



# Chin Human Rights Organization

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15 June 2015

## **THEMATIC BRIEFING: Armed conflict in Paletwa, southern Chin State**

### **Summary**

Since March, CHRO has documented serious human rights abuses by both the Burma Army and the Arakan Army, and violations of international humanitarian law. Armed conflict between the two sides in Paletwa, southern Chin State, forced a whole community of Khumi Chin indigenous people to flee, resulting in more than 350 internally displaced persons (IDPs).

In early March, CHRO documented two cases of child soldier recruitment and one of forced recruitment in the Paletwa area of southern Chin State by a Warrant Officer from Burma Army Light Infantry Battalion 20, based in Sittwe, Arakan State. Local people also reported an increase in troop movement in the Paletwa area.

On 28 March, fighting broke out between non-ceasefire ethnic armed group the Arakan Army and the Burma Army in Pyin So village, near the border with Bangladesh in Paletwa township in southern Chin State, destroying homes and forcing all the villagers to flee. 16 indigenous Khumi Chin men from Pyin So village were detained by the Arakan Army on two separate occasions. 6 of them were ill-treated in detention, and 10 of them forced to porter for the Arakan Army, up to the border with Bangladesh. A Burma Army Captain was killed in the firefight, and Arakan Army soldiers also ordered Pyin So villagers to bury his dead body. One man has disappeared from Pyin So village, and is believed to have been abducted by the Arakan Army for portering or guiding, or may have been killed by the Arakan Army. Both the Burma Army and the Arakan Army have reportedly laid landmines around the village.

More than 350 IDPs are taking refuge in Laung Tin village, Paletwa township, and urgently need humanitarian assistance. They do not have enough food supplies to last for the rest of the month, with monsoon season fast approaching. The local Burma Army Commander, Paletwa Township Administrator, and Chin State Minister for Forestry and Mining have subjected the IDPs to pressure to return back to Pyin So, even though it is not safe for them to do so. These actions breach international standards on the treatment of displaced persons, including those provided by the *UN Guiding Principles on Internal Displacement*.

## **To the Authorities of Burma/Myanmar**

1. Stop the pressure on IDPs to return, and respect their right to voluntary return in safety and dignity. Take action to demarcate and de-mine areas contaminated with landmines around Pyin So village. Hold meaningful, participatory consultations with the Pyin So community on durable solutions for voluntary return in safety and dignity, or resettlement and reintegration in an alternative area, in accordance with the right to free, prior, and informed consent and the *UN Guiding Principles on Internal Displacement*.
2. Cooperate fully with UN agencies, INGOs, and CSOs to allow unhindered access to the IDPs, and provide urgently-needed humanitarian assistance.
3. Implement concrete measures to end violations of international human rights and humanitarian law by the Burma Army, including stopping the use of antipersonnel landmines and ending the recruitment and use of child soldiers. These should include prompt investigations, and trials in open civilian court for perpetrators of both underage and forced recruitment.
4. Initiate a search by Paletwa Township Police Force for Ling Min လိန်မင်း aka Leing Mang, and investigate his alleged abduction by members of the Arakan Army.
5. Cooperate fully with an independent, impartial, international mechanism to investigate alleged violations of international human rights and humanitarian law committed by all parties to the armed conflict in Chin State, as well as other areas of the country.
6. Ratify and implement the Optional Protocol on the involvement of children and armed conflict under the Convention on the Rights of the Child, as well as the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.
7. Amend the enabling legislation to bring the National Human Rights Commission in line with the Paris Principles on national human rights institutions, in order for it to operate independently, impartially, and effectively.

## **To the Myanmar National Human Rights Commission**

1. Promptly conduct an independent, impartial investigation to ascertain the fate of Ling Min aka Leing Mang, in accordance with guidelines on best practice produced by the International Committee of the Red Cross. Ensure that perpetrators are held accountable in civilian court. Provide information to his family throughout the course of the investigation in accordance with the universal right to know.
2. Support amendments of the enabling legislation to bring the National Human Rights Commission in line with the Paris Principles on national human rights institutions, in order to operate independently, impartially, and effectively.

3. Support and work with an independent, impartial, international mechanism to investigate alleged violations of international human rights and humanitarian law committed by all parties to the armed conflict in Chin State, as well as other areas of the country.

### **To the Arakan Army**

1. Promptly investigate alleged violations of international human rights and humanitarian law, including use of antipersonnel landmines, arbitrary detention, forced labour, humiliating and degrading treatment, and enforced disappearance, and ensure that those responsible are brought to justice in open civilian court, regardless of rank or position. Provide full reparations to the Pyin So community.
2. Cooperate fully with all investigations to ascertain the fate of Ling Min aka Leing Mang, including by providing all available information to the investigative bodies.
3. End the use of anti-personnel mines, and sign and implement the Geneva Call deeds of commitment, including, but not limited to, banning the use of anti-personnel landmines.
4. Cooperate with an independent, impartial, international mechanism to investigate alleged violations of international human rights and humanitarian law committed by all parties to the armed conflict in Chin State and other areas of the country.

### **To UN agencies (OCHA, UNICEF, UNHCR, UNDP, WFP)**

1. Continue to press the authorities for unhindered access to the IDPs, and to respect the right of internally displaced persons to voluntary return in safety and dignity.
2. Provide urgently-needed humanitarian assistance to the IDPs in collaboration with the authorities and local CSOs, including visits by healthcare professionals, medicine, food provisions, latrines, and construction materials.
3. Assess the longer-term needs of the displaced community and design suitable programs in accordance with the United Nations Development Group *Guidelines on Indigenous Peoples' Issues*, particularly with regard to resettlement needs, livelihoods, and education.

### **To the international community**

1. Urge the Government of Burma/Myanmar to:
  - Stop the pressure on IDPs to return, and respect their right to voluntary return in safety and dignity; take action to demarcate and de-mine areas contaminated with landmines around Pyin So village; and hold meaningful, participatory consultations with the Pyin So community on durable solutions for voluntary return in safety and dignity, or resettlement and reintegration in an alternative area, in accordance with the right to free, prior, and informed consent and the UN Guiding Principles on Internal Displacement.

- Cooperate fully with UN agencies, INGOs, and CSOs to allow unhindered access to the IDPs, to provide urgently-needed humanitarian assistance.
2. Provide the necessary funding to the UN agencies to provide both immediate and longer-term assistance to the IDPs.
  3. Publicly support an independent, impartial, international mechanism to investigate alleged violations of international human rights and humanitarian law committed by all parties to the armed conflict in Chin State, as well as other areas of the country.

## **Methodology**

Chin State is a very remote, isolated part of western Burma/Myanmar. Infrastructure there is very poor, with no fully paved roads, making access difficult. Paletwa township in southern Chin State is one of the poorest areas in the whole of Burma/Myanmar.<sup>1</sup> Since April 2015, Paletwa has become accessible via jeep on an unpaved road from Matupi town, but this is not passable in monsoon season. The primary way to reach Paletwa township is up the Kaladan river from Kyauktaw in Arakan State. Most villages in Paletwa township are connected via a network of small rivers, and in some cases footpaths. The main mode of transportation for local people is motorized canoe. The lack of basic infrastructure in Chin State, and Paletwa township in particular, makes it extremely difficult to collect timely information. As a result, most human rights violations are documented days or weeks after the fact, if at all.

In addition, Chin State is heavily militarized. At the time of writing, there are 54 Burma Army camps in the area, with 20 of them in Paletwa township. Security issues for CHRO's small team of fieldworkers persist, as they are at risk of arrest and detention by the authorities during the course of their work to document the human rights situation in Chin State. Information is collected by CHRO's fieldworkers in accordance with documentation guidelines produced by the Network for Human Rights Documentation – Burma, of which CHRO is a member.<sup>2</sup> This briefing is drawn from eyewitness accounts, collected during a visit to the IDPs in May.

## **Background**

Pyin So is a community of Khumi Chin indigenous people, comprised of 62 households, about 1.5 hours away from Paletwa town by boat in the remote border area of Arakan State, Chin State, and Bangladesh. Villagers have borne the brunt of conflict in the area over many years. Pyin So villagers reported to CHRO that both the Arakan Liberation Party (ALP) and the Arakan Army (AA) have been active in that area for a long time. In the past, the ALP made extortion demands in the village of 4,000 kyats per household. Before the 2010 elections, the ALP were

involved in clashes with Burma Army soldiers from Light Infantry Battalion (LIB) 234, and after the 2010 elections, with LIB 263. At that time, no villagers were hurt.

Burma Army soldiers have been stationed at Pyin So village for a long time. A unit of 8 soldiers led by Captain Kyaw Htet Aung have an outpost at the edge of the village. Soldiers would often stay at the premises of the primary school in Pyin So village itself, and have frequently confiscated food from the villagers, and asked for information about whether the AA or the ALP had visited the village.

The IDPs told CHRO that at around 6pm on 28 March, about 40 armed soldiers from the Arakan Army Tactical Unit No. 5 approached Pyin So. On their way to the village they detained 8 Khumi Chin men from the village, three fishermen and five lumbermen. Two of the fishermen managed to escape, and were able to warn the other villagers of the impending attack. The Burma Army soldiers learned of the attack at the same time. They took up positions around the village. Most of the villagers went into hiding near *Pyi chaung* (stream), but some stayed behind in their homes. Fighting broke out later that night, and again the following morning. During the clashes the Arakan Army soldiers killed Burma Army Captain Kyaw Htet Aung, and wounded a Private, who escaped into the forest. The AA detained two other Burma Army soldiers and the remaining four fled back to their headquarters in Paletwa. The AA effectively seized control of the village. The Burma Army sent reinforcements from nearby camps, but they arrived too late.

The primary school in the village was destroyed in the fighting, as well as the school teacher's hostel and two other homes. The roofs were heavily damaged and the properties are riddled with bullet holes. All of the residents of Pyin So village have fled, and the majority are currently taking refuge in Laung Tin village in Kyway Thaug village tract.

## **Human rights violations**

### *Child soldier recruitment and forced recruitment*

Three different families reported to CHRO that their family members were forcibly recruited into the Burma Army. Nay Lah Htun (aged 15), Win Naing (aged 17), and Eing Gar Phyu aka Eing Gar Aung (aged 21), middle school students of Grade 6, 7, and 8 respectively, were staying in Bawng Koo village, Paletwa township on 10 March. During their stay, Warrant Officer Shwe Kyaw Oo from Burma Army Light Infantry Battalion 20, based in Sittwe, and his Khumi Chin wife Daw Thazin tricked the two boys, and the 21 year-old, to go with them to Paletwa town. The Warrant Officer and his wife claimed they would teach the young people how to drive a car and use a computer, and that they would be able to earn a lot of money.

Warrant Officer Shwe Kyaw Oo was previously stationed in Paletwa with LIB 289, and his wife Daw Thazin still lives in the town. The three students ran away from Paletwa back to Bawng Koo when they realized that they would be forcibly conscripted into the Burma Army. On the same day, the Warrant Officer and his wife followed them by motorbike and caught them while they were staying at U Aung Saih's house in Bawng Koo. The Warrant Officer accused U Aung Saih and his wife of hiding the students, and slapped and kicked them.

Warrant Officer Shwe Kyaw Oo and his wife Thazin took the students to the military recruitment centre of LIB No. 20 based in Sittwe of Arakan State, and warned them to say that they were coming to join the army of their own accord.

The parents of the 15 year-old, and of the 17 year-old, visited the Warrant Officer's house in Sittwe on 28 March. Initially the Warrant Officer and his wife demanded 350,000 kyats per head in ransom to release their sons. They only relented and released them back to the families after the two families threatened to take legal action against them for recruiting child soldiers.<sup>3</sup>

U Sani Aung, the 21 year-old's elder brother, went to the Warrant Officer's house on 1 April in an attempt to get information about him. The Warrant Officer told U Sani Aung: "If you give me 350,000 kyats now, I will get your brother straight away." U Sani Aung replied: "Why would I give you money if I don't see my brother first?" Angered by his reply, the Warrant Officer hit him in the face with his knee, and U Sani Aung sustained injuries to his mouth.

21 year-old Eing Gar Phyu aka Eing Gar Aung is still missing and is alleged to have been subjected to forced recruitment by the Warrant Officer and his wife.<sup>4</sup> The families reported the cases to Paletwa Township Police Force and told the police to take the necessary action against the couple. It is unclear what action, if any, has been taken by the police.

#### *Detention and ill-treatment*

On 28 March at around 6pm, 8 Khumi Chin men were detained by Arakan Army soldiers in the forest near Pyin So village, but two managed to escape. They were guarded by more than 20 soldiers from the Arakan Army. One of the Khumi Chin men who was captured reported to CHRO that the AA soldiers told them, "You accepted the *Tatmadaw* [Burma Army soldiers] here, you fed them and treated them well. If you do that again you will be seriously punished, and fighting will come to your village again." The AA soldiers kicked the men in their custody, but fortunately nobody was injured. Fighting broke out between the AA and the Burma Army at around midnight and lasted for about an hour. The 6 detainees escaped from captivity during the firefight.

### *Forced labour*

More fighting broke out again at around 7am on 29 March and the Burma Army Captain was killed in that firefight. The IDPs told CHRO that after the Arakan Army seized control of the village, they forced them to dig a grave and to bury the body of the Burma Army Captain. Another 10 Khumi Chin men were detained by the AA at around 9am. The AA soldiers forced the men to porter their loads for them to the border with Bangladesh, and let them go after around 2.5 hours.

### *Alleged abduction*

The IDPs told CHRO that on the evening of 28 March, Ling Min aka Leing Mang, a 30 year-old Khumi Chin man from Pyin So village, left home at around 5pm to go out hunting. His usual hunting spot was near a fruit-bearing tree which attracted animals, in the same area where the other Khumi Chin men were detained by the Arakan Army later that evening. Ling Min aka Leing Mang did not return home that night and has not been seen since. Based on the fact that Ling Min aka Leing Mang was hunting in the area close to where the other men were detained by the AA, CHRO believes that he has either been abducted by the Arakan Army to serve as a guide or porter, or may have been killed by the AA. Ling Min aka Leing Mang is married with two young daughters aged 5, and 15 months. His wife and children are among the IDPs.

### *Laying of antipersonnel landmines*

Pyin So villagers told CHRO that they witnessed soldiers from both the AA and Burma Army LIB 289 laying landmines in the area around their village. Soldiers from LIB 289 also informed the villagers they should not cross the *Pyi chaung* (stream), as landmines were laid on the far bank, which is where many villagers have their small farms.

## **Humanitarian needs of the IDPs**

Some Pyin So villagers fled on 29 March, and the rest followed on 30/31 March. They moved from place to place, due to lack of resources. They finally arrived in Laung Tin village in Kyway Thaug village tract – which involved crossing two densely-forested mountain ranges on foot, via jungle tracks - on 27 April, and have been there since. There are a total of 356 IDPs from Pyin So village in Laung Tin village, disaggregated as 103 men, 112 women, 55 boys, and 86 girls under the age of 18. Laung Tin villagers have welcomed the IDPs and treat them very well.

The IDPs told CHRO, “We are very frightened and don't want to return back to our village, as we know that landmines were planted nearby, but we don't know where exactly.” They also fear that fighting will break out again, and are aware that there is no guarantee for their security. Since the initial clash on 28 March, further clashes have taken place near Pyin So village on 10

and 15 April, according to local sources. The IDPs would like to resume their farming livelihoods, and are concerned about how they will survive over the next year without their livelihoods.

Some of the IDPs have been suffering diarrhea and malaria, and seven have been hospitalized at different times. The IDPs' immediate needs are food provisions, as they don't have enough to last until the end of the month, as well as support from healthcare professionals, medicine, additional latrines, and shelter (tarpaulins etc). In the longer term, they need construction materials to build proper homes, as well as support for their livelihoods and their children's education. The IDPs constructed 5 latrines, but that is inadequate for a population of 356. They have also started to construct a school out of bamboo, but there are no available teachers.

Representatives from local civil society organization the Khumi Youth Association (KYA) have been visiting the IDPs in Laung Tin village on a regular basis, and have donated both food and non-food items. Initially, when KYA representatives delivered aid, they had to negotiate access with LIB 289 and soldiers from the Battalion would accompany them. More recently there has been unrestricted access, and KYA representatives have not faced any direct threats or intimidation while carrying out their humanitarian work. However, the KYA has reached the limit of their resources.

The military distributed family kits provided by the Relief and Resettlement Department, donated by UNICEF. UN agencies (OCHA, UNICEF, UNHCR) conducted an assessment mission on 7-8 May, assisted by the KYA, but it is unclear at this time if they plan to organize follow-up missions.

### **Response from the Burma Army, Chin State government, & local authorities**

LIB 289 Tactical Commander Thet Naing instructed the villagers to go back to Pyin So before 23 May. He said he is not forcing the villagers to return, but urged them to go back to take care of their houses, possessions, and livestock, which might be looted in their absence.

On 9 May, there was a meeting between Kyaw Nyein, Chin State Minister for Forestry and Mining (a Khumi Chin from the Paletwa area) and the Paletwa Township Administrator Han Win Aung at the Paletwa township administrative office. Three persons from KYA and 7 IDPs from Pyin So were present at the meeting. The Minister delivered 4 million kyats in assistance to the IDPs, and promised more. On the one hand, he said they will not force the villagers to go back, and promised the IDPs that the State government will take action to help them go back peacefully. But to date, nothing has been done to ensure the IDPs' safety. On the other hand,



Kyaw Nyein also urged the IDPs to return to Pyin So soon. Township Administration Officer Han Win Aung also told the villagers they have to go back as soon as possible. He told the IDPs, "If you don't go back very soon, your villages will be expelled from Kyway village tract and you will have problems regarding your National Registration Cards and family registration documents under the department of home affairs and immigration." He warned the villagers that would be a particular problem for them, in light of the upcoming elections. Such threats breach international standards on the treatment of displaced persons, including those provided by the *UN Guiding Principles on Internal Displacement*.<sup>5</sup>

On 12 May, the IDPs wrote a letter to the Township Administration Officer, pleading with him to let them remain at the camp. But no official response has been made to their request to date.

On 27 May, a delegation led by Township Education Officer Daw Phe Ri, accompanied by three Assistant Township Education Officers and a staff from the General Administration Department visited the camp and inspected the school construction. The delegation encouraged the villagers to quickly finish the construction without promising them any help.

To date, there have been no forcible returns, but the IDPs continue to face pressure to go back to Pyin So.

## **International human rights and humanitarian law**

The right to life, liberty and security of person, the right to be free from torture and other inhumane or degrading treatment or punishment, and the right to be free from slavery or servitude are non-derogable rights, and norms of customary international law. The State is the primary duty-bearer to uphold these rights. The State therefore bears the primary responsibility to investigate allegations of abduction<sup>6</sup> and other human rights abuses by non-State actors.

Burma/Myanmar has obligations to end forced labour under International Labour Organisation (ILO) Convention 29, and has committed to doing so by the end of 2015. This includes forced recruitment into the military. Article 38 of the UN Convention on the Rights of the Child, to which Burma/Myanmar is a State party, prohibits the recruitment of children under the age of 15 into the armed forces. Burma/Myanmar also has obligations to fulfill under the mechanism in UN Security Council Resolution 1612 on ending the recruitment and use of child soldiers. Burma/Myanmar's own regulation for the Persons Subject to the Defense Services Act prohibits the recruitment of children under the age of 18 to be soldiers.

Under international humanitarian law, all parties to an armed conflict have legal obligations to protect civilians. All armed forces involved in an armed conflict, including non-state armed groups such as the Arakan Army, must abide by the rules of customary international humanitarian law (IHL).<sup>7</sup>

Arbitrary detention, abusive forced labour, and enforced disappearance are expressly prohibited under international humanitarian law.<sup>8</sup> Each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and to provide their family members with information it has on their fate.<sup>9</sup> The prohibition of enforced disappearance should also be viewed in the light of the IHL rules requiring respect for family life.<sup>10</sup>

IHL states that when landmines are used, particular care must be taken to minimize their indiscriminate effects.<sup>11</sup> The planting of anti-personnel mines around a village arguably has an indiscriminate effect on civilians. Burma/Myanmar has yet to ratify the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.

The *UN Guiding Principles on Internal Displacement*<sup>12</sup> identify rights and guarantees for the protection and assistance of IDPs during displacement as well as during return or resettlement and reintegration. In particular, the *Principles* state that national authorities have the primary responsibility to provide protection and humanitarian assistance to IDPs, including essential food and drinking water, basic shelter and housing, and essential medical services and sanitation. IDPs have the right to be protected against forcible return where their life, safety and liberty would be at risk. They also have the right to know the fate and whereabouts of missing relatives, and the authorities have a duty to investigate and keep next of kin informed. In addition, the authorities have an obligation facilitate the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these documents.

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<sup>1</sup> Paletwa township is the poorest area of Chin State, which in turn is the poorest State in the whole of Burma/Myanmar. 73 percent of people live below the poverty line, according to 2011 UN statistics, compared with a national average of 25 percent. See *Poverty Profile, Integrated Household Living Conditions Survey in Myanmar (2009-2010)*, June 2011, pp.12. The next poorest state is Arakan, at 44 percent.

<sup>2</sup> See <http://www.nd-burma.org/documentation/resources.html>

<sup>3</sup> Article 38 of the UN Convention on the Rights of the Child, to which Burma is a State party, prohibits the recruitment of children under the age of 15 to the army. Burma's own regulation for the Persons Subject to the Defense Services Act prohibits the recruitment of children under the age of 18 to be soldiers. Burma also has obligations to fulfill under the mechanism in UN Security Council Resolution 1612 on ending the recruitment and use of child soldiers.

<sup>4</sup> Forced recruitment is a form of forced labour, under ILO Convention 29 and Burma's own military instruction 1/131/ye 1 (ka) dated 2 Oct 1997.

<sup>5</sup> Principle 20.2 states, "[T]he authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, **without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.**" [emphasis added]. *UN Guiding Principles on Internal Displacement*, 11 February 1998, ref: E/CN.4/1998/53/Add.2.

<sup>6</sup> Best practice guidelines are outlined by the International Committee for the Red Cross in *The Missing and Their Families: Action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families*, December 2003, ICRC, ref: 03/IC/10.

<sup>7</sup> This obligation is set out in article 3 common to four Geneva Conventions of 1949 (known as Common Article 3), to which all states are parties, including Burma/Myanmar. Common Article 3 states, "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions..." The rules are set out by the International Committee of the Red Cross (ICRC) in Henckaerts & Doswald-Beck, eds., *Customary International Humanitarian Law, Volume I: Rules* (Cambridge: Cambridge Univ. Press 2005).

<sup>8</sup> Rules 95, 98, and 99, ICRC, *ibid.*

<sup>9</sup> Rule 98, ICRC, pp.340, *ibid.*

<sup>10</sup> Rule 105, ICRC, *ibid.*

<sup>11</sup> Rule 81, ICRC, *ibid.*

<sup>12</sup> *UN Guiding Principles on Internal Displacement*, 11 February 1998, ref: E/CN.4/1998/53/Add.2.