingya population to Bangladesh.³² Despite these moves, those at the senior levels of the military chain of command remain in power.

²³ Amnesty International interviews, March and April 2019. See also Antony Davis, "Why Myanmar's military will win the Rakhine war", *Asia Times*, 5 February 2019, <https://www.asiatimes.com/2019/02/article/why-myanmar-s-military-will-win-the-rakhine-war/>.

²⁴ See Amnesty International, "We will destroy everything"; *Report of the detailed findings of the UN FFM*, pp 177-314; and Human Rights Watch, "All of my body was pain": *Sexual violence against Rohingya women and girls in Burma*, November 2017.

²⁵ UN FFM, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*.

²⁶ Reuters, "Seven Myanmar soldiers sentenced to 10 years for Rohingya massacre", 11 April 2019, <https://www.reuters.com/article/us-myanmar-rohingya-military/seven-myanmar-soldiers-sentenced-to-10-years-for-rohingya-massacre-idUSKBN1HH2ZS>.

²⁷ See, for example, Hannah Beech, "Did Soldiers Jailed for Killings Go Free? Myanmar TV Says Yes (Briefly)," *New York Times*, 18 April 2018, <https://www.nytimes.com/2018/04/18/world/asia/myanmar-amnesty-rohingya-massacre.html>.

²⁸ See Amnesty International, "We Will Destroy Everything," pp. 149-153; UN FFM, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, pp. 393-419.

²⁹ The Guardian "Myanmar tells UN: 'There is no ethnic cleansing and no genocide' of Rohingya," 29 September 2017; <https://www.theguardian.com/world/2017/sep/29/myanmar-un-ethnic-cleansing-genocide-rohingya> *Associated Press*, "Myanmar envoy denies genocide against Rohingya Muslims," 12 October 2017.

³⁰ Press conference available at: <https://www.facebook.com/theirrawaddyburmese/videos/218544952337657?s=60504481&v=e&sfns=mo>.

³¹ Resolution adopted by the Human Rights Council on 27 September 2018, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc: A/HRC/RES/39/2, 3 October 2019.

³² Statement of ICC Prosecutor, Fatou Bensouda, on opening a Preliminary Examination concerning the alleged deportation of the Rohingya people from Myanmar to Bangladesh, 18 September 2018, <https://www.icc-cpi.int/Pages/item.aspx?name=180918-otp-stat-Rohingya>.

2. VIOLATIONS BY THE MYANMAR ARMY

On 4 January 2019, the Arakan Army (AA) launched coordinated attacks on four police posts in northern Rakhine State, killing 13 police officers and injuring nine others. In response, the Myanmar military launched a major operation, deploying additional combat division troops to the region. As the fighting has intensified, the military has carried out regular air- and artillery strikes on suspected AA positions in the mountains.³³

As is often the case, civilians have paid the heaviest cost. The military has fired indiscriminately in civilian areas, killing and injuring civilians and damaging homes and other property. Compounding the situation, soldiers have at times obstructed access to medical treatment for civilians injured by such attacks. Amnesty International has also documented arbitrary arrests, torture and other ill-treatment, and enforced disappearances, primarily of young ethnic Rakhine men who the security forces appear to target on the basis of their ethnicity and an assumed involvement with the AA.

Members of other ethnic minorities, including the Rohingya, have been subjected to human rights violations, including forced labour and indiscriminate attacks in the context of the conflict with the AA. The Myanmar military has also failed to respect the civilian nature of buildings like schools, using them as temporary barracks to cook and sleep in.

Some violations have been committed by military units based in Rakhine State, while others have been perpetrated by combat divisions deployed recently from other parts of Myanmar, including the 22nd and 55th Light Infantry Divisions (LIDs). For these and other crimes, the military continue to operate with impunity.

2.1 UNLAWFUL ATTACKS

INDISCRIMINATE ATTACKS KILLING OR INJURING CIVILIANS

“I heard an explosion. It was very loud and there was a big fireball that fell around us... I grabbed my daughter in my arms... [when] we looked back half of our house’s roof was gone.”

Hla Shwe Maung, a 37-year-old ethnic Rakhine man from Ywar Haung Taw village, Mrauk-U Township, describing when a mortar fired by the Myanmar Army hit his house on 18 March 2019.³⁴

Amnesty International documented seven unlawful attacks which killed 14 civilians and injured at least 29 more. Most of these attacks were indiscriminate, and some may have been direct attacks on civilians. These

³³ These include at night. According to experts on the Myanmar military, this may be the first time the Myanmar military has launched night-time airstrikes during a military campaign. Amnesty International interviews, March and May 2019.

³⁴ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

attacks violated international humanitarian law, which prohibits indiscriminate attacks as well as disproportionate attacks for which the concrete and direct military advantage is not proportional to the potential for killing or injuring civilians. Indiscriminate attacks which kill or injure civilians and disproportionate attacks can constitute war crimes.³⁵ For its part, the AA appears at times to put civilians at risk by moving through or basing themselves near populated areas, which, when there is a feasible alternative, may likewise be a violation of customary international humanitarian law.³⁶

Around 9 a.m. on 26 January 2019, a mortar exploded in Tha Mee Hla village, Rathedaung Township, killing a seven-year-old boy and injuring two others. According to news reports, the AA had ambushed Myanmar soldiers nearby earlier that day.³⁷ Kyaw Kyaw Naing, a 35-year-old ethnic Rakhine man, was checking his traps for fish in the creek near his home when he heard an explosion. He heard gunshots not long after and ran back home. *“There were bullets flying over my head but I didn’t care, I just wanted to get to my family,”* he recalled.³⁸ When he arrived, Kyaw Kyaw Naing found his seven-year-old son Maung Naing Soe unconscious and bleeding heavily from the right side of his head. A few minutes later, soldiers ordered the family out of their house, threatening to shoot them. Other soldiers outside told the family to go to a school in the village.³⁹

At the school, Kyaw Kyaw Naing told a soldier his son was unconscious from an injury. *“Twenty minutes later, a military doctor came,”* he recalled. *“He said [my son] ... needed to be hospitalised. He said, ‘You need to inform the captain to get permission.’”*⁴⁰ Kyaw Kyaw Naing said it was around 1 p.m. when they were finally able to get permission—several hours after he first reported his son’s injury to the military. They were then stopped and delayed by a different group of soldiers on the way to the hospital. The boy ultimately died as he was being transferred by vehicle to Yangon. Kyaw Kyaw Naing told Amnesty International that doctors performed an autopsy and said they found a piece of shrapnel⁴¹ that had pierced the boy’s skull.⁴²

Not long after his son’s death, Kyaw Kyaw Naing was summoned to the Rathedaung Township Administrator’s office, where he was given 150,000 kyats (US\$100) and told it was compensation from the military. He said he initially took the money but returned it the next day. *“I felt really bad,”* he said. *“I don’t want to use money I received for losing my son’s life.”*⁴³

In another incident, on 20 February 2019, an 18-year-old ethnic Rakhine woman named Yee Yee Soe was killed and a four-year-old girl injured when soldiers fired indiscriminately in Myin Hpu village, Rathedaung Township. According to four witnesses interviewed by Amnesty International, Myanmar soldiers arrived in the village around 10 a.m. Soon after, villagers heard an explosion and then saw the soldiers open fire around the village, forcing everyone to hide. *“The soldiers were shooting up in the air,”* said a relative of Yee Yee Soe, who was in the house next door. *“We could see her lying in the doorway, we thought she was lying down to hide... There was liquid... We realised it was blood.”*⁴⁴ Her family later found Yee Yee Soe with gunshot wounds to her head and lower back. Photographs obtained by Amnesty International indicate a bullet entered the back of her neck and exited through her cheek.

After the shooting stopped, soldiers forced the villagers at gunpoint to gather by a lake. There, soldiers separated men and boys from the women and girls and forced them all to lie on the ground. Some men were tied up, beaten, and later taken away.⁴⁵ Four-year-old Padauk Wah was injured during the gunfire and bleeding from her head. A soldier cleaned the wound, but the girl’s mother, Ma Soe, said it wasn’t until the next day, after the soldiers left, that the family was able to seek treatment at a hospital.⁴⁶

³⁵ See International Committee of the Red Cross, Customary International Humanitarian Law, Vol 1: Rules (ICRC, Customary IHL), Rules 11, 12, 14, and 156.

³⁶ ICRC, Customary IHL, Rules 23 and 24. See also Chapter 3: Abuses by the Arakan Army.

³⁷ RFA, “Rakhine Organizations Criticize Myanmar’s Military After 7-Year-Old Boy Dies”, 31 January 2019, <https://www.rfa.org/english/news/myanmar/rakhine-boy-shrapnel-01312019165039.html>.

³⁸ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

³⁹ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

⁴⁰ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

⁴¹ The term “shrapnel” is used in this report according to its now common meaning, to denote the ordnance or bomb fragments, as well as other objects, that an explosion throws out. In military language, the correct terminology would be “shell fragments” or “fragmentation,” as “shrapnel” is specific to a particular artillery weapon, used primarily in the 1800s. See U.S. Army Center of Military History, “What is the difference between artillery shrapnel and shell fragments?”, 3 October 2003, <http://www.history.army.mil/faq/shrapnel.htm>

⁴² Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

⁴³ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁴⁴ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

⁴⁵ For more information, see Section 2.2 Arbitrary arrests, torture and other ill-treatment.

⁴⁶ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

Three of the four witnesses from Myin Hpu identified at least some of the soldiers as being from the 22nd LID, on account of the red patch on the soldiers' arms with the number "22" in Burmese script. One witness also described seeing two members of the Border Guard Police (BGP) among the soldiers.⁴⁷

Amnesty International documented two instances of indiscriminate attacks near Mrauk-U town in mid-March 2019, during an escalation in fighting between the military and the AA. A 52-year-old ethnic Rakhine woman, was at home in the Kyauk Reik Kay ward of Mrauk-U town when it was hit by an explosive ordnance at around 10 p.m. on 15 March 2019. *"First I heard an explosion, it went jiiing then pop pop pop pop pop – like rain on the roof,"* she recalled. *"As I tried to get up, I was hit... I looked up and there were holes in the roof. There was smoke inside the house, I struggled to see, it took a while to find the door [to escape]."*⁴⁸

She went with her family to hide under her house, where she realized she was bleeding. She could hardly walk due to the pain but could not get to a hospital until the next morning, as soldiers were shooting from the nearby road until late into the night. At the hospital, doctors removed three pieces of shrapnel from the right side of her lower back, just below her waist. She was discharged four days later and said a nurse later contacted her to say that military officers had been in the hospital and offered money to the injured. *"[The nurse] told me I should come and get the money, but I told her no, I don't want to be near the military, I don't want to see them, I am too afraid,"* the woman said.⁴⁹

On the evening of 18 March, Myanmar soldiers entered Mrauk-U town and opened fire. Witnesses told AI there was no AA presence at the time of the attack. Another 52-year-old ethnic Rakhine woman living on the outskirts of the town described seeing soldiers come into the town on foot at around 7 p.m., and several trucks of soldiers arrive throughout the night.⁵⁰ Three other witnesses said soldiers opened fire in the town soon after 7 p.m. *"People were running,"* recalled one ethnic Rakhine man. *"The military came in on about four to six trucks and opened fire... I could see the truck. They were shooting non-stop."*⁵¹ Another ethnic Rakhine man in his 30s told Amnesty International that the gunfire continued for around one hour.⁵²

One mortar hit the house of Hla Shwe Maung, a 37-year-old man from Ywar Haung Taw village, on the eastern outskirts of Mrauk-U town. He told Amnesty International that Myanmar soldiers had taken positions around his village at around 4 p.m. *"Just after 7 p.m., I heard gunshots,"* he said. *"I told [everyone] not to worry, that we'd be ok."*⁵³ At around 8:30 p.m., a mortar hit the roof of his house. He recalled, *"It was very loud and there was a big fireball that fell around us. I grabbed my daughter in my arms... [People] screamed and ran in different directions... [When] we looked back, half of our house's roof was gone."*⁵⁴

Hla Shwe Maung's wife and eight-year-old daughter spent several days in the hospital for burn injuries they suffered when the munition hit; he said his daughter had particularly severe wounds on her legs. A husband and wife who had taken cover behind Hla Shwe Maung's house were also injured. *"The husband's hand was broken and the wife, they found pieces of shrapnel in her [forearm],"* Hla Shwe Maung explained. *"After we were discharged [from the hospital], I went back to ask after [them]. They said that soldiers from the 22nd [LID] had come and given them each 100,000 kyats (US\$65)."*⁵⁵ Satellite imagery of Ywar Haung Taw confirms the destruction of at least one building in the village between 19 February and 29 March 2019.

⁴⁷ Amnesty International interviews, Sittwe, Rakhine State, 29 March 2019.

⁴⁸ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁴⁹ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁵⁰ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁵¹ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁵² Amnesty International interview, Yangon, 27 March 2019.

⁵³ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁵⁴ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁵⁵ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.



↑ *Imagery above shows the probable burning and destruction of a structure in Ywar Haung Taw village. The panchromatic imagery inhibits the ability to determine if the structure was razed by fire but it does appear to have been destroyed.*

Amnesty International obtained photographs, taken on 20 March, of mortars villagers claimed to have found in Ywar Haung Taw following the attack. A military expert at Amnesty International confirmed they were the tailbooms of 120mm and 60mm mortars, noting the matching colour and stencilling; all were likely made in Myanmar. The distinctive shape and number of fins is similar to those of mortars photographed by Amnesty International in northern Myanmar in 2017.⁵⁶



↑ *120mm and 60mm mortar tailbooms found in Ywar Haung Taw village, Mrauk-U Township, photographed 20 March 2019 © The Irrawaddy / Moe Myint*

A statement posted on the website of Senior General Min Aung Hlaing, Commander-in-Chief of the Myanmar military, claimed that “AA terrorists attacked a military convoy while the convoy was marching into Mrauk U town for security” and that “AA terrorists took cover in civilian houses.”⁵⁷ The AA denied being engaged in any fighting in Mrauk-U town that evening; although admitted to attacking a Myanmar military convoy around 30km away earlier that day.⁵⁸

Amnesty International has been unable to determine whether AA fighters were present where Myanmar soldiers fired that evening, including in the areas where munitions exploded. However, it is beyond dispute that the military’s actions in and around Mrauk-U town, including the firing of explosive weapons with wide area effect such as mortars in the vicinity of civilian concentrations, violate international humanitarian law.

Indiscriminate attacks have also destroyed and damaged civilian objects, such as homes, which will have long-term consequences for families. Hla Shwe Maung said the mortar that hit his house destroyed the family’s cooking utensils, clothes, jewellery, a solar panel, new chinaware and pots used for guests, and a

⁵⁶ Photographs on file with Amnesty International.

⁵⁷ Reuters, “Six wounded in gunfire as Myanmar soldiers hunt insurgents in temple town”, 19 March 2019, <https://uk.reuters.com/article/uk-myanmar-rakhine/six-wounded-in-gunfire-as-myanmar-soldiers-hunt-insurgents-in-temple-town-idUKKCN1R0159>.

⁵⁸ *The Irrawaddy*, “Reporter’s Notebook: On the Ground in Mrauk-U”, 19 March 2019, <https://www.irrawaddy.com/news/burma/reporters-notebook-ground-mrauk-u.html>.

bike their son used to travel to school.⁵⁹ He said the family also lost important documents, including identity cards, birth certificates, and a property deed for his sister's house. He did not know how they would get these replaced and expressed concern that his children may have difficulty registering for school without birth certificates. *"I lost everything,"* he said. *"... There's no way I'll get back to where I was."*⁶⁰

Five people were killed on the night of 21-22 March in the village of Say Taung, in Buthidaung Township, in what appears to have been another indiscriminate attack. There was fighting nearby between the AA and the Myanmar military in the days before, and people from several villages had fled to Say Taung to take shelter with family and friends. Amnesty International interviewed 11 people who were in Say Taung at the time, all of who told Amnesty International that soldiers arrived on the outskirts of the village around 2 to 3 p.m. on 21 March. Some soldiers gathered at the monastery to the east of the village, where they cooked and ate food.

A 19-year-old ethnic Rakhine man was at the monastery when soldiers arrived. *"I was hiding [inside],"* he told Amnesty International. *"I saw shells fired from the monastery to the village. From 9:30 to 10:30 [p.m.], the shelling was non-stop. Afterwards, [there was] a pause between rounds. They were shooting from the east... They stationed artillery on the hill... Our eardrums almost exploded."*⁶¹

When the shelling started, most villagers ran to take shelter under their houses or in bunkers they had dug in the weeks before as they became increasingly concerned about security forces' activities.⁶² Six of the people interviewed by Amnesty International were injured while seeking shelter – most of them hit by shrapnel. One woman said, *"it felt like fire burning on my skin."*⁶³ A 52-year-old ethnic Rakhine woman said doctors later extracted two fragments from a wound on her right buttock, which had left her longyi soaked in blood. The wound was bandaged when representatives interviewed her a week later.⁶⁴

Witnesses said they heard gunfire until dawn, after which people came out of their hiding places and saw five people had been killed. Four were members of the same family – their bodies were found in a bunker close to their house. Two others who had taken shelter in the same bunker were seriously injured. The body of a fifth person who was killed, an older woman, was found around 20 metres away with wounds to her head and chest.

In a statement issued after the incident, the Myanmar military accused the AA of attacking its soldiers with *"small and heavy weapons"* near Say Taung on the night of 21 March, and said that military units were deployed to the area for *"security"*.⁶⁵ The military said that when defending itself, *"inevitable loss and injuries may happen."*⁶⁶ For its part, the AA has denied that fighting took place that day, and accused the military of attacking the village unprovoked. The witnesses Amnesty International interviewed almost all said the same, though one acknowledged that AA fighters had been in a neighbouring village, in civilian clothes, several days before.⁶⁷ Amnesty International has not been able to determine if AA fighters were in Say Taung that night, but given the descriptions of the duration of the firing, it seems likely that there was a clash nearby at some point that evening/night. Even if they were, the military's mortar barrage into a populated village at night appears to have been an indiscriminate attack.

As the fighting has spread, in particular to Buthidaung Township, Rohingya villagers have also found themselves caught up in the conflict. In one incident, on 3 April 2019, a military helicopter opened fire on Rohingya workers cutting bamboo in the forest close to the Sai Din waterfall in Buthidaung Township. The area is a known location for bamboo cutters to work in – one interviewee who works as a bamboo cutter

⁵⁹ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁶⁰ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁶¹ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁶² Several interviewees from Say Taung, and other villages in Rakhine State told Amnesty International that they or their families had dug trenches/ bunkers around their homes since the start of 2019 in case fighting erupted in or near their village. Amnesty International has documented similar practices during a trip to northern Shan State in March 2019. According to one interviewee from Say Taung, soldiers and police, including BGP, had twice come to the village in the weeks leading up to the attack to check the population list. When they saw the bunkers, they asked what they were for and took pictures. Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁶³ Amnesty International interviews, Sittwe, Rakhine State, 30 March 2019.

⁶⁴ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

⁶⁵ Office of the Commander in Chief, "AA insurgents lie in wait for Tatmadaw columns near Yaykhaungchaung Village, three bodies of enemy seized", 23 March 2019, <http://cincds.gov.mm/node/2232>.

⁶⁶ Office of the Commander in Chief, "AA insurgents lie in wait for Tatmadaw columns near Yaykhaungchaung Village, three bodies of enemy seized", 23 March 2019, <http://cincds.gov.mm/node/2232>.

⁶⁷ Amnesty International interviews, Sittwe, Rakhine State, March 2019.

explained he and other Rohingya labourers are required to apply to the local military commander for special permits to work in the area.⁶⁸

Amnesty International interviewed two ethnic Rohingya men who survived the attack, one from Kin Taung village Buthidaung Township, who was seriously injured. “*The helicopter came from behind the mountain. Within minutes it fired rockets at some huts, then it turned and came back and fired at us. I was running for my life thinking about my family and how I would survive,*” he recalled.⁶⁹ “*I was hit – once on my neck, twice on my head, once in my back.*” After the helicopter left, he and several other workers clambered on to a raft and made their way back to their village, where they were briefly questioned by Myanmar soldiers. “*They asked lots of questions – who fired at you? What is your name? What is your village? I was bleeding a lot [but] they didn’t offer to take me to the hospital,*” he said.⁷⁰

The man spent nine days at the hospital, recalling, “*They took shrapnel from my body. Even now I still find pieces of shrapnel embedded in my skin.*” During that time, members of the military came and gave an envelope with 50,000 kyats (US\$33) to him and the other injured men. “*They didn’t ask what happened, who attacked us, they just came, gave money, took photos and then left,*” he said.⁷¹

A 40-year-old man witnessed the attack while hiding behind a rock in the river. “[*The helicopter*] came from the north, there was no announcement beforehand, no warning signs, they just opened fire. It was shooting rockets from both sides and from underneath,” he said, describing how the helicopter circled around and resumed shooting three times before leaving the area.⁷²

Back in the villages, Rohingya leaders received news of the attack and dispatched a group to help the injured and retrieve the bodies of those who had been killed. “*In the early evening they started returning,*” said an ethnic Rohingya man from Kin Taung village. “*They brought in the dead and injured to the madrassa. I was there. One [person] had his left hand severely injured, his skull was cracked. Another had a crushed leg... Others had injuries on their legs.*”⁷³

He gave Amnesty International the names of four men, including his relative, who were killed during the attack. The same names are on a list of people killed that a trusted Rohingya contact in northern Rakhine State provided to Amnesty International.⁷⁴ According to the list, a total of six Rohingya men and boys were killed in the attack – the youngest just 12 years old. The list also includes the names and biographical details of 13 other men and boys who were injured during the attack and later admitted to Buthidaung hospital.

Amnesty International has been unable to determine what model of helicopter was used in the attack, however the organization has reviewed photographs taken in other parts of Rakhine State, which appear to show use of Mi-24s during military operations. Military analysts have also reported the use of Mi-24s during this period.⁷⁵ The Mi-24 is an attack helicopter, which carries heavy machine guns and rocket pods of the type described in this attack. The deployment of Mi-24s would require the authorization of the War Office.⁷⁶

The Myanmar military has acknowledged the incident, however claims the dead and injured men were with AA fighters at the time.⁷⁷ The AA has denied there was any fighting in the area on 3 April.⁷⁸ Both men who were at the waterfall told Amnesty International that they did not see AA fighters that day, though both had heard from other workers that they were in the area.⁷⁹ This attack may have been a direct attack on civilians. At best, this attack was indiscriminate. Even if there had been some AA fighters in the vicinity, it is clear the military took no or insufficient precautions to minimize civilian harm, including by, for example, having

⁶⁸ Amnesty International telephone interviews, 9 and 10 May 2019.

⁶⁹ Amnesty International telephone interview, 9 May 2019.

⁷⁰ Amnesty International telephone interview, 9 May 2019.

⁷¹ Amnesty International telephone interview, 9 May 2019.

⁷² Amnesty International telephone interview, 9 May 2019.

⁷³ Amnesty International telephone interview, 11 April 2019.

⁷⁴ List on file with Amnesty International.

⁷⁵ Jane’s Defence Weekly, “*Myanmar Air Force conducts night-time airstrikes in Rakhine State*”, 16 April 2019, <https://www.janes.com/article/87924/myanmar-air-force-conducts-night-time-airstrikes-in-rakhine-state>.

⁷⁶ See box on pp. 32-33. For information on the use of air assets during military operations, see Amnesty International, “*We will destroy everything*”, pp. 148-149.

⁷⁷ Reuters, “*Myanmar army says six Rohingya killed in air strike were ‘with terrorists’*”, 5 April 2019, <https://uk.reuters.com/article/uk-myanmar-rohingya/myanmar-army-says-six-rohingya-killed-in-air-strike-were-with-terrorists-idUKKCN1RH0X5>.

⁷⁸ AFP, “*Myanmar says six Rohingya killed in attack were ‘with insurgents’*”, 8 April 2019, <https://frontiermyanmar.net/en/myanmar-says-six-rohingya-killed-in-attack-were-with-insurgents>.

⁷⁹ Amnesty International telephone interviews, 9 May 2019.

spotters to ensure actionable intelligence that would have allowed it to distinguish civilians from military targets or at least to cancel the attack as soon as it was evident that they were firing at civilians.

RECKLESS FIRING NEAR HISTORICAL AND CULTURAL HERITAGE SITES

“If damaged [the temples and pagodas] cannot be replaced... It is a place that reflects a people’s culture and civilization... It should not be a place of armed conflict.”

An expert on the Mrauk-U historical site.⁸⁰

Rakhine State has a rich history and culture, and as the former capital of the ancient kingdom of Arakan, Mrauk-U is home to a large number of temples and other monuments of religious, historical, or other cultural significance. The temples of Mrauk-U, which cover an area of approximately 6 x 7 kilometres have been on UNESCO’s “tentative list” for becoming a world heritage site since 1996 and are a major draw for tourism in the region.⁸¹ In its final report, the Advisory Commission on Rakhine State noted the significance of the site and recommended that the Myanmar government work with international partners to ensure Mrauk-U’s eligibility as a world heritage site. The report further called on the Myanmar authorities to take action to protect historical, religious, and cultural sites in the state, including Mrauk-U.⁸²

In mid-March 2019, as fighting with the Arakan Army escalated around Mrauk-U, the Myanmar Army took up positions in and around the ancient temples and fired guns and mortar rounds from those positions. An expert the Mrauk-U archaeological zone was among a group of people who visited parts of the site on the morning of 15 March after hearing gunshots and explosions the night before. “*We found that the pagoda security house was damaged with many holes. Also, shells were found about [six metres] away from [Htukkanthein Temple] and Anauk Myay Htay pagoda [also known as West Myede pagoda],*” the witness said.⁸³ Amnesty International reviewed photographs taken by the group which show damage to the site.

A British tourist who was visiting Mrauk-U town confirmed the presence of Myanmar soldiers at temples sites on 17 March. “*As we headed west out towards the Latwe Pisi Pagoda... we noticed the soldiers,*” he recalled. “*There were around 12-15 on the very top of the hill where the Pagoda was and about six at the base of the hill.*”⁸⁴ Assuming the soldiers were on a training exercise, he continued to Koe Thaug temple. Minutes after entering, he heard gun fire and shelling and decided to leave the area. “*[When] I looked back towards the Pagoda where we had seen the soldiers... they were in combat positions, some ducked down behind the ruins... I couldn’t see who they were engaging with,*” he said.⁸⁵

Video footage filmed at the site and reviewed by Amnesty International appears to show Myanmar soldiers in position by Latwe Pisi Pagoda. Gun shots and artillery are audible in the background.⁸⁶

Similarly, Hla Shwe Maung, who lives in Ywar Haung Taw village on the outskirts of Mrauk-U, described seeing the military deploy on 18 March to positions in or near several temples by his village, including Lay Kyun Min Mu and Pay Si Taung.⁸⁷ The same day, the Mrauk-U Heritage Trust wrote to the Rakhine State Chief Minister, who is also Chair of the Mrauk-U Archaeological Zone Management Committee, expressing concern about possible damage to historical monuments and calling for protection for the area.⁸⁸ Amnesty International is not aware of any official response to the letter.

⁸⁰ Amnesty International telephone interview, 4 April 2019.

⁸¹ UNESCO, Mrauk-U Archaeological Area and Monuments, <https://whc.unesco.org/en/tentativelists/824/>.

⁸² *Final Report of the Advisory Commission on Rakhine State*, p. 58.

⁸³ Amnesty International telephone interview, 4 April 2019.

⁸⁴ Written statement provided to Amnesty International, 2 May 2019.

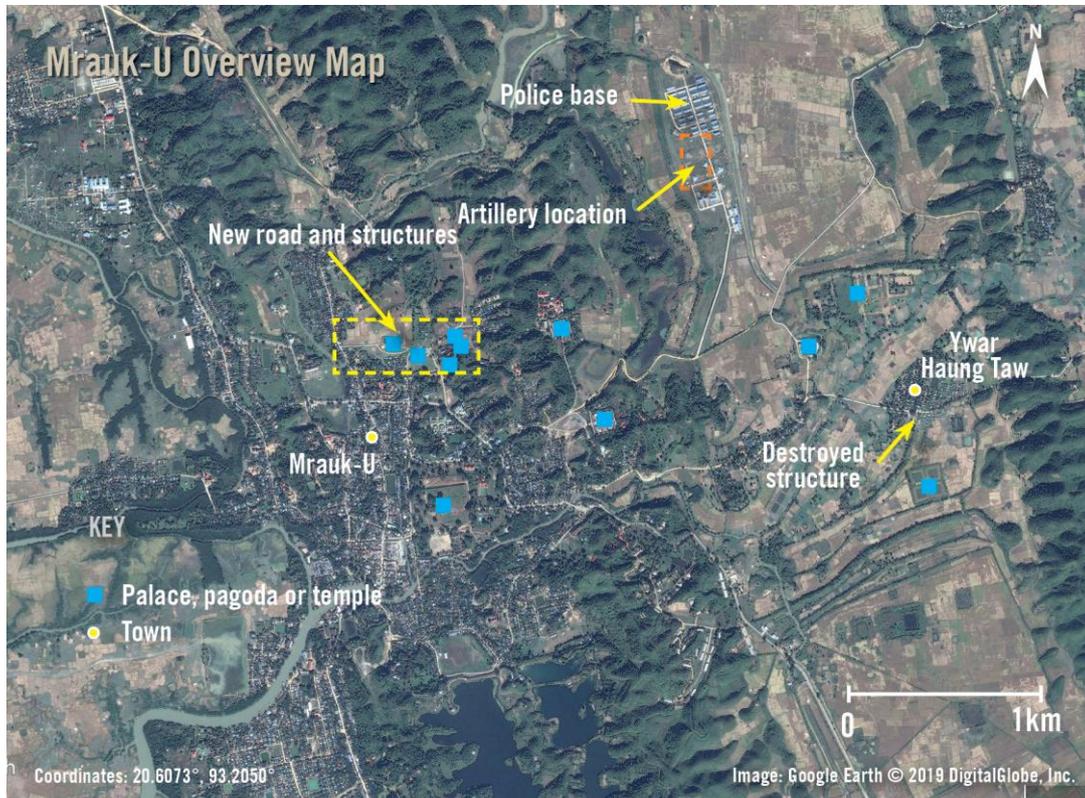
⁸⁵ Written statement provided to Amnesty International, 2 May 2019.

⁸⁶ Original footage on file with Amnesty International.

⁸⁷ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

⁸⁸ Letter and English translation on file with Amnesty International.

The expert on the archaeological site explained that they had not been able to access the site to undertake a detailed assessment of damage and destruction because the military remains in positions around the area. However, the expert raised a number of concerns about the impact of fighting on the historical temples and monuments including: physical damage resulting from gunfire and mortars; structural damage caused by vibrations from repeated firing of artillery in close proximity to the site; the use of the site – and possibly materials from the site – to build bunkers; and the burning of vegetation in the surrounding area.⁸⁹



  *The overview map shows the historic town of Mrauk-U. A structure in Ywar Haung Taw appears destroyed and new artillery is visible at the police base to the north of the city. The town is dotted with ancient palaces, pagodas, and temples with only a few larger ones marked on the map above. A new road and structures are visible close to many of the pagodas and temples.*

Satellite imagery analysis confirms the presence of artillery at the police battalion base to the north of Mrauk-U town, around 750 metres to 1 kilometre away from several large pagodas. The artillery appears to have been positioned in the area at some point after 19 February 2019, which is consistent with witness accounts of heavy shelling from the police base in early March. Satellite imagery also confirms that vegetation in the area surrounding the police base has been destroyed by fire; however, it is not possible to determine whether the fire was deliberate or accidental, or who was responsible. The village of Ywar Haung Taw, where Amnesty International documented an indiscriminate attack (see above), is visible to the southeast.

⁸⁹ Amnesty International telephone interview, 4 April 2019.



Between 19 February 2019 and 29 March 2019 imagery shows what appears to be artillery pointing east from a police base towards the north of Mrauk-U town. The artillery is pointing towards the Kha Kyo Tha Ma mountain range. The land between the base and the mountains has been burned.



Between 19 February 2019 and 29 March 2019 a closer look at the police base shows what appears to be four new artillery positions. The artillery is pointing towards the Kha Kyo Tha Ma mountain range. There are also possible defensive fighting positions and a helicopter landing area visible in close proximity to the artillery.

As a state party to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, Myanmar is bound to respect, protect, and safeguard cultural property during armed conflict, including in non-international armed conflict.⁹⁰ Under the Convention, cultural property is defined as “property of great importance to the cultural heritage of every people, such as monuments of architecture [...] whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical [...] interest.”⁹¹ State parties are required to refrain from any use of the property and its immediate surroundings which “are likely to expose it to destruction or damage” and “any act of hostility, directed against such property”.⁹² Under the Rome Statute of the International Criminal Court and customary international law,

⁹⁰ Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted on 14 May 1954 and ratified by Myanmar on 31 December 1954. Article 19 makes clear that the obligation relating to respect for cultural property apply to armed conflict not of an international character.

⁹¹ Article 1(a).

⁹² Article 4.

“[I]ntentionally directing attacks against ... historic monuments... provided they are not military objectives” is a war crime.⁹³

Amnesty International has not determined whether it was the Myanmar Army, the Arakan Army, or both who have damaged temples and other historical monuments in Mrauk-U by firing mortars that exploded nearby.⁹⁴ Nor has the organization been able to determine whether mortars or artillery were fired from temples and monuments. However, by basing themselves on or in close proximity to the temples and other monuments, the Myanmar Army has exposed historical and cultural property to destruction and damage. These actions constitute breaches of Myanmar’s treaty obligations and may amount to war crimes.

2.2 ARBITRARY ARRESTS, TORTURE AND OTHER ILL-TREATMENT

“[The soldier] asked, ‘Where do the AA keep their weapons?’ I replied ‘I don’t know, I’m not AA’ ... I remember a punch and a kick, then they hit my head with a rifle... I tried to cover my head with my hands but they started kicking and beating [me]. There was blood on my hands, face, and head.”

A 33-year-old ethnic Rakhine man from Ma Har Mu Ni village, Kyauktaw Township, describing his treatment by Myanmar soldiers in March 2019.⁹⁵

Amnesty International documented seven cases of arbitrary arrest in Rakhine State since January 2019. These arrests were exclusively of men – usually men of fighting age – and were often accompanied by torture and other ill-treatment aimed at obtaining information about the AA. Arbitrary arrests usually occurred in areas with ongoing or recent clashes between the military and AA. Those arrested were overwhelmingly of Rakhine ethnicity.

An 18-year-old ethnic Rakhine man from Hnget Taw Ya village, Minbya Township, was one of five men detained by Myanmar soldiers on 19 March 2019. Early that morning, he saw helicopters and fighter jets flying over the village, firing at nearby mountains. Myanmar soldiers from the 55th LID, whom he identified from the patches on their upper arms, arrived in the village around 11:30 a.m. He recalled:

“[They] shot at the houses [and] told people to get out. We were made to lie down on the ground facedown... [They] asked where we had hidden our guns, how long we attended the military training for, and how many soldiers the AA has. I said, ‘I don’t know, I don’t have [weapons]... I haven’t attended any training.’

The soldiers threatened to kill us one by one... They shot my finger, one kicked the back of my head [and] they hit my back with [their] guns... I was bleeding a lot. Another [villager] was stripped of his shirt, [they] pointed [a gun] at him. They said it’s a waste of bullets and threatened to stab him with a knife instead. [Then they] slapped him and kicked him in the stomach.”⁹⁶

At around 4:30 p.m., the men were taken to Pan Myaung Ywar Thit school, where scores of men were already detained. A 25-year-old ethnic Rakhine man who also lived in Hnget Taw Ya, was among those

⁹³ Rome Statute of the International Criminal Court, Art. 8 (2)(e)(iv) and ICRC, Customary IHL, Rule 156. Also, see Prosecutor v. Ahmad Al Faqi Al Mahdi, Case No. ICC-01/12-01/15, Judgment and Sentence (Sept. 27, 2016), paras 45-52 and Resolution 2347 (2017), Adopted by the Security Council at its 7907th meeting, UN Doc: S/RES/2347, 24 March 2017, para. 4.

⁹⁴ In a telephone interview on 24 May 2019, the head of the AA, Major General Twan Mrat Naing, told Amnesty International that AA fighters “haven’t fired a single shot in the archaeological site”, and that he has never instructed his troops to go inside the site or to Mrauk-U town.

⁹⁵ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

⁹⁶ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

being held in the school. He recalled, “[They] asked, ‘Which house in the village has arms?’ I said, ‘I don’t know.’ They then asked, ‘How much food do you send to AA?’ [I told them], ‘I have not seen them.’”⁹⁷

The 25-year-old man said he was then taken a short distance away from the group. A soldier asked him again where the AA kept their weapons. When he said he didn’t know, the soldier punched him repeatedly in the stomach. The men were held until the soldiers left that evening. “I barely walked home, and then I was carried to the hospital by neighbours,” he said.⁹⁸ After receiving treatment, he moved to an IDP camp with his family. “I still cannot carry a water bucket,” he said, 10 days after the incident.⁹⁹

Similarly, a 33-year-old ethnic Rakhine man, was detained and tortured by Myanmar soldiers in Ma Har Mu Ni village, Kyauktaw Township, on 22 March 2019. There had been fighting between the Myanmar Army and the AA in the days before, and the man told Amnesty International he had seen AA fighters in the mountains close to the village. He was working late in his family’s tea shop when soldiers entered around 8 p.m. He recalled:

*“They grabbed my arm, and dragged me out of the shop. They ordered me to lie down on the ground... One of them asked, ‘Are you AA?’, I said, ‘No, I’m not AA.’ Then he asked, ‘Where do the AA keep their weapons?’ I replied, ‘I don’t know, I’m not AA’... I remember a punch and a kick, then they hit my head with a rifle... I tried to cover my head with my hands but they started kicking and beating [me]. There was blood on my hands, face, and head.”*¹⁰⁰

As the beating continued, soldiers searched for weapons and looted items from the shop, including milk, juice, and biscuits. He said he lost consciousness. The next morning, neighbours came to check if he was alive. “My right finger was broken, there were scratches all over my body and I had pain in my chest and back,” he told Amnesty International.¹⁰¹ He was taken to a nearby hospital, where he spent four days.

When committed in connection with an armed conflict, the infliction of severe physical or mental pain or suffering for purposes such as “obtaining information or a confession, punishment intimidation or coercion or for any reason based on discrimination of any kind” amounts to the war crime of torture.¹⁰²

When fighting occurs close to a village, most inhabitants flee, seeking shelter in neighbouring villages or in displacement camps. At times, a small number of villagers – usually older men – stay behind or return early to look after the village and livestock. This places them at risk of arbitrary arrest and other abuse.

A 56-year-old ethnic Rakhine farmer was one of two men detained and beaten by Myanmar soldiers in Buddhaw village, Ponnagyun township, around 15 March. Heavy fighting in the area had forced most villagers to flee in the days before, however the man had returned to check on his cattle. At around 11 a.m., he was on his way to tend to the cows when a group of soldiers entered the village. He recalled:

*“They indicated for me to come [to them]. I was afraid of being shot so I didn’t dare run. They tied my hands behind my back with rope and made me lie down with my face down. [A soldier] asked me to close my eyes and then kicked me... [on] back of the head first – two times – [and then] on the side of my face. After kicking me, [the soldier] put the tip of a long sword against my back. ‘Don’t you know [the] AA?’ he asked. I said, ‘I have not seen them and I don’t know them’.”*¹⁰³

Soldiers later dragged him to a house in the centre of the village and tied him to a post. A second man – also interviewed by Amnesty International – was also brought to the house and tied to a post. The men watched as soldiers searched and looted houses until leaving the village around 9 p.m.; the men remained tied to the post. Neither had been given food, and the only water they received was a small amount from a soldier who did so secretly. After the soldiers left, the 56-year old man managed to struggle free and untied the other.

While some people are released after being arbitrarily arrested and tortured in their village, others are taken to detention sites. Family members often struggle to obtain information about where people are being detained, what they have been charged with, and what the legal process is. On 20 February, soldiers

⁹⁷ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

⁹⁸ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

⁹⁹ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

¹⁰⁰ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁰¹ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁰² Elements of Crimes for the ICC, Definition of torture as a war crime [Rome Statute, Art 8(2)(c)(i)]; ICRC, Customary IHL, Rule 90.

¹⁰³ Amnesty International interview, Rakhine State, 30 March 2019.

arbitrarily arrested two ethnic Rakhine men – Wai Soe Htwan, 33, and Than Phay, 40 – in Myin Hpu village, Rathedaung Township, an incident described above on page 15. After soldiers separated men and boys from women and girls, “*some of the men were being kicked and beaten,*” a 40-year-old ethnic Rakhine woman from the village told Amnesty International. “*I looked up and a soldier kicked me in the head.*”¹⁰⁴

When soldiers left the village around 5 to 6 p.m., they took 12 men, including Wai Soe Htwan and Than Phay; some of the men’s hands were bound behind their backs. Lay Thein Phyu, the wife of Wai Soe Htwan, told Amnesty International that she asked a soldier where they were taking her husband, but he said he did not know.¹⁰⁵ All of the men but Than Phay and Wai Soe Htwan returned to the village that night; those two men were taken to the BGP base in Zay Di Pyin, where Amnesty International previously documented torture and other ill-treatment of detainees.¹⁰⁶ Lay Thein Phyu and a relative of Than Phay went to the base the next day; they saw the men in the BGP compound, their hands tied behind their backs, surrounded by soldiers from the 22nd LID, identified by their patch. Than Phay’s relative told Amnesty International: “*I bought some snacks and water. I went in to the police station and asked them to give them to [my relative]. They said they couldn’t because they weren’t in charge – they said they were in military custody.*”¹⁰⁷

From Zay Di Pyin, the men were transferred to the Rathedaung police station. Family members attended court hearings on 27 February and 21 March, however neither man had legal representation during the two hearings and family members were unclear whether they had been formally charged. On 21 March the men were transferred to Sittwe prison, where they remained at the time of publication.

International human rights law and standards guarantee detainees’ rights to due process, including the right to legal counsel;¹⁰⁸ the right to be brought promptly before a judge and to challenge the lawfulness of detention;¹⁰⁹ and the right to adequate time and facilities to prepare a defence.¹¹⁰ The right to fair trial is also guaranteed in customary international humanitarian law.¹¹¹

When men are detained it often also has a serious impact on their wives and other female relatives, as in Myanmar men are usually the primary breadwinner. The wife of a detained man explained, “*I am struggling without my husband... It is expensive to travel for court hearings and to visit him in prison... In April we have to start ploughing the land. If he’s not back, I’m worried we won’t be able to prepare the land and plant rice for the harvest. I am the new head of the family, but I don’t know what to do.*”¹¹²

2.3 ENFORCED DISAPPEARANCES AND EXTRAJUDICIAL EXECUTIONS

“I want to get information about him – I want to know what happened... Even if he is dead, I need to know.”

The relative of an ethnic Rakhine man, forcibly disappeared by the Myanmar Army in February 2019.¹¹³

Amnesty International documented the cases of six men who went missing in circumstances that strongly suggest that they have been subjected to enforced disappearance by the military.¹¹⁴ The six men – one

¹⁰⁴ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁰⁵ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁰⁶ Amnesty International, “*We will destroy you*”, pp. 32-34.

¹⁰⁷ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁰⁸ Article 9(3) of the ICCPR, Principles 17 and 18 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Body of Principles), UN General Assembly Resolution 43/173 (1988).

¹⁰⁹ Article 9(3), 9(4) of the ICCPR; and Principle 32 of the UN Body of Principles

¹¹⁰ Article 9(3) of the ICCPR.

¹¹¹ See ICRC, Customary IHL, Rule 100

¹¹² Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹¹³ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹¹⁴ Enforced disappearance is defined in Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance as: “...the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the

ethnic Mro and five ethnic Rakhine – disappeared in an area between Mrauk-U and Kyauktaw Townships on 19 February 2019. One of the men, a 61-year-old ethnic Mro man from Yan Aung Pyin village in Mrauk-U Township, was working on his chili plantation when fighting between the Myanmar Army and AA erupted at around 9 a.m. A villager told Amnesty International she went to make sure he was safe, but when she arrived at the plantation saw he had been detained by Myanmar soldiers. The witness recalled:

*“He was sitting on the ground, his hands had been tied behind his back... There were a lot of soldiers... I asked them to release him because he is not well. They replied, ‘don’t worry, we’ll release him soon – go back to your village’. [Then] they took [him] away... I went home but he never came back.”*¹¹⁵

According to the witness, the soldiers were wearing Myanmar Army uniforms. Some spoke the Rakhine dialect, while others spoke only in Burmese. The witness was unable to identify the specific unit but was among several who told Amnesty International that the 22nd LID was known to be operating in the area.¹¹⁶

Five other men went missing in the same area on the same day: brothers-in-law Maung Sein Win, 35, from Kyar Nar Kan village, Kyauktaw Township and Maung Shwe Soe, 29, from Thar Si (Twar Thit), Mrauk-U Township, who had gone to nearby mountains to collect firewood; Myo Min Zaw, 19, and Aye Thein, 33, both from Kyar Net Kan village, Kyauktaw Township, who disappeared while returning on boat from collecting firewood in the area where Kyauktaw and Mrauk-U Townships intersect; and Sein Tha Kyaw, 48, who went missing while tending his chili plantation near his home in Taung Oo village in Mrauk-U Township.¹¹⁷

On 21 February, two days after the disappearances, relatives of the missing men and village officials travelled to a mountainous area between Mrauk-U and Kyauktaw Townships where they found what they believe to be burned human remains.¹¹⁸ Amnesty International reviewed photographs taken at the site but was unable to confirm the presence of human remains or links to the missing men.

Relatives have tried to get information about the fate and whereabouts of their loved ones, however, even getting the authorities to investigate the disappearance has proved difficult. *“First, we went to Kyauktaw police station to file a complaint,”* a relative of one of the missing men explained. *“They wouldn’t accept the case because it happened in Mrauk-U Township, so the same day, we went to Mrauk-U police station. They said they couldn’t accept the case because [my relative] is from Kyauktaw Township. So we went back to the Kyauktaw police station and they finally accepted the case”*.¹¹⁹

A statement issued by the Office of the Commander-in-Chief on 26 February 2019 confirmed that Myanmar Army units had engaged in fighting with the AA in the hills between Mrauk-U and Kyauktaw townships on 19 February, however there has been no information about the missing men.¹²⁰ Relatives interviewed by Amnesty International assume the military killed the six missing men, but say the uncertainty adds to their pain. *“I want to know what happened... even if he is dead. I need to know,”* said the relative of one of the missing men.¹²¹

In armed conflicts, all parties must take all feasible measures to account for persons reported missing as a result of the conflict, and to provide family members with any information they have on the fate of their relatives.¹²² International humanitarian law prohibits enforced disappearances.¹²³ When committed as part of

law”, International Convention for the Protection of All Persons from Enforced Disappearance, adopted by UN General Assembly Res. 61/177, 20 December 2006, Art. 2.

¹¹⁵ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹¹⁶ Amnesty International interviews, Rakhine State, 29 and 30 March 2019. Local media have similarly reported 22nd LID as being active in Mrauk-U and Kyauktaw Townships in early February. See *The Irrawaddy*, “Hundreds More Flee Fighting in Northern Rakhine Over Weekend”, 11 February 2019, <https://www.irrawaddy.com/news/burma/hundreds-flee-fighting-northern-rakhine-weekend.html>.

¹¹⁷ Amnesty International interview, Sittwe, Rakhine State, 29 and 30 March 2019.

¹¹⁸ Amnesty International interviews, Sittwe, Rakhine State, 29 and 30 March 2019. See also *The Irrawaddy*, “Amid Disappearance of Villagers, Three Burned Bodies Found in N. Rakhine”, 22 February 2019, <https://www.irrawaddy.com/news/burma/amid-disappearance-villagers-three-burned-bodies-found-n-rakhine.html>.

¹¹⁹ Amnesty International interview, Rakhine State, 29 March 2019.

¹²⁰ Office of the Commander-in-Chief of Defence Services, “Tatmadaw troops clash with AA, occupy a training depot in Kyauktaw”, 26 February 2019, <http://cincds.gov.mm/node/1957>

¹²¹ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹²² ICRC, Customary IHL, Rule 117.

¹²³ ICRC, Customary IHL, Rule 98.

a widespread or systematic attack on the civilian population, enforced disappearances constitute crimes against humanity.¹²⁴

Amnesty International also documented the extrajudicial execution of six ethnic Rakhine men during an operation in which Myanmar soldiers detained several hundred villagers in Kyauk Tan, Rathedaung Township from 30 April 2019. According to a 48-year-old ethnic Rakhine man who was among those initially detained, around 200 soldiers – including from Light Infantry Battalions (LIBs) 536 and 537, both of which are part of the combat division known as MOC 15 – arrived in the village that morning and summoned several hundred villagers, all men, to the school.¹²⁵ There, soldiers warned the men against supporting the AA; the men were denied food during this time.¹²⁶ Around 100 were released that evening, including the 48-year-old man; soldiers kept most men and boys between the ages of 15 and 50.¹²⁷

According to two people interviewed by Amnesty International and to credible media reports, at around 2 a.m. on 2 May, one of the men tried to escape, and was shot at by Myanmar soldiers.¹²⁸ The noise woke the other male villagers who stood up to see what was happening; soldiers responded by opening fire, killing six people and injuring eight others.¹²⁹ The military has admitted to the killings, but claimed the villagers tried to steal weapons.¹³⁰ The International Committee of the Red Cross confirmed it had transported three “seriously injured patients” to Sittwe General Hospital, one of whom later died of his injuries.¹³¹ On 3 May, the Myanmar military announced they had released 126 of the detained men after ascertaining that they had no ties with the AA.¹³² Most of remaining detainees were gradually released over the following week; at least two were transferred to Sittwe prison after apparently confessing to being members of the AA.¹³³ The military has since announced it would investigate the killings.¹³⁴

Three other ethnic Rakhine men reportedly died in military custody in April. According to news reports, the men were cremated before the families were able to retrieve their bodies.¹³⁵

The right not to be arbitrarily deprived of life is a peremptory norm of international law, from which no derogation is permissible, including during an armed conflict or other public emergency.¹³⁶ International human rights standards are clear that when a person dies in custody, a prompt, impartial and independent investigation must be conducted regardless of the presumed cause of death.¹³⁷ At the time of publication, Amnesty International is not aware of any such investigation in to these deaths. The military investigation in to the killings in Kyauk Tan village clearly cannot not be considered to be independent or impartial.

¹²⁴ Rome Statute, Art.7(1)(i).

¹²⁵ Amnesty International telephone interview, 6 May 2019. See also *The Irrawaddy*, “Army Says 6 Villagers Shot Dead in Detention in N. Rakhine”, 2 May 2019, <https://www.irrawaddy.com/news/burma/army-says-6-villagers-shot-dead-detention-n-rakhine.html>.

¹²⁶ Amnesty International telephone interview, 6 May 2019.

¹²⁷ Amnesty International telephone interview, 6 May 2019.

¹²⁸ Amnesty International telephone interviews, May 2019,

¹²⁹ Amnesty International telephone interviews, May 2019,

¹³⁰ RFA, “Myanmar Army Kills Six Detained Rakhine Villagers And Offers ‘Impossible’ Explanation”, 2 May 2019,

<https://www.rfa.org/english/news/myanmar/myanmar-army-kills-six-detained-rakhine-villagers-05022019164221.html>.

¹³¹ Reuters, “Myanmar troops kill six, detain scores in Rakhine over suspected rebel links: military spokesman”, 2 May 2019,

<https://www.reuters.com/article/us-myanmar-rakhine/myanmar-troops-kill-six-detain-scores-in-rakhine-over-suspected-rebel-links-military-spokesman-idUSKCN1S80R2>; and Development Media Group (DMG), “Kyauktan shooting victim died at Yangon hospital”, 14 May 2019, <https://www.dmediag.com/news/169-kyauktan-shooting-victim-died-at-yangon-hospital>.

¹³² *The Irrawaddy*, “Military Releases 126 Detainees in N. Rakhine”, 3 May 2019, <https://www.irrawaddy.com/news/burma/military-releases-126-detainees-n-rakhine.html>.

¹³³ Development Media Group (DMG), “All detained villagers released”, 13 May 2019, <https://www.dmediag.com/news/164-all-detained-villagers-released>.

¹³⁴ RFA, “Myanmar Army Investigates Kyauk Tan Shooting as Villagers Dispute Military Account”, 4 May 2019, <https://www.rfa.org/english/news/myanmar/rakhine-village-05062019153642.html>.

¹³⁵ AFP (*Agence France Presse*), “Outcry mounts over deaths in custody in Myanmar’s Rakhine”, 26 April 2019, <https://sg.news.yahoo.com/outcry-mounts-over-deaths-custody-myanmars-rakhine-090953144.html>.

¹³⁶ Human Rights Committee, General Comment 36 on Article 6 of the ICCPR, CCPR/C/GC/36, para. 2,

¹³⁷ Principle 9 of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions, Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989. General Comment 36, para. 29: “Loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation.” On applicability of the duty to investigate suspicious deaths to armed conflict situations, see Minnesota Protocol (2016): The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, para 20: “The duty to investigate a potentially unlawful death – promptly, effectively and thoroughly, with independence, impartiality and transparency – applies generally during peacetime, situations of internal disturbances and tensions, and armed conflict.”

2.4 LOOTING AND CONFISCATION OF PROPERTY

Myanmar soldiers have engaged in looting and confiscation of property. People from eight different villages reported having valuable items – including gold, livestock, and electrical equipment – taken during military operations in their village. In some cases, villagers saw the military taking their property; in others, they returned home after fleeing fighting to find their houses ransacked and their belongings stolen or destroyed.

In mid-March, the majority of the population of Buddhaw village, in Ponnagyun Township, fled after the Myanmar military began airstrikes, hitting targets in the mountains to the east. Four people told Amnesty International that their homes were looted, and their belongings destroyed. A 56-year-old ethnic Rakhine man, who was one of the two men found and beaten by soldiers, as described in Section 2.2, said he watched as soldiers searched the house where soldiers tied him to a post and could hear soldiers searching neighbouring houses as well. Later, he found the boxes inside his house broken open; his clothes were torn apart, and his cooking pots, solar panel, and five sacks of rice, worth 140,000 kyats total (US\$90), were all gone. *“That was my [rice] stored for the rainy season, to feed us until the next harvest,”* he said.¹³⁸

A 28-year-old ethnic Rakhine woman from the same village listed the belongings stolen from her: *“From my house they took three of my sewing machines and destroyed the others. They also took our TV, CD player, jewellery, and batteries, and destroyed the solar panel.”*¹³⁹ The woman, who owned a sewing business, explained that without the sewing machines she was no longer able to work or employ staff.

The looting continued in Buddhaw for several days. Another 56-year-old ethnic Rakhine man from the village, who was among a small group to return several days after the two men were beaten and bound, explained that shortly after the group arrived back, soldiers returned and ordered them to go to the school. He said he watched out the window as soldiers took more belongings from houses and caught and cooked pigs and chickens. He identified the soldiers as from the 22nd and 55th LIDs, based on their patches.¹⁴⁰

Myanmar soldiers also killed livestock while searching houses in Myin Hpu village, Rathedaung Township. A 38-year-old ethnic Rakhine woman described how soldiers killed and ate her pig, using her pots, oil, and firewood to cook it. She explained that the pig was worth around 300,000 kyats (US\$200) – a huge sum for people living in one of the poorest parts of Myanmar. *“[The soldiers] said they would provide compensation, but then never did,”* she said.¹⁴¹

Myanmar soldiers have also stolen food and other goods from civilians travelling between townships and villages. A 28-year-old ethnic Rakhine man from Kyauktaw Township explained that when returning to his village in January after buying supplies, including rice, salt, and fish paste, he was stopped at a checkpoint in Taung Min (Rohingya) village by soldiers from 539th LIB, which is part of MOC 9. *“They looked at me carefully and asked if I was an AA soldier,”* he told Amnesty International. *“They confiscated everything that I had bought, including one bag of rice worth 10,000 kyats (US\$6.50). In total, they confiscated 50,000 kyats (US\$33) worth of goods,”* he recalled.¹⁴²

Pillage is prohibited by international humanitarian law and is a war crime.¹⁴³ The Myanmar military has a long and well-documented history of looting and destroying the property of civilians from ethnic minorities during operations in conflict areas.¹⁴⁴ Often, these actions are carried out as part of the military’s “Four Cuts” strategy, which seeks, among other things, to deprive armed groups of food and funds by targeting the food and livelihoods of civilians it perceives to support those armed groups.

¹³⁸ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

¹³⁹ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁴⁰ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁴¹ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁴² Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁴³ ICRC, Customary IHL, Rules 52 and 156; Rome Statute of the ICC, Article 8 (2) (e) (v).

¹⁴⁴ See, for example, Amnesty International, *“All the civilians suffer”*; Human Rights Watch, *“Untold Miseries”*, pp. 25-26 and *“We Are Like Forgotten People”*: *The Chin People of Burma: Unsafe in Burma, Unprotected in India*, January 2009; Harvard Law School International Human Rights Clinic, *Policy Memorandum: Preventing Indiscriminate Attacks and Wilful Killings of Civilians by the Myanmar Military*, March 2014, pp. 12-25.

2.5 FORCED LABOUR AND MILITARY USE OF SCHOOLS

FORCED LABOUR

The Myanmar Army has a long and well-documented history of using civilians for forced labour during conflict, a practice that continues in Rakhine State.¹⁴⁵ Two ethnic Rohingya men in southern Buthidaung Township told Amnesty International that Myanmar soldiers had regularly been in their village in March and April 2019 and forced Rohingya boatmen to transport them across the river. One said:

*“Our village was told to send 10 [to] 12 boatmen... [They] have to transport weapons and soldiers – sometimes it’s just across the river for a couple of hours, sometimes they are gone over night. They don’t get paid. Some villagers also have to fish for them.”*¹⁴⁶

He identified the soldiers as being from the 22nd LID. The Arakan Project, a non-governmental organization which has documented human rights violations against the Rohingya for almost two decades, has also recorded instances in 2019 where Rohingya villagers were forced to transport the military.¹⁴⁷

The same Rohingya villager from southern Buthidaung Township said Myanmar soldiers have also forced Rohingya men to perform sentry duty at night: *“Villagers have to stand guard each night. There are five huts and five people have to stand guard in each hut. They don’t get paid – if you don’t go, you get fined 10,000 (US\$6.50) kyats, or perhaps a chicken.”*¹⁴⁸ An ethnic Rohingya man in his 50s from Buthidaung Town described the same practice, which he said predates the AA’s 4 January attacks.¹⁴⁹ *“Everyone has to do it,”* he said. *“We don’t get paid and if someone can’t do it, you have to find a replacement, or you get fined 3,000 to 5,000 kyats (US\$ 2-3). We have to pay it to the Ward Administrator.”*¹⁵⁰

A 27-year old ethnic Rohingya man from southern Buthidaung Township told Amnesty International he had last been forced to perform sentry duty the week before he was interviewed in mid-May 2019. *“We were told it’s our responsibility to protect the village and the military from an AA attack,”* he said, explaining that men in his village are sometimes forced to work during the day: *“It means we cannot work that day which makes it hard for us to earn a living.”*¹⁵¹

Civilians from Paletwa Township, Chin State, which borders Rakhine State to the north, have also been made to carry food and weapons for the Myanmar military. A 35-year-old ethnic Chin man told Amnesty International, *“The soldiers informed the Village Administrator who informed the IDPs and other villagers... People did not want to go.”*¹⁵² A 44-year-old ethnic Khami man was among a group of villagers who transported food and ammunition for the Myanmar military three times in April 2019: *“[It was for] battalions 380, 234, 20, 375 and the 22nd LID.”*¹⁵³ *I saw marks indicating the units on the rice bags and on their guns. We had to start at 5:30 a.m., we returned around 7 p.m. Everyone got 4,000 kyats (US\$2.50) for each round.”*¹⁵⁴

Local human rights organizations working in and on Chin State have also documented forced labour of ethnic Chin villagers by the Myanmar military, in particular since February 2019.¹⁵⁵

Forced labour, whether paid or unpaid, is in contravention of international human rights law, including the ILO Forced Labour Convention (No. 29), to which Myanmar is a state party.¹⁵⁶ Forced labour that compels people to take part in work directly related to military operations, which would include transporting soldiers

¹⁴⁵ See, for example, Amnesty International, *“All the civilians suffer”*, pp. 20-21; Myanmar: *Exodus from the Shan State* (Index: ASA 16/011/2000), 10 July 2000; Myanmar: *Leaving Home* (Index: ASA 16/023/2005), 7 September 2005. Human Rights Watch, *“Untold Miseries”*, pp. 25, 46-50; “Forced labour in Myanmar still widespread, says ILO,” 25 May 1999.

¹⁴⁶ Amnesty International telephone interview, 11 April 2019.

¹⁴⁷ Amnesty International interview, 4 April 2019.

¹⁴⁸ Amnesty International telephone interview, 11 April 2019.

¹⁴⁹ Amnesty International telephone interview, 11 April 2019.

¹⁵⁰ Amnesty International telephone interview, 11 April 2019.

¹⁵¹ Amnesty International telephone interview, 14 May 2019.

¹⁵² Amnesty International telephone interview, 29 April 2019.

¹⁵³ 20 and 234 are both Infantry Battalions (IBs); 375 and 380 are both Light Infantry Battalions (LIBs). All fall under the Western Command.

¹⁵⁴ Amnesty International telephone interview, 29 April 2019.

¹⁵⁵ See Chin Human Rights Organization (CHRO), *Tatmadaw initiate widespread forced labour demands on Chin civilians in effort to keep Light Infantry Division stocked with food supplies*, 24 May 2019.

¹⁵⁶ See Convention concerning Forced or Compulsory Labour (ILO No. 29), 39 U.N.T.S. 55, entered into force 1 May 1932 (ratified by Myanmar on 4 March 1955). See also International Covenant on Civil and Political Rights (ICCPR), U.N. Doc. A/6316 (1966), 999 U.N.T.S.

and weapons, is also a violation of customary international humanitarian law, including in non-international armed conflicts.¹⁵⁷

MILITARY USE OF SCHOOLS

In addition to using civilians as forced labourers in support of military operations, Amnesty International documented several instances where Myanmar soldiers used schools as barracks. A 47-year-old ethnic Rakhine man from Saung Du village, Kyauktaw Township, told Amnesty International that soldiers from the 22nd and 55th LIDs spent a night at the village school in February 2019.¹⁵⁸ Similarly, a 19-year-old ethnic Rakhine man from Say Taung village in Buthidaung Township said soldiers had stayed several times at two schools in his village – once for around four to five days.¹⁵⁹

Myanmar soldiers appear also to regularly enter Rohingya villages, where they use schools as bases in which to cook and sleep. *“The military are always in the village – they came in three times yesterday alone,”* explained a 35-year-old ethnic Rohingya man from a village in southern Buthidaung Township.¹⁶⁰ He told Amnesty International that on 3 April 2019, a group of several hundred soldiers from the 22nd LID and 551st LIB arrived in the village after fighting with the AA in the mountains to the east. Around half the soldiers left in the direction of the 551st's nearby base; the rest stayed and cooked in the school. *“They made villagers bring them water bottles and three chickens. They didn’t pay,”* he said.¹⁶¹

Two ethnic Rohingya men from Hpon Nyo Leik village tract told Amnesty International that Myanmar soldiers had on several occasions slept in the Rohingya school there. *“The military are [often] around our village,”* recalled one of the men. *“The last time I saw them was around 6 April. They were from the 22nd LID. They came around 5 p.m.... They went to the school [and] cooked food. They took wood from the villagers for the fire. The next morning they went to the mountain and started fighting with the AA.”*¹⁶²

Amnesty International also documented three instances, described in previous sections, in which schools were used as locations to detain or interrogate villagers suspected of involvement with the AA, including in Pan Myaung village tract, Minbya Township; in Buddhaw village, Ponnagyun Township; and, in an incident in which six men were shot dead, in Kyauk Tan village, Rathedaung Township.

International humanitarian law recognizes the protection of schools under general provisions on the protection of civilian objects and the specific provision on cultural property including buildings dedicated to education.¹⁶³ The use of schools by fighting forces can have the effect of turning schools into military objectives, which is why international guidelines urge that schools not be used in any way which could support the military effort.¹⁶⁴ In addition, parties to a conflict must take in to account the special protections accorded to children under international humanitarian law.¹⁶⁵ Where education facilities are used for military purposes, the life and physical safety of children may be put at risk and their access to education restricted, placing Myanmar in violation of its obligations under the Convention on the Rights of the Child and the International Covenant on Economic Social and Cultural Rights.¹⁶⁶

¹⁵⁷ See International Committee of the Red Cross, Customary IHL Rule 95

¹⁵⁸ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

¹⁵⁹ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

¹⁶⁰ Amnesty International telephone interview, 11 April 2019.

¹⁶¹ Amnesty International telephone interview, 11 April 2019.

¹⁶² Amnesty International telephone interview, 11 April 2019.

¹⁶³ ICRC, Customary IHL, Rules 10 and 38.

¹⁶⁴ Safe Schools Declaration and Guidelines for protecting schools and universities from military use during armed conflict, Guideline 1. This principle extends to period when schools and universities are temporarily closed, for example, outside normal class hours, at weekends and during holiday periods.

¹⁶⁵ See Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21, 1950, arts. 14, 17, 23, 24, 38, 50, 82, 89, 94, 132; Additional Protocol I, arts. 70, 77, 78; Additional Protocol II, arts. 4 and 6; ICRC, Customary IHL, Rule 135.

¹⁶⁶ Convention on the Rights of the Child, U.N. Doc. A/44/49 (1989), entered into force 2 September 1990 (ratified by Myanmar on 15 July 1991), arts. 6 and 28; International Covenant on Economic, Social and Cultural Rights (ICESCR), U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 January 1976, (ratified by Myanmar 6 October 2017), art 13. The Committee on the Rights of the Child has repeatedly recommended to states parties to stop the military use of schools. See Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Israel, CRC/C/ISR/CO/2-4 (2013), paras.63-64; Concluding observations on the second periodic report of the Central African Republic, CRC/C/CAF/CO/2, March 8, 2017, paras. 62-63.

2.6 RESTRICTIONS ON HUMANITARIAN ACCESS AND FREEDOM OF MOVEMENT

“The government and military know that if they say no the international community won’t do anything.”

A humanitarian worker operating in Rakhine State.¹⁶⁷

According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), more than 30,000 people have been displaced by the fighting in Rakhine and Chin States since November 2018.¹⁶⁸ The number of people displaced has increased dramatically as the conflict has intensified and moved closer to urban and more populated areas. As of 18 February, OCHA reported approximately 5,500 people displaced in Rakhine State.¹⁶⁹ This figure leapt to more than 16,000 by 24 March,¹⁷⁰ and stood at almost 27,000 two weeks later, on 6 April.¹⁷¹ This new displacement adds to the estimated 128,000 people, most of them Rohingya, who have been displaced in Rakhine State since 2012.¹⁷²

Despite the obvious needs, the Myanmar authorities have severely restricted humanitarian access. Since 10 January 2019, most UN agencies and international humanitarian organizations have been barred from accessing the five conflict-affected townships of Buthidaung, Kyauktaw, Maungdaw, Ponnagyun, and Rathedaung.¹⁷³ Only the International Committee of the Red Cross (ICRC) and World Food Programme (WFP) are exempted from the ban. Authorities imposed additional access restrictions following the escalation of fighting in Mrauk-U Township in March 2019.

The Myanmar authorities’ repeated restrictions on unfettered and sustained humanitarian access to displaced communities and others impacted by the conflict contravenes international humanitarian law, which requires parties to a conflict to “allow and facilitate rapid and unimpeded passage” of impartial humanitarian relief for civilians in need.¹⁷⁴

Humanitarian organizations have expressed concern about the restrictions, warning that they seriously compromise the ability of local and international organizations to meet the needs of displaced communities, including the provision of life-saving assistance.¹⁷⁵ Most displaced people interviewed by Amnesty International had received some form of humanitarian assistance – from the ICRC, local Rakhine civil society organizations, or monks. However, there appear to be gaps. A 25-year-old ethnic Rakhine man, displaced from his village in Minbya Township explained that, despite assurances from IDP camp leaders, he and his family had not received any assistance.¹⁷⁶ Others said that although they had received food assistance, other needs, in particular healthcare, had not been met. “*There is a clinic in the camp, but government nurses haven’t come for the last few weeks so we are worried about the healthcare situation*”, explained a 33-year-old ethnic Mro woman from Kyauktaw Township.¹⁷⁷

¹⁶⁷ Amnesty International interview, 29 March 2019.

¹⁶⁸ OCHA, *Myanmar: New Displacement in Rakhine and Chin states (as of 7 May 2019)*, https://reliefweb.int/sites/reliefweb.int/files/resources/MMR_Rakhine_New_Displacement_07_May_2019.pdf. OCHA estimates are based on information provided by the Rakhine State government, covering both Rakhine and Chin States. As of 23 May 2019, local Rakhine groups estimate the figure to be 41,000 people in Rakhine State alone. Amnesty International correspondence, 27 April 2019. According to Chin human rights groups, there are around 5,000-6,000 conflict-affected people in Chin State, some of whom are displaced. Amnesty International telephone interview 24 May 2019.

¹⁶⁹ OCHA, *Asia and the Pacific: Weekly Regional Humanitarian Snapshot (12 - 18 February 2019)*, https://reliefweb.int/sites/reliefweb.int/files/resources/ROAP_Snapshot_190218.pdf. Note that the figures of displacement are since December 2018.

¹⁷⁰ OCHA, *Myanmar: New Displacement in Rakhine and Chin states (as of 24 Mar 2019)*, https://reliefweb.int/sites/reliefweb.int/files/resources/MMR_Rakhine_New_Displacement_28Mar2019.pdf.

¹⁷¹ OCHA, *Myanmar: New Displacement in Rakhine and Chin states (as of 06 Apr 2019)*, https://reliefweb.int/sites/reliefweb.int/files/resources/MMR_Rakhine_New_Displacement_11Apr2019.pdf.

¹⁷² United Nations and Partners, *2019 Humanitarian Response Plan, January-December 2019*, December 2018, p. 10, https://reliefweb.int/sites/reliefweb.int/files/resources/2019%20Myanmar%20HRP_FINAL_2018%2012%2018.pdf.

¹⁷³ *The Myanmar Times*, “Aid groups barred from Rakhine conflict zones”, 14 January 2019, <https://www.mmtimes.com/news/aid-groups-barred-rakhine-conflict-zones.html>.

¹⁷⁴ See ICRC, Customary IHL: Rule 55. See also U.N. Security Council Res. 1265, 17 September 1999, para. 7.

¹⁷⁵ Statement of INGOs in Myanmar on the situation in Rakhine, 1 April 2019, <https://reliefweb.int/report/myanmar/statement-ingos-myanmar-situation-rakhine-1-april-2019-enmy>.

¹⁷⁶ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

¹⁷⁷ Amnesty International interview, Sittwe, Rakhine State, 31 March 2019.

According to humanitarian organizations, in addition to affecting newly displaced communities, the new access restrictions have affected at least 95,000 people who had previously been receiving support and assistance, jeopardizing their access to healthcare, clean water, and education.¹⁷⁸ The suspension of livelihood programmes and agricultural support services has also raised fears about food security.¹⁷⁹ A humanitarian worker expressed frustration with the situation:

“The government is still allowing tourists to visit [the temples in] Mrauk-U, yet our operations to the area are suspended. They won’t let us support newly displaced communities and aren’t allowing us to support our usual projects... The government and military know that if they say no to things [like access] the international community won’t do anything.”¹⁸⁰

Local human rights organizations have also reported restrictions on humanitarian access to Chin State. An ethnic Chin activist told Amnesty International that access had been restricted since 2015, when the AA became more active in and around Paletwa Township, however the situation had deteriorated further as more people have been affected by the intensifying conflict.¹⁸¹

In addition to restricting humanitarian access, Myanmar’s authorities – both military and civilian – have imposed restrictions on the transport of food and medical supplies in conflict-affected townships. Amnesty International obtained a copy of an order issued by the Kyauktaw Township General Administration Department dated 12 April 2019, which requires any person seeking to transport food, rations, and medical supplies within the township, or to other townships in Rakhine State, to first obtain a permit and submit to inspection by township authorities and police officials. The order is silent on the penalty for non-compliance. The order explicitly states that its aim is to target “terrorist insurgents” through:

“the successful targeting of those things which they have a basic need of in order to be able to continue to exist in the long term, namely... transport of weapons and ammunition, recruitment and assembly of new people, and putting blocks in place to prevent rice and food supplies, medication and medical supplies from being sent to them or reaching them.”¹⁸²

The order exemplifies the Myanmar military’s “Four Cuts” strategy, in which the military aims to deprive armed groups of food, funds, intelligence, and new recruits, often by imposing measures which punish the wider population. Under international norms and standards, parties to the conflict are required to refrain from deliberately impeding the delivery of relief supplies to civilians in need in areas under its control.¹⁸³ Wilfully impeding relief supplies as part of the use of starvation of civilians as a method of warfare is a war crime.¹⁸⁴ In January 2019, the General Administration Department moved under the control of the civilian government;¹⁸⁵ responsibility for the restriction food and medical supplies therefore goes directly to the civilian government as well.

RESTRICTIONS ON FREEDOM OF MOVEMENT

As fighting between the Myanmar military and the AA has intensified, the Myanmar authorities have imposed or otherwise tightened restrictions on movement. On 2 April 2019, Rakhine State authorities imposed a curfew between 9 p.m. and 5 a.m. in the townships of Kyauktaw, Ponnagyun, Rathedaung, Minbya, and Mrauk-U.¹⁸⁶ Meanwhile, the curfew which has been continuously in place in Maungdaw and Buthidaung Townships since 2012 was renewed on 11 April 2019.¹⁸⁷ According to Chin human rights groups, the Myanmar authorities have also imposed a curfew in Matupi Township, Chin State, since February 2019.¹⁸⁸

While some temporary restrictions on movement may be justified on security grounds, they must be necessary and proportionate. International humanitarian law requires that the wounded and sick are collected and cared for.¹⁸⁹ Measures which prevent or unreasonably delay people – including injured

¹⁷⁸ Statement of INGOs in Myanmar on the situation in Rakhine, 1 April 2019, <https://reliefweb.int/report/myanmar/statement-ingos-myanmar-situation-rakhine-1-april-2019-enmy>.

¹⁷⁹ Amnesty International interviews, Yangon and Rakhine State, March and April 2019. See below for further information on concerns around food insecurity.

¹⁸⁰ Amnesty International interview, 29 March 2019.

¹⁸¹ Amnesty International telephone interview, 24 May 2019.

¹⁸² Local Order No. (1 /2019) dated 12 April 2019, and unofficial translation on file with Amnesty International. Amnesty International understands that a similar order was issued in other conflict-affected townships on the same day.

¹⁸³ See ICRC, Customary IHL: Rule 55.

¹⁸⁴ ICRC, Customary IHL, Rule 156

¹⁸⁵ *Frontier Myanmar*, “Govt reveals plan to bring GAD under civilian control”, 22 December 2018, <https://frontiermyanmar.net/en/govt-reveals-plan-to-bring-gad-under-civilian-control>.

¹⁸⁶ Curfew order, dated 1 April 2019, and unofficial translation on file with Amnesty International.

¹⁸⁷ According to Rohingya contacts, at the time of publication the curfew in Maungdaw and Buthidaung is in place between 10pm and 5am. For more information on the continuous curfews in northern Rakhine State, see Amnesty International, “Caged without a roof”, pp. 44-45.

¹⁸⁸ Chin Human Rights Organization (CHRO), *Movement Restrictions and Curfews Imposed on Villagers from Matupi Township as Tatmadaw Reinforces Positions in Chin State*. 9 February 2019.

¹⁸⁹ Article 3, Common to the Four Geneva Conventions of 1949

civilians – from accessing urgent medical treatment, cannot be justified.¹⁹⁰ This was the case in the aftermath of a Myanmar military helicopter attack on Rohingya villagers in Buthidaung Township in early April 2019. An ethnic Rohingya man who helped coordinate medical treatment for the injured explained: “We had to negotiate with the military commander to take them to the hospital. Those with very severe injuries were taken immediately, but those who came back later couldn’t travel [at night time] because of the curfew. They had to wait until the next day until they were able to get to the hospital.”¹⁹¹

In addition to the curfew, three Rohingya men living in or close to Buthidaung town told Amnesty International that authorities had established at least two new checkpoints in the town, close to the main market. One of the men additionally reported new checkpoints on the road between Maungdaw and Buthidaung towns.¹⁹² Amnesty International has previously documented extortion, harassment, and physical abuse at such checkpoints, which, in addition to being abusive, can also prevent people from accessing markets, healthcare, and other services.¹⁹³

People from other ethnic communities have also felt the impact of tightened restrictions on movement. Amnesty International interviewed two ethnic Rakhine men – both from Kyauktaw Township – who explained that villagers needed a recommendation letter from their Village Administrator and the police in order to move between villages. “A recommendation letter is valid for one day, for one use only. There is no fee involved... but [the police] ask questions before issuing a recommendation letter,” explained one of the men, a 28-year-old from Kyun Thar Yar village. As described above, soldiers stopped him at a checkpoint, questioned him about the AA, and stole food items from him.

Security forces also blocked people from Kyauk Tan, Rathedaung Township, from leaving the village for around a week during the mass detention of ethnic Rakhine men and boys (described above). “Everyone is struggling,” explained a 48-year-old ethnic Rakhine man who was in the village at the time. “People who have illnesses... people who have run out of medicines cannot go to the clinic. Nobody can get into the village either... The soldiers have blocked the village.”¹⁹⁴

A LOOMING FOOD INSECURITY CRISIS

Many interviewees told Amnesty International that the ongoing conflict and instability is likely to have a significant impact on their food security. An ethnic Rohingya man from Buthidaung Township told Amnesty International that the cost of food was starting to increase: “[Before the fighting, a bag of rice was 20,000 kyats, but today it’s 24,000 kyats. A litre of oil was 1,000 kyats, now it’s 1,500.”¹⁹⁵

Most villagers expressed concern about how they would access fields and forests, and what it would mean for their ability to grow and harvest food. In Rakhine State, in particular in the northern townships, a large percentage of the population are subsistence farmers,¹⁹⁶ growing rice which forms a staple of their diet. In an ordinary year, farmers usually begin planting around April or May, and harvest the rice between September and October. However, without access to fields – either because of displacement, official restrictions on movement, or fears of fighting – villagers told Amnesty International that it was unlikely they would be able to plant rice this year and would therefore have nothing to harvest.

For ethnic Mro and Khami communities, who live in remote mountainous areas and cultivate rice on the hill side, the problem is more acute. Before planting rice in April, farmers have to prepare the land, which requires felling trees and cutting back vegetation, allowing it to die before burning the land. This process typically starts in December or January, not long after the previous year’s harvest. Ethnic Mro and Khami villagers interviewed by Amnesty International said that because they had been displaced for several months – some since October 2018 – they have not been able to prepare their land, and that even if the fighting stopped, they would not be able to plant in time.¹⁹⁷ “If we miss a year, it will affect the next year too,” explained a Mro farmer. “We will face the consequences of this for at least two years.”¹⁹⁸

¹⁹⁰ For more information about movement restrictions affecting Rohingya in northern Rakhine State, as well as the difficulties they face accessing healthcare, including life-saving medical treatment, see Amnesty International, “Caged without a roof”, pp 42-58 and 60-63.

¹⁹¹ Amnesty International telephone interview, 11 April 2019.

¹⁹² Amnesty International telephone interviews, 11 April 2019, and correspondence 26 April 2019.

¹⁹³ Amnesty International, “Caged without a roof” pp 45-47 and 50-52.

¹⁹⁴ Amnesty International telephone interview, 6 May 2019.

¹⁹⁵ Amnesty International telephone interview, 11 April 2019.

¹⁹⁶ Subsistence farming is form of farming in which the farmer and their family consumes most of the produce they grow, leaving little or nothing to be sold. In Rakhine State, many people living in remote areas farm paddy – or rice – which they harvest in September-October and which they rely on as a staple of their diet until the next harvest usually the next year.

¹⁹⁷ Amnesty International interviews, Sittwe, Rakhine State, 30 and 31 March 2019.

¹⁹⁸ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

MILITARY UNITS IMPLICATED

Civilians in Rakhine State repeatedly implicated the Army's 22nd and 55th Light Infantry Divisions (LIDs) in many of the violations. These units – based in Hpa-an, Kayin State, and Aungban, southern Shan State respectively – appear to have been deployed to Rakhine State soon after the AA attacks on 4 January 2019,¹⁹⁹ likely following the 7 January meeting of members of the National Defence and Security Council.²⁰⁰ At a press conference after the meeting, government spokesperson Zaw Htay told reporters the civilian government had instructed the Tatmadaw to “crush” the Arakan Army.²⁰¹



The insignia of the 22nd Light Infantry Division (LID)



The insignia of the 55th Light Infantry Division (LID)

LIDs are typically based centrally in urban areas, from where they are deployed rapidly; each wears its own distinct patch, which is the LID number in Burmese numerals. Under Myanmar military doctrine, combat divisions are under the direct command authority of the Commander-in-Chief (Army), and the decision to deploy LIDs for combat is made by the Office of the Commander-in-Chief, known also as the War Office.²⁰²

Amnesty International's interviews indicate the presence of soldiers from the 22nd LID in Buthidaung, Ponnagyun, Kyauktaw, Rathedaung and Mrauk-U Townships, in areas where the organization has documented indiscriminate attacks that killed and injured civilians, arbitrary arrest and detention, enforced disappearances, extrajudicial executions, forced labour, and looting and confiscation of property. In several instances, witnesses directly implicated 22nd LID soldiers in specific crimes, identifying them from the patches on their upper arms.

Similarly, Amnesty International interviews indicate the presence of soldiers from the 55th LID in Kyauktaw, Ponnagyun, Mrauk-U and Minbya Townships, in villages where the organization has documented arbitrary arrests, torture and other ill-treatment, and looting and confiscation of property.



The insignia of the Myanmar Army's Western Command

Western Command, the regional military command responsible for Rakhine State, includes three combat divisions known as Military Operation Commands (MOCs): MOC 15, based in northern Rakhine State; MOC 9, based in central Rakhine State; and MOC 5, based southern Rakhine State. Amnesty International's interviews indicate that soldiers from each of these three MOCs have been deployed in military operations against the AA in Rakhine State. Specifically, witnesses implicated MOC 15 in extrajudicial executions, forced labour, and confiscation of civilian property; MOC 9 in indiscriminate attacks, arbitrary arrests, and confiscation of civilian property; and MOC 5 in torture and other ill-treatment.

Amnesty International has previously implicated soldiers from the Western Command in serious violations in Rakhine State. In a June 2018 report, the organization documented the involvement of soldiers from MOC 15 in crimes against humanity against the Rohingya population.²⁰³ In the current operations against the AA, soldiers from the same division are once again implicated in serious violations, highlighting the institutionalised and systemic nature of the military's abuses.

To date, there is no indication that senior military officials have allowed for independent investigations or otherwise ensured accountability for troops' violations in Rakhine State. Nor have they removed from ongoing operations specific units that have been identified as responsible for serious human rights violations. This failure only serves to fuel further abuses.

¹⁹⁹ Amnesty International correspondence with experts on the Myanmar military, January and February 2019. See also David Scott Mathieson, “A new war rages in Myanmar”, *Asia Times*, 15 January 2019, <https://www.asiatimes.com/2019/01/article/a-new-war-rages-in-myanmar/>.

²⁰⁰ It remains unclear whether the meeting was a formal NDSC meeting or simply a gathering of its members.

²⁰¹ Reuters, “Myanmar's civilian, military leaders meet, vow to ‘crush’ Rakhine rebels”, 7 January 2019, <https://in.reuters.com/article/myanmar-politics/myanmars-civilian-military-leaders-meet-vow-to-crush-rakhine-rebels-idINKCN1P118Q>.

²⁰² The War Office is based in Naypyidaw and is commanded by the military's three most senior officials: The Commander-in-Chief of the Defence Services (CINCDSD) who has unified command over the Army, the Navy, and the Air Force; the Vice Commander-in-Chief of the Defence Services, who also holds the title of Commander-in-Chief (Army); and the Chief of General Staff (Army/Navy/Air Force), who commands the Bureau of Special Operations (BSOs). See Amnesty International, “We will destroy everything”, pp. 140-153.

²⁰³ Amnesty International, “We will destroy everything”, Chapter 11: Key individuals meriting judicial proceedings or criminal investigation, pp. 154-165.

3. ABUSES BY THE ARAKAN ARMY

While the Myanmar military was responsible for the overwhelming majority of violations documented by Amnesty International, the Arakan Army has also committed abuses against civilians. Documenting such abuses is extremely difficult, in large part because the Myanmar authorities have severely restricted access to conflict-affected areas and communities. Those who speak out about AA abuses risk retaliation and abuse by the armed group. Among ethnic Rakhine civilians, many of whom are sympathetic to the AA's demand for greater recognition and Rakhine autonomy, there is a reluctance to say anything which might tarnish the group's reputation or undermine ethnic Rakhine aspirations.

This report focuses on abuses by the Arakan Army since the escalation in fighting in January 2019, but Amnesty International has also received reports about abuses, particularly in Chin State, in previous years. Amnesty International interviewed four ethnic Chin and Khami villagers who have been displaced from their homes since 2017; they described instances where AA fighters subjected villagers to forced labour and based themselves in or near civilian areas.²⁰⁴ Civil society groups working in Chin State have documented similar abuses since 2015.²⁰⁵ All abuses should be investigated and those responsible held to account.

3.1 ABDUCTION OF CIVILIANS, ARBITRARY DEPRIVATION OF LIBERTY

Amnesty International has documented two incidents since January 2019 in which the AA has abducted civilians and arbitrarily deprived them of their liberty.

On 3 May AA fighters abducted four ethnic Rohingya villagers from Sin Khone Taing village, Rathedaung Township. According to a source with direct knowledge of the incident, the four were taken to a remote location in the forest. While two of the four subsequently escaped, two others – Abu Tar, 45, and Muzeeb, 33 – remain missing.²⁰⁶ Amnesty International wrote to the AA to ask about the fate and whereabouts of the two men. The head of the AA, Major General Twan Mrat Naing, said that he was not aware of the specific case, however had instructed the AA unit commander in the area to investigate the incident.²⁰⁷ No further information was available at the time of publication.

On 22 February, the AA detained a Village Administrator from Than Taung village, also in Paletwa Township. A credible source with direct knowledge of the case told Amnesty International that AA fighters detained the Village Administrator around 3 a.m. and then went to the Than Taung police station, where they demanded the police hand over weapons. When the head of the police station refused, the AA fighters abducted the two men, taking them to a nearby forest where they were held until 27 February. The same source said AA

²⁰⁴ Amnesty International telephone interviews, April and May 2019.

²⁰⁵ See for example, Chin Human Rights Organization (CHRO), *Thematic briefing: Armed conflict in Paletwa, southern Chin State*, 15 June 2015, and *Stable and Secure? An Assessment on the Current Context of Human Rights for Chin People in Burma/Myanmar*, *The Irrawaddy*, "Chin Party Condemns Abuses by Burma Army, Arakan Army", 5 July 2016, <https://www.irrawaddy.com/news/burma/chin-party-condemns-abuses-by-burma-army-arakan-army.html>.

²⁰⁶ Amnesty International correspondence, 16 May 2019.

²⁰⁷ Amnesty International telephone interview with Major General Twan Mrat Naing, 24 May 2019.

fighters beat the Village Administrator with bamboo sticks.²⁰⁸ Photographs reviewed by Amnesty International show bruising and cuts to his back and legs.²⁰⁹

Major General Twan Mrat Naing said that on occasion AA fighters do hold civilians for short periods of time: “Sometimes when our troops go for a mission, when they are waiting for the [Myanmar] Army for ambush, sometimes the people they may come across, they have to hold these people for a few hours... It would be dangerous for them to be caught in the crossfire, or if the information leaks to the enemy.”²¹⁰ He explained that when AA fighters have deprived civilians of liberty, they usually held them for a few hours, or sometimes overnight, before releasing them.²¹¹

All parties to a non-international armed conflict are obligated to respect customary international humanitarian law, including prohibitions against “violence to life and person, in particular murder of all kinds” of civilians and persons *hors de combat* arbitrary deprivation of liberty and hostage-taking.²¹² International humanitarian law requires the humane treatment of all those deprived of their liberty, including detained civilians and captured combatants, and prohibits the use of forced labour.²¹³ Families should be informed when their relatives have been detained, and detainees should be allowed to correspond with their families and loved ones.²¹⁴

Amnesty International is also concerned about a group of 51 people from Kin Ta Lin village in Paletwa Township, Chin State, who have been kept for three months at or by an AA base near the Myanmar-Bangladesh border.²¹⁵ According to a source with direct knowledge of the incident, AA fighters came in to the village on 2 February and ordered the villagers to leave, warning them there would be clashes between the group and the military.²¹⁶ Although at least some of the villagers wanted to remain in their homes, they felt compelled by the AA to flee, and three days later arrived at a temporary AA camp close to the border with Bangladesh, before being taken to a second camp.²¹⁷ According to two sources, male villagers were made to carry food and build shelters, while women were made to do domestic chores on the camp.²¹⁸ Two men escaped and returned to an IDP camp in Chin State.

On 16 May, Amnesty International wrote to the AA to ask about the fate and whereabouts of the missing villagers. Major General Twan Mrat Naing confirmed the villagers were with the AA; he said they had not been detained, but that AA fighters had taken them to safety when fighting broke out with the Myanmar military. He told Amnesty International that women and children were not made to perform forced labour, although said the villagers had been told to cut bamboo to build huts for themselves.²¹⁹ Family members and local civil society organizations have been unable to communicate with the 51 villagers, and have no information about their safety and well-being.²²⁰

The AA has also abducted civilians – usually relatives of police officers – during attacks on security posts. After the coordinated attacks on police posts on 4 January, the AA detained 14 people, including four wives of Myanmar police officers and an immigration official, who is also likely to be a civilian under international humanitarian law.²²¹

Similarly, on 9 April the AA reportedly abducted seven civilians – including three children under eight years old – during an attack on a police base, which Amnesty International understands was being used as a temporary military base, on the outskirts of Mrauk-U town.²²² According to state media three people were killed during the attack, including the wife of a police officer.²²³ Twan Mrat Naing, the head of the AA, confirmed his soldiers had taken the seven civilians but insisted they were not held hostage, but instead had

²⁰⁸ Amnesty International telephone interview, 29 April 2019. See also *The Irrawaddy*, “AA Abducts Village Official, Police Station Chief in Chin State”, 22 February 2019, <https://www.irrawaddy.com/news/burma/aa-abducts-village-official-police-station-chief-chin-state.html>

²⁰⁹ Photographs on file with Amnesty International.

²¹⁰ Amnesty International telephone interview with Major General Twan Mrat Naing, 24 May 2019.

²¹¹ Amnesty International telephone interview with Major General Twan Mrat Naing, 24 May 2019.

²¹² Common Article 3 to the 1949 Geneva Conventions; ICRC, Customary IHL, Rules 89, 96, and 99.

²¹³ Common Article 3 to the 1949 Geneva Conventions; ICRC, Customary IHL, Rule 95.

²¹⁴ ICRC, Customary IHL, Rules 105, 117, and 125.

²¹⁵ When it was first reported in state media, 38 people were reported to have been detained. See *The Global New Light of Myanmar*, “AA abducts eight people working on Paletwa-Mizoram road project”, 3 April 2019, <http://www.globalnewlightofmyanmar.com/aa-abducts-eight-people-working-on-paletwa-mizoram-road-project/>

²¹⁶ Amnesty International telephone interview, 24 May 2019.

²¹⁷ Amnesty International telephone interview, 24 May 2019.

²¹⁸ Amnesty International telephone interviews, 30 April 2019 and 24 May 2019.

²¹⁹ Amnesty International telephone interview with Major General Twan Mrat Naing, 24 May 2019.

²²⁰ Amnesty International telephone interview, 30 April 2019.

²²¹ RFA, “Rakhine Insurgents Kill 13 Policemen, Injure Nine Others in Myanmar Outpost Attacks”, 4 January 2019, <https://www.rfa.org/english/news/myanmar/rakhine-insurgents-kill-13-policemen-01042019162156.html>

²²² *The Global New Light of Myanmar*, “AA attacks Security Police HQ in MraukU, takes families hostage”, 11 April 2019, <http://www.globalnewlightofmyanmar.com/aa-attacks-security-police-hq-in-mrauku-takes-families-hostage/>

²²³ *The Global New Light of Myanmar*, “AA attacks Security Police HQ in MraukU, takes families hostage”, 11 April 2019, <http://www.globalnewlightofmyanmar.com/aa-attacks-security-police-hq-in-mrauku-takes-families-hostage/>

been taken to safety during the fighting. He told a local media outlet: “I have instructed [my subordinates] to feed [them] properly and not to scare the children. I have instructed them to keep them well. I will officially hand them over after looking at the situation”.²²⁴ The seven were released on 12 April 2019.²²⁵

3.2 ENDANGERING CIVILIANS

Amnesty International’s research indicates that in some instances, AA fighters fail to take feasible precautions to protect civilians from the effects of attacks. A witness told Amnesty International that in early March 2019, he saw AA fighters in civilian clothing plant and detonate an IED – which he described as a mine – close to his village, and around 15 metres from civilian houses: “I saw [members of] the AA plant mines under the bridge... It was around 11 a.m... Plain clothes [AA] operatives were waiting in the village to remotely detonate [it].”²²⁶ The witness told Amnesty International that the AA fighters waited until Myanmar soldiers arrived in the area before detonating. No one was injured.²²⁷

An ethnic Rohingya man living in Buthidaung Township told Amnesty International that he had seen AA fighters in the village over the last year and that in recent months they had dug trenches close to the mountains, around five minutes’ walk from his village; “They dug holes and hid there. They were wearing plain clothes. They are usually in groups of five. We don’t see them in our village, just when we go to the mountains to collect firewood. They don’t do anything to us when we see them.”²²⁸

At times, AA fighters move through civilian areas such as villages. An ethnic Rakhine male in Rathedaung Township told Amnesty International that AA fighters came to his village one evening in February, after clashing with Myanmar soldiers nearby earlier that day. “I saw them with my own eyes,” he recalled. “They were not wearing uniforms... There were about six or seven soldiers. They had arms, including RPGs.”²²⁹ Similarly, an ethnic Rohingya man living in Buthidaung Township said he regularly sees AA fighters entering a neighbouring ethnic Rakhine village: “The AA are in the mountains to the east [of my village]. Mostly they move in groups wearing AA uniforms, but some plain clothes agents come back and forth to the Rakhine village.”²³⁰

The Myanmar authorities have repeatedly accused the AA of dressing in civilian clothing and staying in or moving through civilian areas.²³¹ The AA has denied this,²³² but Amnesty International’s interviews indicate it is happening in at least some instances. Amnesty International has previously documented a similar practice in northern Myanmar of ethnic armed groups, including from the alliance of which the AA is a part, staying in and moving through civilian areas, including villages and IDP camps.²³³

3.3 INTIMIDATION

In December 2018 and again in January 2019, the AA sent threatening letters to police officials, village administrators and local businesspeople, warning them against interfering with the group’s activities.²³⁴ The letters were each accompanied by a bullet and bore the official seal of the AA. A credible source told Amnesty International that the AA had confirmed sending the death threats.²³⁵ Amnesty International has

²²⁴ *The Irrawaddy*, “Arakan Army to Release Relatives of Police Officers”, 11 April 2019, <https://www.irrawaddy.com/news/burma/arakan-army-release-relatives-police-officers.html>.

²²⁵ Amnesty International correspondence 4 May 2019.

²²⁶ Amnesty International interview, April 2019.

²²⁷ Amnesty International interview, April 2019.

²²⁸ Amnesty International telephone interview, 10 May 2019.

²²⁹ Amnesty International interview, April 2019.

²³⁰ Amnesty International telephone interview, 11 April 2019.

²³¹ Office of the Commander-in-Chief of the Defence Services, “Information about fabricated news made by AA insurgents”, 31 March 2019, <https://cincds.gov.mm/node/2338>; “AA insurgents lie in wait for Tatmadaw columns near Yaykhaungchaung Village, three bodies of enemy seized”, 23 March 2019; “Legal actions to be taken against individuals who have links to AA insurgents”, <http://cincds.gov.mm/node/1486>.

²³² Amnesty International telephone interview with Major General Twan Mrat Naing, 24 May 2019. See also *The Irrawaddy*, “Military Claims of Arakan Rebels Disguising Selves as Civilians Met With Doubt”, 29 March 2019, <https://www.irrawaddy.com/news/burma/military-claims-arakan-rebels-disguising-selves-civilians-met-doubt.html>.

²³³ See Amnesty International, “All the civilians suffer”.

²³⁴ Amnesty International correspondence, 4 May 2019. See also *The Irrawaddy*, “AA Issues Threatening Letters to Rakhine Police, Village Head”, 22 December 2019, <https://www.irrawaddy.com/news/burma/aa-issues-threatening-letters-rakhine-police-village-head.html>.

²³⁵ Amnesty International correspondence, 4 May 2019.

received reports that villagers temporarily detained by the AA had been threatened and told not to speak to the media about what happened.²³⁶

These threats have had a chilling impact in Rakhine State, in particular among Village Administrators who increasingly find themselves caught between the Myanmar military and the AA. Several recent killings by unknown gunmen, which some believe to be the responsibility of the AA, have further heightened fears.²³⁷ A former Village Administrator told Amnesty International that the threats – both from the AA and the military – led him to resign from his post: “[I resigned] because I don’t feel safe. I know we will be arrested [at some] point. Both sides rely on us... both sides are targeting us.”²³⁸ Such resignations are likely to have a wider impact on village life and local governance, as Village Administrators play a key role in local governance, for example registering births and deaths, and liaising with Township officials.²³⁹

Under international humanitarian law, the AA is likewise required to distinguish between combatants and civilians in its operations.²⁴⁰ Village Administrators and business people are civilians, who are not taking an active part in hostilities. As such, the AA should not be targeting them for threats and intimidation. International humanitarian law prohibits acts or threats of violence the primary purpose of which is to spread terror among the civilian population.²⁴¹

²³⁶ Amnesty International telephone interview, 24 May 2019. See also *The Chinland Post*, 15 May 2019, <https://thechinlandpost.info/aa-nih-chinmi-5-an-tlaih-hna-i-media-le-cozah-sin-nan-chim-ah-cun-kan-thah-hna-lai-an-ti/>

²³⁷ *RFA*, “Village Head Shot Dead by Unknown Assailants in Myanmar’s Rakhine State”, 13 February 2019, <https://www.rfa.org/english/news/myanmar/village-head-shot-dead-by-unknown-assailants-02132019163402.html>.

²³⁸ Amnesty International telephone interview, 2 May 2019.

²³⁹ The functions and duties of Village and Ward Administrators are outlined in Article 13 of the 2012 Ward or Village Tract Administration Law.

²⁴⁰ ICRC, Customary IHL, Rule 1.

²⁴¹ ICRC, Customary IHL, Rule 2.

4. THREATS TO FREEDOM OF EXPRESSION, ASSOCIATION, AND THE PRESS

“I don't want to hear a knock at my door while I am asleep with my wife and child at night... But if I keep reporting on the Tatmadaw, I worry that my future lies behind bars.”

A journalist who has reported on the conflict in Rakhine State.²⁴²

The Myanmar authorities have effectively barred international journalists and investigators from conflict areas of Rakhine State. As the conflict with the AA has intensified, the authorities have also become increasingly intolerant of reporting on military violations by local media outlets and journalists, some of who have been able to travel to sites where incidents occurred. The Myanmar security forces have fallen back on tried and tested tactics designed to stifle the press freedom, filing at least three criminal complaints in recent months against individuals working for media organizations covering the conflict.

In a recent prominent case, Ye Ni, the editor of the Burmese edition of *The Irrawaddy*, was charged with “online defamation” under Section 66(d) of Myanmar’s 2013 Telecommunications Act on 12 April 2017.²⁴³ The charge relates to an article which appeared on *The Irrawaddy* website on 1 April 2019, detailing its reporter’s eyewitness account of the fighting in Mrauk-U town in March.²⁴⁴ If convicted, Ye Ni faces up to two years in prison. At the time of publication, he was on bail while the case was ongoing. Amnesty International is aware of at least one other editor who is facing charges under Section 66(d) for their reporting on the conflict in Rakhine State in 2019.²⁴⁵

Most recently, in early May 2019 Aung Marm Oo, the editor of *Development Media Group* (DMG), learned that he is being investigated under section 17/2 of the Unlawful Associations Act. DMG is a Rakhine State-

²⁴² Amnesty International correspondence, 4 May 2019.

²⁴³ Section 66(d) of the 2013 Telecommunication Act provides up to two years in prison for anyone found guilty of “*extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening to any person by using any Telecommunications Network*”. For more information, see Amnesty International and others, *Myanmar: Repeal section 66(d) of the 2013 Telecommunications Act* (Index: ASA 16/6617/2017), 27 June 2017; and Amnesty International, *New expression meets old repression: Ending the cycle of political arrest and imprisonment in Myanmar* (Index: ASA 16/3430/2016), 24 March 2016, pp. 40-41;

²⁴⁴ See *The Irrawaddy*, “Reporter’s Notebook: On the Ground in Mrauk-U”, 1 April 2019, <https://www.irrawaddy.com/news/burma/reporters-notebook-ground-mrauk-u.html>.

²⁴⁵ Case details withheld.

based news agency, which regularly reports on the conflict.²⁴⁶ Aung Marm Oo told Amnesty International that he only found out about the case when it was reported by a local news outlet.²⁴⁷ The charge carries up to five years in prison for any person who “*manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members*”. At the time of publication, Aung Marm Oo was in hiding.

The Unlawful Associations Act grants the authorities broad discretionary powers to determine what constitutes an unlawful association and has been used especially against civilians from ethnic minorities in conflict areas.²⁴⁸ The law poses particular challenges to journalists, who often have to speak to multiple sources – including members of armed groups and others potentially deemed unlawful by the authorities.²⁴⁹

The law has also become an increasing concern for local government officials in Rakhine State who risk arrest and detention if they are believed to associate with the AA. Four ethnic Rakhine village administrators were arrested while attending a monthly meeting at the Mrauk-U Township Administration Office on 28 February 2019.²⁵⁰ According to one of the four men, they were detained for around nine days while police interrogated them about their knowledge of the AA and told them they would be charged under Section 17/1 of the Act.²⁵¹ The four were subsequently released, however it is unclear whether they remain under investigation and whether there are charges pending against them. When they tried to resign from their posts in fear, higher-level authorities refused to accept their resignations.²⁵²

The laws being used in the context of the current conflict with the AA have long been criticised for violating the rights to freedom of expression and association.²⁵³ The NLD-led government could use its parliamentary majority to review and repeal or else amend the repressive laws to bring them in line with international human rights law and standards, but has so far failed to do.

In addition to criminal charges, journalists and media outlets have also faced threats and intimidation in connection with their reporting on Rakhine State. In late March, several Yangon- and Sittwe- based media outlets received threatening e-mails and phone calls, warning them about their coverage of the conflict. Some messages warned against negative coverage of the AA, threatening physical attacks in retaliation.²⁵⁴ An AA spokesperson denied the group was behind the threats, and said they would investigate.²⁵⁵ Other messages demanded support for the Myanmar military, making death threats against journalists seen as sympathetic to the AA.²⁵⁶ One message stated that those who failed to comply would meet the same fate as Ko Ni, a prominent lawyer and legal advisor to the NLD who was assassinated in January 2017.²⁵⁷

The fear of speaking out is keenly felt in Rakhine State. Many of those interviewed for this report expressed concern about retaliation, and the vast majority requested anonymity. “*We are under [the military’s] control. I’m afraid... if they find out I spoke [out] my family will be threatened and harassed,*”²⁵⁸ explained the relative of a man who was forcibly disappeared. Others, like a 56-year-old ethnic Rakhine man from Ponnagyun Township, are defiant: “*Of course there is risk if they find out I spoke to you... they have the power to do what they want. They rely on us not speaking out,*” he said.²⁵⁹

²⁴⁶ For more information about the Unlawful Associations Act, including how it fails to comply with international human rights law and standards, see Amnesty International, *New expression meets old repression: Ending the cycle of political arrest and imprisonment in Myanmar* (Index: ASA 16/3430/2016), 24 March 2016, pp. 42-43.

²⁴⁷ Amnesty International correspondence, 3 May 2019.

²⁴⁸ Amnesty International, *New expression meets old repression*, pp. 42-43.

²⁴⁹ In an illustrative case, in June 2017 three reporters were charged under the Act after attending a drug burning ceremony in areas controlled by the TNLA, an ethnic armed group operating in northern Shan State. See Amnesty International, *Myanmar: Release journalists immediately*, 26 June 2017, <https://www.amnesty.org/en/latest/news/2017/06/myanmar-release-journalists-immediately/>. The journalists were released and the charges against them dropped in September 2017.

²⁵⁰ Amnesty International telephone interviews, May 2019, see also RFA, “Village Administrators in Myanmar’s Rakhine State Resign En Masse Over Detentions”, 1 March 2019, <https://www.rfa.org/english/news/myanmar/village-administrators-in-myanmars-rakhine-state-03012019173337.html>.

²⁵¹ Section 17/1 provides up to three years in prison for anyone who “*is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association or in any way assists the operations of any such association*”.

²⁵² Amnesty International telephone interview, 3 May 2019.

²⁵³ See for example, Amnesty International, *New expression meets old repression*.

²⁵⁴ E-mails and unofficial translation on file with Amnesty International.

²⁵⁵ RFA, “Myanmar Media Outfits Hit With Anonymous, Threatening Messages Over Rakhine Coverage”, 8 April 2019, <https://www.rfa.org/english/news/myanmar/myanmar-media-outfits-04082019171305.html>.

²⁵⁶ E-mails and unofficial translation on file with Amnesty International.

²⁵⁷ E-mails and unofficial translation on file with Amnesty International. On 15 February 2019 four people were convicted of involvement in the assassination, several of them with ties to the Myanmar military.

²⁵⁸ Amnesty International interview, Sittwe, Rakhine State, 29 March 2019.

²⁵⁹ Amnesty International interview, Sittwe, Rakhine State, 30 March 2019.

5. CONCLUSION AND RECOMMENDATIONS

Less than two years after the Myanmar military's mass atrocities against the Rohingya community in Rakhine State forced more than 730,000 people to flee their homes and country, its soldiers are committing new abuses against civilians from ethnic minorities. Since the Arakan Army, an ethnic Rakhine armed group, launched coordinated attacks on police posts on 4 January 2019, the Myanmar military has engaged in an all too familiar pattern of indiscriminate attacks; arbitrary arrests; enforced disappearances; extrajudicial executions; looting and destruction of civilian property; and the use of forced labour.

While the overwhelming majority of violations have been perpetrated by the Myanmar military, the Arakan Army has also committed abuses, including abductions and arbitrary deprivation of liberty of civilians. They, too, must stop these abusive practices and be held accountable.

The civilian government, which holds little power or influence over the Myanmar military, has exacerbated the situation by imposing severe restrictions on UN agencies and international humanitarian organizations, preventing them from accessing and assisting affected populations, including the more than 30,000 people who have been displaced since late 2018. Meanwhile, journalists and others working to expose conflict-related abuses are facing threats, intimidation, and the risk of arrest and prosecution.

These new violations bring in to sharp focus the consequences of impunity for the Myanmar military, which stands accused of crimes against humanity, war crimes, and genocide. To date, there has been no meaningful accountability for military atrocities against the Rohingya population in Rakhine State, or ethnic minority civilians in Kachin and Shan States in northern Myanmar. The military's conduct in the latest conflict shows clearly that it has no interest in reform. And for the more than 910,000 Rohingya refugees in Bangladesh, it is yet another reminder that the situation in Rakhine State is not safe for them to return to.

Crimes under international law demand an international response. Yet to date, the UN Security Council, the body responsible for maintaining international peace and security, has failed to take effective action and refer the situation in Myanmar to the International Criminal Court. Continued inaction – even as the military commits new abuses – is sending a dangerous message to the military that it can continue to commit crimes and violations in Rakhine State and elsewhere without fear of punishment.

TO THE MYANMAR ARMED FORCES

- Immediately end and suppress crimes under international law and other human rights and humanitarian law violations, including related to operations in conflict and ceasefire areas. Adhere strictly to the provisions of international humanitarian law;
- Suspend immediately from frontline duties anyone suspected of responsibility for crimes under international law and other serious violations of international human rights law;
- End the use of explosive weapons with wide area effects, such as mortars and artillery, against military objectives in the vicinity of concentrations of civilians;

- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of forcibly disappeared individuals, including those named in this report, and provide details concerning the basis for their arrest;
- End the practice of forced labour of civilians, including forced portering. Hold accountable any soldier or unit that forcibly conscripts civilians, even for short periods;
- Provide and facilitate immediate, unfettered humanitarian access to all areas of Rakhine and Chin States, including to the northern townships of Maungdaw and Buthidaung, so that impartial relief can reach all civilians in need of assistance, including those who have been displaced;
- Refrain from any use of historical, religious, or cultural property and its immediate surroundings which is likely to expose it to destruction or damage and instruct soldiers not to direct attacks against such property;
- Allow human rights monitors, independent observers and national and international media workers full and sustained access to all parts of Rakhine State;
- Cooperate fully with the UN Fact-Finding Mission and the Independent Investigative Mechanism for Myanmar (IIMM), including by allowing unfettered access throughout the country, so that they may investigate human rights violations and abuses by all parties to the conflict.

TO THE MYANMAR GOVERNMENT

- Provide immediate, unfettered humanitarian access to all areas of Rakhine and Chin States, including to the northern townships of Maungdaw and Buthidaung, allowing UN agencies and international and national humanitarian organizations to assess and monitor the needs of affected people, including those who have been displaced and to deliver assistance to them;
- Cooperate fully with international efforts to investigate and prosecute individuals suspected of involvement in crimes under international law and other human rights violations, including those with command or other superior responsibility;
- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of forcibly disappeared individuals, including those named in this report, and provide details concerning the basis for their arrest;
- Immediately and unconditionally release all those imprisoned or otherwise deprived of their liberty solely for peacefully exercising their rights to freedom of expression or association, and drop charges against all those facing imprisonment for so exercising their rights;
- Review and repeal, or else amend all laws which unlawfully restrict the rights to freedom of expression, association, and peaceful assembly – including the Unlawful Associations Act and Section 66(d) of the 2013 Telecommunications Act to ensure they comply with international human rights law and standards;
- Allow human rights monitors, independent observers and national and international media workers full and sustained access to all parts of Rakhine State;
- Take effective action to fully implement recommendations of the Advisory Commission on Rakhine State relating to human rights, including by establishing clear a timeline, specific targets, and indicators of success; identifying necessary financial, human and technical resources; and a providing regular public reporting on progress;
- Take effective action to ensure respect, protection and safeguarding cultural property during armed conflict, in line with Myanmar’s obligations as a state party to the Convention for the Protection of Cultural Property in the Event of Armed Conflict;
- Accede to the Rome Statute of the ICC, issue a declaration accepting the ICC’s jurisdiction since 1 July 2002, and incorporate its provisions into domestic law;
- Accede without delay or reservation to key international human rights treaties and their additional protocols, including to the International Covenant on Civil and Political Rights, the UN Convention on the Elimination of all forms of Racial Discrimination, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and the UN

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Implement their provisions in law, policy and practice;

- Cooperate fully with the UN Fact-Finding Mission and the Independent Investigative Mechanism for Myanmar (IIMM), including by allowing unfettered access throughout the country, so that they may investigate all allegations of crimes under international law and human rights violations and abuses.

TO THE ARAKAN ARMY

- Immediately end and suppress international humanitarian law violations and human rights abuses. Adhere strictly to the provisions of international humanitarian law;
- Take all feasible measures to avoid basing or moving units through civilian-populated areas;
- End the use of explosive weapons with wide area effects, such as mortars and artillery, against military objectives in the vicinity of concentrations of civilians;
- End abductions of civilians and immediately release all civilians being detained. Inform families of anyone, civilian or combatant, who continues to be detained by the armed group and allow detainees to correspond with their families;
- End threats of violence and acts of intimidation against civilians;
- Remove from the ranks individuals suspected for violations of international humanitarian law and human rights abuses;
- Refrain from any use of historical, religious or cultural property and its immediate surroundings which is likely to expose it to destruction or damage and instruct fighters not to direct attacks against such property;
- Cooperate fully with the UN Fact-Finding Mission and the Independent Investigative Mechanism for Myanmar (IIMM), including to areas the AA controls or is operating in, so that they may investigate human rights violations and abuses by all parties to the conflict.

TO THE UN SECURITY COUNCIL

- Refer the situation in Myanmar to the International Criminal Court;
- Impose a comprehensive arms embargo on Myanmar that covers the direct and indirect supply, sale, and transfer, including transit and trans-shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance; and establish a mechanism to monitor and enforce the embargo;
- Impose targeted financial sanctions against senior officials responsible for serious violations and crimes;
- Follow-up to the 31 May 2018 letter from the President of the Security Council to the Myanmar authorities and request a follow-up visit to Myanmar at the earliest opportunity to assess progress on accountability;
- Invite the Chairperson of the UN Fact-Finding Mission to provide a briefing on their new reports and findings after they are presented at the 42nd session of the Human Rights Council;
- Hold regular, open meetings on the situation in Myanmar and adopt a resolution or resolutions, as necessary, that send an unambiguous message to the Myanmar authorities about the need to allow unrestricted humanitarian access; to allow unfettered access for independent investigators, including, when it begins its work, the Independent Investigative Mechanism for Myanmar (Myanmar); and to support international efforts to hold perpetrators criminally accountable.

TO THE UN FACT-FINDING MISSION ON MYANMAR:

- Investigate violations of international human rights and humanitarian law committed by all parties to the conflict in Rakhine State, and include details of findings and recommendations in the report to the UN Human Rights Council at its 42nd session.

TO THE INTERNATIONAL COMMUNITY AS A WHOLE AND MYANMAR'S PARTNERS IN PARTICULAR, INCLUDING THE UNITED STATES, THE EUROPEAN UNION, ASEAN MEMBER STATES, AUSTRALIA, JAPAN, KOREA, CHINA, AND INDIA:

- Immediately suspend the direct and indirect supply, sale, and transfer, including transit and shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance;
- Use all bilateral, multilateral, and regional platforms at your disposal to urge the Myanmar authorities to immediately end crimes under international law and other human rights violations; to allow humanitarian agencies and independent investigators access to Rakhine State;
- Support the Independent Investigative Mechanism for Myanmar (IIMM), and ensure it is operational at the earliest opportunity and has the necessary political backing and financial resources in order to fulfil its mandate;
- Exercise universal and other forms of jurisdiction to investigate any person who may reasonably be suspected of committing crimes against humanity, war crimes or other crimes under international law in Myanmar. Where there is sufficient admissible evidence, prosecute the suspect in proceedings that meet international standards of fairness and do not involve seeking or imposing the death penalty, or extradite the suspect to a jurisdiction that will do so.

TO EUROPEAN UNION AND THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

- Impose or otherwise expand targeted sanctions to include all senior Myanmar officials responsible for serious violations and crimes.

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“NO ONE CAN PROTECT US”

WAR CRIMES AND ABUSES IN MYANMAR’S RAKHINE STATE

This report documents war crimes and other human rights violations committed by the Myanmar military as part of a major operation against the ethnic armed group the Arakan Army (AA) since January 2019. The investigation also found evidence of abuses committed by the AA.

Based on a field investigation as well as remote interviews, review of satellite imagery, photographs, and videos, the report shows how – less than two years after the Myanmar military’s atrocities against the Rohingya population – the military has engaged in a pattern of unlawful attacks killing and injuring civilians, arbitrary arrests, torture, enforced disappearances, extrajudicial executions, looting, and forced labour.

These new violations bring in to sharp focus the consequences of ongoing impunity for a military which stands accused of crimes against humanity, war crimes, and genocide. To date, there has been no meaningful accountability for atrocities against the Rohingya population in Rakhine State, or ethnic minority civilians in northern Myanmar.

The situation requires an urgent international response. The international community – specifically the UN Security Council – must send clear and unequivocal message those responsible for atrocity crimes will be brought to justice. International investigations are no substitute for criminal prosecutions. Continued inaction by the Council will send a dangerous message to the military that such crimes can continue.