



BURMA

# Dead Men Walking

Convict Porters on the Front Lines in Eastern Burma

HUMAN  
RIGHTS  
WATCH



Karen Human Rights Group  
Documenting the voices of villagers in rural Burma



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## Convict Porters on the Front Lines in Eastern Burma

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Burmese army column with several convict porters moves through a village in Karen State.

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Burmese army soldier walks behind a convict porter in northern Karen State. During this operation, the army used approximately 140 prisoners from Insein prison in Rangoon, and Toungoo prison in Karen State. © 2011 Free Burma Rangers







A group of escaped convict porters show their injuries from carrying heavy loads of military supplies, Karen State in 2000. © 2000 Karen Human Rights Group



The remains of four convict porters killed by the Burmese army in northern Karen State in 2006. © 2006 Karen Human Rights Group

Burmese army mortar rounds and landmines carried by convict porters. © 2011 Karen Human Rights Group



Left: Former convict porter Tun Tun Aung, 20, receives treatment for a gunshot wound. Burmese soldiers shot him in the shoulder when he escaped to Thailand in January 2011. © 2011 Phil Thornton



Right: Former convict porter Maung Nyunt escaped in January 2011. © 2011 Phil Thornton





## Transport Routes and Area Use of Convict Porters in the 2011 Offensive



## Map of Post-Election Offensive Area 2010-2011



## Acronyms and Burmese Terms

|                         |                                                                                                               |
|-------------------------|---------------------------------------------------------------------------------------------------------------|
| BGF                     | Border Guard Force                                                                                            |
| <i>bo-gyi</i>           | captain                                                                                                       |
| DKBA                    | Democratic Karen Buddhist Army                                                                                |
| IB                      | Infantry Battalion                                                                                            |
| ICRC                    | International Committee of the Red Cross                                                                      |
| ILO                     | International Labour Organization                                                                             |
| KNLA                    | Karen National Liberation Army                                                                                |
| KNU                     | Karen National Union                                                                                          |
| Kyat                    | Burmese currency, the official rate is US\$1 to 6 Kyat, but the effective market rate is US\$1 to 1,000 Kyat. |
| LIB                     | Light Infantry Battalion                                                                                      |
| LID                     | Light Infantry Division                                                                                       |
| <i>Louq a pay</i>       | Forced Labor                                                                                                  |
| MOC                     | Military Operations Command (similar to a brigade, comprising 10 battalions)                                  |
| <i>por-ta</i>           | porter, Burmese use of the English word                                                                       |
| <i>Sa Ka Ka</i>         | Military Operations Command                                                                                   |
| <i>Sit-tha</i>          | soldier                                                                                                       |
| SLORC                   | State Law and Order Restoration Council (ruling military council from 1988-1997)                              |
| SPDC                    | State Peace and Development Council (ruling military council from 1997-March 2011)                            |
| <i>Tatmadaw</i>         | Burmese armed forces                                                                                          |
| <i>taung bpaing kyì</i> | prison warden                                                                                                 |
| <i>wan hsawn</i>        | public service personnel, term for a porter                                                                   |
| <i>yeh beh</i>          | labor camp                                                                                                    |



## Summary

We were carrying food up to the camp and one porter stepped on a mine and lost his leg. The soldiers left him, he was screaming but no one helped. When we came down the mountain he was dead. I looked up and saw bits of his clothing in the trees, and parts of his leg in a tree.

–Escaped convict porter “Maung Nyunt,” March 2011

The young boy told them [soldiers], “If I run you will shoot me.” They said, “No, we won’t kill you. You can run.” They ordered the guy to run. Just as he walked down to the gorge, they shot him in the back. And they told us, “You guys see what happens? If you can’t climb up, we will kill you.” We were afraid.

–Escaped convict porter “Matthew,” January 2011

For decades the Burmese army has forced civilians to risk life and limb serving as porters in barbaric conditions during military operations against rebel armed groups. Among those taken to do this often deadly work, for indefinite periods and without compensation, are common criminals serving time in Burma’s prisons and labor camps.

Escaped convict porters described to us how the authorities selected them in a seemingly random fashion from prison and transferred them to army units fighting on the front lines. They are forced to carry huge loads of supplies and munitions in mountainous terrain, and given inadequate food and no medical care. Often they are used as “human shields,” put in front of columns of troops facing ambush or sent first down mined roads or trails, the latter practice known as “atrocious demining.” The wounded are left to die; those who try to escape are frequently executed.

Burma’s military government promised that the November 2010 elections, the country’s first elections in more than 20 years, would bring about human rights improvements. But soon after election day the Burmese army, the Tatmadaw, launched military operations that have been accompanied by a new round of abuses.

In January 2011, the Tatmadaw, in collusion with the Corrections Department and the Burmese police, gathered an estimated 700 prisoners from approximately 12 prisons and labor camps throughout Burma to serve as porters for an ongoing offensive in southern Karen State, in the east of the country. The same month, another 500 prisoners were taken

for use as porters during another separate military operation in northern Karen State and eastern Pegu Region, augmenting 500 porters used in the same area in an earlier stage of the operation in the preceding year. The men were a mix of serious and petty offenders, but their crimes or willingness to serve were not taken into consideration: only their ability to carry heavy loads of ammunition, food, and supplies for more than 17 Tatmadaw battalions engaged in operations against ethnic Karen armed groups. Karen civilians living in the combat zone, who would normally be forced to porter for the military under similarly horrendous conditions, had already fled by the thousands to the Thai border.

The prisoners selected as porters described witnessing or enduring summary executions, torture and beatings, being used as “human shields” to trip landmines or shield soldiers from fire, and being denied medical attention and adequate food and shelter.

One convict porter, Ko Kyaw Htun (all prisoner names used in this report are pseudonyms), told how Burmese soldiers forced him to walk ahead when they suspected landmines were on the trails: “They followed behind us. In their minds, if the mine explodes, the mine will hit us first.” Another porter, Tun Mok, described how soldiers recaptured him after trying to escape, and how they kicked and punched him, and then rolled a thick bamboo pole painfully up and down his shins.

This report, based on Human Rights Watch and Karen Human Rights Group interviews with 58 convict porters who escaped to Thailand between 2010 and 2011, details the abuses. The porters we spoke with ranged in age from 20 to 57 years, and included serious offenders such as murderers and drug dealers, as well as individuals convicted of brawling and fraud—even illegal lottery sellers. Their sentences ranged from just one year to more than 20 years’ imprisonment, and they were taken from different facilities, including labor camps, maximum security prisons, such as Insein prison in Rangoon, and local prisons for less serious offenders.

The accounts shared by porters about the abuses they experienced in 2011 are horrific, but sadly not unusual. The use of convict porters is not an isolated, local, or rogue practice employed by some units or commanders, but has been credibly documented since as early as 1992. This report focuses on recent use of convict porters in Karen State, but the use of convict porters has also been reported in the past in Mon, Karenni, and Shan States. The International Labour Organization (ILO) has raised the issue of convict porters with the Burmese government since 1998, yet the problem persists, particularly during major offensive military operations.

Burma's forcible recruitment and mistreatment of convicts as uncompensated porters in conflict areas are grave violations of international humanitarian law and human rights law. Abuses include murder, torture, and the use of porters as human shields. Those responsible for ordering or participating in such mistreatment should be prosecuted for war crimes.

Authorities in Burma have previously admitted the practice occurs, but have claimed that prisoners are not exposed to hostilities. The information gathered for this report, consistent with the evidence gathered over the past two decades, demonstrates that this simply is not true. The practice is ongoing, systematic, and is facilitated by several branches of government, suggesting decision-making at the highest levels of the Burmese military and political establishment. Officials and commanders who knew or should have known of such abuses but took no measures to stop it or punish those responsible should be held accountable as a matter of command responsibility.

The use of convict porters on the front line is only one facet of the brutal counterinsurgency practices Burmese officials have used against ethnic minority populations since independence in 1948. These include deliberate attacks on civilian villages and towns, large-scale forced relocation, torture, extrajudicial executions, rape and other sexual violence against women and girls, and the use of child soldiers. Rebel armed groups have also been involved in abuses such as indiscriminate use of landmines, using civilians as forced labor, and recruitment of child soldiers. These abuses have led to growing calls for the establishment of a United Nations commission of inquiry into longstanding allegations of violations of international humanitarian and human rights law in Burma.

As the experiences contained in this report make clear, serious abuses that amount to war crimes are being committed with the involvement or knowledge of high-level civilian and military officials. Officers and soldiers commit atrocities with impunity. Credible and impartial investigations are needed into serious abuses committed by all parties to Burma's internal armed conflicts. The international community's failure to exert more effective pressure on the Burmese military to end the use of convict porters on the battlefield will condemn more men to take their place.

## Key Recommendations

### *To the Burmese Government*

- Acknowledge past failures to pursue justice and fully support the establishment of a UN commission of inquiry into allegations of serious violations of international humanitarian and human rights law by all parties to the internal armed conflicts in Burma.
- Immediately cease the practice of using civilian porters, including convict porters, in armed conflict areas in Burma.
- Credibly investigate and prosecute those responsible for abuses against porters during military operations, regardless of rank or position, including senior government officials and military commanders responsible for use of uncompensated porters in conflict areas.

### *To China, Russia, US, European Union, Japan, and ASEAN Member States*

- Publicly support a UN commission of inquiry into serious violations of international humanitarian and human rights law by all parties to the internal armed conflicts in Burma. Actively mobilize other countries to support the creation of a UN commission of inquiry at the UN General Assembly or at the Human Rights Council.
- Publicly call on Burma to immediately end the practice of using civilian porters, including convicts, in armed conflict areas.



## Methodology

This report is based largely on interviews with 58 escaped convict porters from an estimated 26 prisons and labor camps throughout Burma since January 2010, either in Karen State or in locations along the Thailand-Burma border. Human Rights Watch interviewed 12 escaped convict porters in February, March, and June 2011, as well as 8 Burmese army soldiers. The Karen Human Rights Group interviewed 46 escaped convict porters from January 2010 through January 2011. The Karen Human Rights Group has conducted additional interviews with escaped porters since 2008, and those accounts have also been included where relevant.

Interviews were conducted in Burmese or in Karen, sometimes with Burmese to English translation. We have given pseudonyms to all Burmese we interviewed and in some cases have withheld certain other identifying information to protect their safety. Locations of interviews done in Burma have been generalized to the township or district level, so that those interviewed cannot be easily identified. Where possible and in a majority of cases, interviews were conducted on a one-on-one basis. All those interviewed were informed of the purpose of the interview, its voluntary nature, and the ways in which the data would be used, and orally consented to be interviewed and for their testimony to be used in Human Rights Watch and Karen Human Rights Group reporting. All were told that they could decline to answer questions or could end the interview at any time. None received compensation.

Human Rights Watch used a common list of questions for interviews with convict porters and separate questions for soldiers, but not a formal questionnaire. Karen Human Rights Group researchers are trained to conduct interviews based upon a basic set of interview guidelines; standard questionnaires are not used. Karen Human Rights Group reporting aims to present the perspectives of individual interviewees, allowing them to raise issues that they consider to be the most important and to express their individual concerns. This means that a given question or issue may or may not be raised in every interview.

Human Rights Watch and the Karen Human Rights Group have attempted to include, wherever possible, the ranks, insignia, and unit identification of Burmese military personnel implicated in using convict porters. Names of alleged perpetrators are given where the information could be independently corroborated. Not all porters interviewed were clear on which units they were assigned to. Many did not recognize unit insignia, or comprehend military rank insignia, but researchers would have them explain or draw what the soldiers wore, for example three chevrons means a sergeant, or three stars is a captain. In most cases, Human Rights Watch researchers showed an array of military unit insignia: LID-22, artillery command, Southeast

Command, for example, to discern what unit the porters were assigned to or witnessed during their service. In some cases convict porters had clear details and names of their unit commanders and abusive personnel. One prisoner had precise details of the unit he was assigned to, and when asked how he knew so much, he replied that all the soldiers had their battalion numbers stenciled onto the butts of their MA-1 assault rifles.

In addition, Human Rights Watch and the Karen Human Rights Group drew from a number of secondary sources including United Nations reports, academic studies, and nongovernmental organization reports.

We take no position on the guilt or innocence of the convict porters interviewed for this report. While many freely admitted to committing the crimes that put them in prison and provided detailed information on their prison experience, our interviews were centered on their experiences after being transferred to military custody.

This report does not examine the legal system in Burma or conditions in Burmese prisons. We recognize that the judicial system in Burma is not independent; trials are unfair, official corruption is pervasive, and conditions in penal facilities are extremely dire, but such issues are beyond the scope of the present report.<sup>1</sup>

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<sup>1</sup> Nick Cheesman, "Thin Rule of Law or Un-Rule of Law in Myanmar?," *Pacific Affairs*, Winter 2009/2010, pp. 597-613.

## I. Forced Labor in Burma

The Burmese Defense Services, or Tatmadaw, is one of the largest armed forces in Asia, with an estimated 300,000 to 400,000 personnel. The Tatmadaw has been battling a wide range of primarily ethnic minority insurgencies throughout the country since independence in 1948. In the past two decades it has succeeded in confining most armed resistance to the borderlands with Thailand, China, and India.

The Burmese army's brutal human rights record has been well documented for nearly two decades.<sup>2</sup> Violations during military operations include attacks on civilian populations, summary executions, torture, rape, and looting, as well as forced labor. These violations, carried out with complete impunity, and abuses by non-state armed groups, have led to calls for the United Nations to establish an international commission of inquiry into allegations of war crimes and crimes against humanity in Burma.<sup>3</sup>

One of the most serious and widespread reported abuses against civilians has been unpaid forced labor. In the 1990s, Burmese soldiers press-ganged civilians off the streets in cities, towns, and villages to be used by army units as porters on combat operations or by local officials for development and infrastructure projects. The practice of forced labor has gradually transformed from a common urban problem where civilians were press ganged into work in towns and cities, or taken by force from urban areas and sent to carry supplies in conflict zones in the hinterlands, to one now predominantly, but by no means exclusively, confined to isolated rural areas. Especially targeted have been those living in conflict areas, where the military continues to routinely force civilians into carrying supplies or providing labor for a range of military related duties.

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<sup>2</sup> See Amnesty International, *Myanmar: Lack of security in counter-insurgency areas*, AI Index ASA 16/007/2002, July 2002, Amnesty International, *Myanmar: Crimes against humanity in eastern Myanmar*, AI Index ASA 16/011/2008, June 2008, Mary P. Callahan, *Making Enemies. War and State Building in Burma*, Cornell University Press, 2003, pp.207-28, Human Rights Watch, *"They Came and Destroyed Our Village Again". The Plight of Internally Displaced Persons in Karen State*, June 2005, International Center for Transitional Justice, *Impunity Prolonged: Burma and its 2008 Constitution*, ICTJ, September 2008, International Human Rights Clinic, *Crimes in Burma*, Harvard Law School, May 2009, Martin Smith, *Burma. Insurgency and the Politics of Ethnicity*, Zed Books, 1999, Thailand Burma Border Consortium, *Internal Displacement and International Law in Eastern Burma*, Bangkok, TBBC, October 2008.

<sup>3</sup> See Human Rights Watch, "Burma: Q&A on an International Commission of Inquiry," March 24, 2011, <http://www.hrw.org/en/news/2011/03/24/burma-q-international-commission-inquiry>.

## Convict Porters in Armed Conflict

The Burmese army has long used prison convicts as porters in armed conflict zones with the complicity of both civilian and military officials. Their use in large-scale military operations has been documented since at least 1992 by Human Rights Watch, the Karen Human Rights Group, the United Nations, the International Committee of the Red Cross (ICRC), and Amnesty International. For instance, in 1995, Human Rights Watch interviewed more than 50 men who escaped from army units involved in a large-scale offensive against the headquarters of the rebel Karen National Union (KNU) at Manerplaw on the Burmese-Thai border. Thousands of porters forcibly recruited from the civilian population and from various prisons were used to carry weapons and supplies to army units at the front line of the operation.<sup>4</sup>

Past reports have described the process of transferring prisoners from prison facilities to the front lines, where convict porters have suffered a range of abuses from the military units they were serving. During operations, Tatmadaw officers ordered convict porters to carry heavy supplies of munitions and rations into battle zones, routinely exposed them to hostilities, beaten and tortured them for complaining or attempting to escape, forced them to walk ahead of troops to deter ambushes or trigger landmines, and executed some when they became too weak to carry supplies, or were injured. A 1992 report by Amnesty International described convict porters facing extrajudicial executions, beatings, lack of food and medicines, and poor conditions, describing the use of criminal prisoners for portering as a “apparently a new phenomenon.”<sup>5</sup>

Many of these reports emerged from Karen State, where armed conflict has continued for more than five decades. The ethnic Karen KNU has been in armed revolt against the central government since 1948 and controls one of the largest ethno-nationalist armed groups in Burma, the Karen National Liberation Army (KNLA). Since 1989, the central government has reached ceasefire agreements with approximately 17 non-state armed groups in the north and east of Burma, and where since then conflict has been largely sporadic or small scale. The then-ruling State Peace and Development Council (SPDC) agreed to a ceasefire with the KNU between December 2003 and October 2004, but since then large-scale military offensives have resumed. Convict porter use has also been reported in parts of Mon, Karenni, and Shan States by grassroots human rights organizations, but has not been investigated or conclusively documented by Human Rights Watch or the Karen Human Rights Group.

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<sup>4</sup> Human Rights Watch/Asia, *Burma: Abuses Linked to the Fall of Manerplaw*, C. 705, March, 1995.

<sup>5</sup> Amnesty International, “Myanmar. No Law At All: Human rights violations under military rule,” London, AI Index, ASA 16/11/92, September 30, 1992.

While small numbers of prisoners are used to perform manual labor around military camps, and sometimes to carry supplies to the frontlines, the large-scale use of prison labor at the frontlines is more often associated with large-scale military offensives.<sup>6</sup> That the Tatmadaw has often employed brutally punitive measures during its six decades-long counter-insurgency campaign has been well documented. Less well understood is why the army—which since at least 1988 has made massive outlays for trucks, armored personnel carriers, and helicopters to carry supplies and weapons—needs civilian porters.<sup>7</sup> In response to pressure from the ILO, the Tatmadaw expanded their use of mules to carry supplies in some conflict areas, including the purported use of five Animal Transport Battalions, which were of limited use on combat operations.<sup>8</sup>

In spite of these outlays, the Tatmadaw has continued to rely on civilian labor to support military operations in remote or mountainous areas, where roads are too undeveloped for the use of mechanized transport and animal transport too noisy to evade guerrilla attacks. Maung Aung Myoe, a Burmese academic specializing in the Tatmadaw, argues that a combination of rugged terrain in the mountains of eastern Burma where most insurgent groups operate, and longstanding logistics shortcomings are a key reason for low morale within frontline army units. He writes:

The Tatmadaw troops operate in a very rough operational environment where there is no guarantee of a re-supply of rations and ammunition or medical evacuation. Logistics has always been an issue in the Tatmadaw, which also hampers the troops' mobility. This is particularly true in counter-insurgency operations. "Yeikkha-Santsar" or stretching of the ration in the frontline has become a common phenomenon.<sup>9</sup>

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<sup>6</sup> The term "military offensive" is often misapplied in conflict areas of Burma. Normal patrol activities by Tatmadaw units often entail abuses against civilians, but they are not an offensive in the sense of being a multi-unit operation with clearly defined aims of taking over territory, destroying a target, or relocating large numbers of civilians as part of a counter-insurgency operation. The historical label "Four Cuts" campaign has likewise often been misapplied. This specific counter-insurgency campaign is not an everyday phenomenon, but a multi-unit specific campaign designed to pacify a designated area of insurgent activity.

<sup>7</sup> On post-1988 foreign arms sales to Burma, see Andrew Selth, *Burma's Armed Forces. Power Without Glory*, Norwalk CT, Eastbridge, 2002.

<sup>8</sup> International Labour Organization, "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29). Report of the High-Level Team," Geneva, 282nd Session, GB.282/4, November 2001, para. 60. p.15.

<sup>9</sup> Maung Aung Myoe, *Building the Tatmadaw. Myanmar Armed Forces Since 1948*, Singapore: Institute of Southeast Asian Studies, 2009, p.201.



## Role of the ILO in Combating Forced Labor

The International Labor Organization is the key international agency working to end the practice of forced labor in Burma. For over 15 years the ILO has been pressing the military government to bring Burma's laws and practices in line with the government's obligations under ILO Convention No. 29 (1930) concerning Forced or Compulsory Labor, which Burma ratified in 1955. According to a recently published history of the ILO's efforts in Burma, the use of convict porters in conflict areas has been a longstanding practice:

The use of convicts as porters was nothing new. But starting around 1999, an organized system was introduced for selecting suitable inmates (able-bodied men of working age, excluding – because of the possibilities for escape – political prisoners and violent criminals with long periods still to serve), transferring them to holding facilities around the country, and then sending them to army units in response to specific requests. Whereas in the past, convicts had continued to wear their prison uniforms while portering, under the new system they were dressed in special uniforms identifying them as (convict) porters. (The fact that the increased and more systematic use of prisoners as porters stemmed from a specific policy decision was confirmed by the Director-General of the Prison Service in a meeting with the ILO on 13 May 2002.)<sup>10</sup>

Following widespread reports of the use of forced labor in Burma, the ILO established a Commission of Inquiry into the practice in 1997. The commission's report was released in 1998, and while its main focus was the use of civilian labor, it made mention of convict labor as an established practice. "Prisoners were also regularly sent from prisons and labour camps across the country to be used by the army in major offensives. They continued to wear prison uniforms and were usually kept separate from the other porters. In certain cases, prisoners were forced to continue working in such conditions beyond their normal release date."<sup>11</sup> In its response to the ILO investigation, the Burmese government admitted using porters to carry supplies but categorically denied exposing them to armed conflict. The government's argument, as summarized in the commission's report, stated:

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<sup>10</sup> Richard Horsey, *Ending Forced Labor in Myanmar: Engaging a Pariah Regime*, Routledge, 2011, Conclusion, footnote 2, p.233 (parentheses in original). See also the ILO report of 1992, in which the ILO liaison officer writes "On the question of prisoners being used as porters, the L.O. ad interim stressed that this should not be seen as an acceptable alternative to the use of civilians." See also International Labour Organization, "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)," Geneva, 285th Session, GB.285/4, November 2002, para. 27, p.10.

<sup>11</sup> International Labor Organization, "Forced labour in Myanmar (Burma). Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29)," Geneva, July 2, 1998, para. 303.

Since 1948, successive Myanmar governments have had to deal with insurgent groups. Therefore, under certain circumstances the Myanmar armed forces had to employ porters for transportation of supplies and equipment over difficult terrain in remote places and mountains near the frontier areas where military campaigns against the armed groups were launched. The Government stated that the porters employed were not treated harshly and inhumanely by the Myanmar armed forces. Criteria for the recruitment of these porters required that they must be unemployed casual labour, that they must be physically fit to work as porters, and that a reasonable amount of wages must be fixed and agreed to before recruitment. Also, these porters were never required to accompany the troops in the actual scene of the battle, nor exposed to danger. In the unfortunate event of loss of limb unconnected with any armed conflict, they or their family were equitably compensated in accordance with the prevailing law.<sup>12</sup>

Due to the ILO's inquiry, the government issued SPDC Order 1/99 in May 1999 and a supplementary order in October 2000, which specifically outlawed the use of forced labor of any kind.<sup>13</sup> In early 2008, the new constitution that the SPDC had been drafting since 1993 and had completed in September 2007, was released with a specific passage on forced labor, "The Union prohibits forced labor except hard labor as a punishment for crime duly convicted and duties assigned by the Union in accord with the law in the interest of the public."<sup>14</sup> The ILO requested the government of Burma to amend this clause and bring it in line with the forced labor convention.

Despite international attention to the ILO's efforts, the Tatmadaw's use of convict porters in military operations has continued, and grassroots human rights organizations have reported episodically on the issue.<sup>15</sup> A court sentenced Zaw Zaw Tun, a 30-year-old former cadet of the

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<sup>12</sup> The government also stated that the *Tatmadaw* was under a strict military code of conduct, was highly disciplined, and did not resort to onerous or oppressive actions against the people. Any isolated aberration was met with severe punishment meted out by a military court. Finally, the government asserted that the use of porters had significantly diminished as a result of fewer military operations against opposition armed groups. ILO, *Forced Labor in Myanmar*, para. 112.

<sup>13</sup> Ministry of Home Affairs, "State Peace and Development Council Order No. 1/99. Order directing not to exercise powers under certain provisions of The Towns Act, 1907 and The Village Act, 1907 (sic, 1908)," Yangon, Government of the Union of Myanmar, May 14, 1999.

<sup>14</sup> Chapter VII, Citizen, Fundamental Rights and Duties of Citizens, Clause 359, *Constitution of the Republic of the Union of Myanmar*, Printing and Publishing Enterprise, Ministry of Information, May 2009, p. 151.

<sup>15</sup> Assistance Association for Political Prisoners (Burma), "The Use of Prisoners as Forced Porters and Labor by the Military Junta in Burma," Mae Sot, Thailand, September 19, 2000, Burma Issues, "From Prison to Frontline. Portering for SPDC Troops During the Offensive in Eastern Karen State, Burma, September-October, 2003," Mae Sot, Thailand, January 2005, and Karen Human Rights Group, "Convict Porters: The brutal abuse of prisoners on Burma's frontlines," Mae Sot, KHRG #2000-06, December 2000. See also the testimony of "Aye Maung" in Maggie Lemere and Zoë West, *Nowhere to be Home. Narratives from Survivors of Burma's Military Regime*, Voice of Witness, February 2011.

prestigious Defense Services Technological Academy (DSTA) in Pyin U Lwin, to seven years in prison for his involvement in a cadet protest at the college in 2002. In early 2004, he and 100 other prisoners were driven from Sittwe prison in Arakan State across Burma to Tenasserim Division (region) to serve with the army's 9<sup>th</sup> Infantry Division. Zaw Zaw Tun remembers that there were approximately 800 prisoners from four different prisons in Burma, and that prisoners were assigned to specific battalions to carry supplies including food and munitions to frontline bases and on routine patrols. The porters were forced to carry heavy loads, walk ahead through trails suspected of containing landmines, and endure routine brutal treatment. In one incident, a soldier tortured a porter as an example for the rest of the group. Zaw Zaw Tun said:

One old man over 50 [years old] had to climb a high mountain and he was getting tired. A soldier got angry with him and took his knife and cut off the old man's ear. That man ran up the mountain, but the soldier grabbed him, forced him to take off his clothes, then tied him to the bamboo. The soldiers told the porters to gather around, and then in front of us that soldier broke the old man's legs and arms with the butt of his gun. Then the soldier warned us, "If you act like this man, this is what will happen to you." We had to leave that man there alive.<sup>16</sup>

Zaw Zaw Tun escaped with another prisoner after one month, with the assistance of one of the battalion's officers who encouraged him to flee. By the time he escaped, the former army cadet estimates that 200 porters remained of the 800, with some 600 escaping, falling ill, being killed by landmines and ambush, or executed by Burmese army soldiers.

In a major military offensive in northern Karen State from 2005 to 2006, the Tatmadaw allegedly used hundreds of prisoners drawn from numerous prisons throughout Burma to carry supplies. The Karen Human Rights Group interviewed 25 prisoners who escaped from this fighting. One of the prisoners, a 25-year-old ethnic Shan, described the mistreatment porters suffered:

A person I knew from Mandalay prison named Lwan Maung ... fell down on the ground. The soldiers beat him. He could not stand up again. He tried to roll away into a gorge but then the SPDC captain shot him in the head with his pistol and killed him there. That captain was very cruel. He beat and

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<sup>16</sup> Human Rights Watch interview with escaped convict porter Zaw Zaw Tun, Thailand-Burma border, June 11, 2011.

punched porters who could not walk. He threatened to shoot us like the other one he had shot. I heard that three porters died along the way.<sup>17</sup>

Soldiers we interviewed admitted that abuses were committed against convict porters at the front. Let Ya, a 24-year-old army soldier, told Human Rights Watch how his battalion used convict porters on routine unit rotation movements in Karen State in 2010, but only in small numbers and just to carry officer supplies:

When we rotated base up to the front line at Karen State, there were 120 soldiers and three porters. The porters carried heavy loads, but for the officers. We had to carry our own supplies and weapons. The porters would be beaten for small things, if they didn't move fast enough, if they walked around during rest [stops]. I felt bad for them, but I knew I will be beaten if I say anything. For me, the porters were the same as us; the officers treated us all badly. But if we soldiers got one tin of rice to eat, the porters would get half a tin.<sup>18</sup>

In June 2007, the International Committee of the Red Cross (ICRC) released a rare public statement denouncing “major and repeated violations of international humanitarian law” committed by government forces during the conflict. The statement outlined abuses against civilians in eastern Burma, making specific reference to convict porters:

Under the prison system set up by the government, every year thousands of detainees have been forced to support the armed forces by serving as porters. This institutionalized and widespread practice has frequently led to the abuse of detainees and exposed them to the dangers of armed conflict. Many detainees used as porters have suffered from exhaustion and malnutrition and been subjected to degrading treatment. Some have been murdered.<sup>19</sup>

In 2007 the ILO signed a Supplementary Understanding with Burma to create a legal mechanism for reporting cases of forced labor. Since then, the ILO has received 770 complaints of forced labor by the authorities, looked into illegal recruitment of child soldiers, and facilitated the release and discharge of 168 underage soldiers from military

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<sup>17</sup> Karen Human Rights Group, “Less than Human: Convict Porters in the 2005-2006 Northern Karen State Offensive,” Mae Sot, KHRG #2006-03, August 22, 2006, p.17.

<sup>18</sup> Human Rights Watch interview with Tatmadaw deserter Let Ya, Thailand-Burma border, March 3, 2011.

<sup>19</sup> International Committee of the Red Cross, “Myanmar: ICRC denounces major and repeated violations of international humanitarian law,” ICRC News Release 82/07, June 29, 2007 <http://www.icrc.org/eng/resources/documents/news-release/myanmar-news-290607.htm> (accessed March 25, 2011).

custody. In February 2011, a High Level Team of the ILO visited Burma to discuss a range of issues relating to forced labor. According to the ILO's March 2011 report on the visit:

The issue of the use of prison labour for the portering of military supplies in conflict zones was discussed. The mission indicated that this unacceptable practice should be discontinued. The representative of the Corrections Department indicated that the review of the 1894 Jail Manual, which regulates the use of prison labour, was 75 per cent complete and on completion would be submitted to Parliament for adoption. He indicated that the amendment would be in line with international standards and, as such, would meet ILO concerns.<sup>20</sup>

Despite the hard-won accomplishments of the ILO, the most egregious forms of forced labor persist in Burma, including the continuing use of convict porters in armed conflict. And the Tatmadaw remains the Burmese institution most resistant to reform or independent investigation of alleged abuses. The ILO conducts frequent workshops with government officials, the security services, and community-based organizations. It has produced an information brochure in Burmese on forced labor and the work of the ILO and its work is featured routinely in the state run media and exiled media organizations. Despite these efforts, ILO officials acknowledge that:

[A] large portion of society would not yet have access to that knowledge. It is hoped that agreement to produce the brochure in other national [ethnic] languages will be reached as this would help considerably.... The number of complaints received continues to increase reflecting increased awareness of the law and rights under the law as well as increased confidence to complain. Forced labour continues, however, to be a serious problem, particularly in respect of its use by the military.<sup>21</sup>

The ILO would also benefit from an augmented staff presence, especially in rural and regional areas, and more logistics support to enhance monitoring in isolated areas which would raise awareness in ethnic regions where the military presence is much greater, the Tatmadaw's use of forced labor more entrenched, and local awareness much less than in towns and cities of

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<sup>20</sup> International Labour Organization, "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)," Geneva, 310th Session, GB.310/5, March 2011, para. 26, p.5.

<sup>21</sup> Thea Forbes, "The ILO and forced labour in Burma," *Mizzima News*, March 7, 2011 <http://www.mizzima.com/edop/interview/4973-the-ilo-and-forced-labour-in-burma.html> (accessed June 16, 2011).

central Burma. One recent positive example was the ILO's visit to Chin State in May 2011, where reports of widespread forced labor persist, and where the ILO conducted investigations of forced labor complaints and workshops with local Burmese officials.<sup>22</sup>

## Ongoing Use of Convict Porters

Convict porters continue to be used extensively in multi-unit Tatmadaw operations in northern Karen State and eastern Pegu Region. In northern Karen State and eastern Pegu Region, porters are being used as part of ongoing Tatmadaw operations against the KNLA. In 2010, several hundred porters were used to carry supplies to camps along primitive roads linking Tatmadaw camps in Papun and Nyaunglebin in northern Karen State and eastern Pegu Region. In January 2011, a new group of at least 500 men were congregated at the prison in Toungoo Town and then used to supply Tatmadaw positions to the south and east, in northeastern Pegu Division and into northernmost Karen State.

A major use of convict porters occurred in January 2011, when the military escalated its offensive in Karen State following the November 2010 elections, eventually forcibly drawing an estimated 700 prisoners from more than 12 prisons and labor camps.

On November 7, 2010, election-day across Burma, a faction of the Democratic Karen Buddhist Army (DKBA) briefly took control of the border town of Myawaddy in Karen State. The motives for the attack are not clear, whether political considerations or illicit trade disputes, but the broader issue was the DKBA faction's refusal to agree to transform into a Border Guard Force (BGF), a government initiative to incorporate under direct Burmese army command all ethnic armed groups that had agreed to ceasefires.<sup>23</sup> The DKBA, a splinter group from the larger Karen National Union/Karen National Liberation Army, agreed to transform into a Karen State BGF in September 2010. But a unit of the DKBA under the command of Brig. Nah Kham Wey refused to sign onto the BGF scheme and attacked and

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<sup>22</sup> See "ILO conducts forced labour workshops with Burmese gov't officials," *Mizzima News*, May 26, 2011, <http://www.mizzima.com/edop/interview/5326-ilo-conducts-forced-labour-workshops-with-burmese-govt-officials.html> (accessed June 5, 2011). See also Human Rights Watch, "We Are Like Forgotten People." *The Chin People of Burma: Unsafe in Burma, Unprotected in India*, January 2009, Physicians for Human Rights, *Life Under the Junta: Evidence of Crimes Against Humanity in Burma's Chin State*, Cambridge Mass, January 2011.

<sup>23</sup> In 2008, Burma's ruling SPDC announced that all armed groups under ceasefires would have to transform into BGFs under the direct operational control of the Tatmadaw, as stipulated in the 2008 Constitution. To date, nine small militias have agreed to the terms and transformed into BGFs throughout Burma. Large ethnic armed groups such as the United Wa State Army (UWSA), the Kachin Independence Organization (KIO), and the New Mon State Party (NMSP), have refused to join the BGF scheme according to Transnational Institute and Burma Centrum Nederland, "Ethnic Politics in Burma: The Time for Solutions," Amsterdam, Burma Policy Briefing Nr.5, February 2011. Other insurgent groups such as the KNLA and Shan State Army-South have not been offered to transform into BGFs because they are still in open conflict with the central government.



occupied Myawaddy on November 7. Fighting continued the following day there and further south at Three Pagodas Pass across from Kanchanaburi province in Thailand.

The fighting initially displaced more than 20,000 civilians who fled into Thailand, as bullets and mortar rounds were fired into the Thai town of Mae Sot. Many of these people returned to Burma soon after as fighting ceased. In the following days and weeks, clashes continued between the Tatmadaw and DKBA factions, and at times with the KNLA south of Myawaddy.

Many villagers interviewed by Human Rights Watch and the Karen Human Rights Group spoke of fears of being taken as a porter, and these fears being their primary reason for fleeing to Thailand. A 30-year-old Karen farmer told Human Rights Watch:

I was called with others to carry the Burmese wounded [after an ambush]. There were five wounded and four dead. They buried the dead ones there. They told us to bring hoes and shovels for that. I carried one of the wounded soldiers to Palu town for one hour. I was afraid to carry them—I was scared there would be another attack on the way, either the DKBA or KNLA would ambush all of us. It is not safe to go back, I am afraid to be taken as a porter for the Burmese.<sup>24</sup>

From November 9, 2010, to March 2011, more than 11,000 civilians were displaced internally or fled to Thailand because of the fighting, large-scale planting of landmines around civilian settlements, and fears of being taken as porters by the Tatmadaw. In addition to fighting south of Myawaddy, renewed fighting between the Tatmadaw and the KNLA also occurred north of the former KNU headquarters at Manerplaw, resulting in further displacement of civilians into Thailand.<sup>25</sup>

In military operations such as those in the rugged terrain around the Dooplaya area where ordinary trucks cannot be used, the Tatmadaw often use civilian porters to carry equipment, munitions, and food. Convict porters appear to be preferred to ordinary civilians for a

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<sup>24</sup> “Burma: Eyewitness Accounts of Abuses in Eastern Fighting,” Human Rights Watch news release, December 4, 2010, <http://www.hrw.org/en/news/2010/12/04/burma-eyewitness-accounts-abuses-eastern-fighting>, and Karen Human Rights Group, “Villagers flee to avoid fighting and portering: Conflict continues to impact civilians in Dooplaya District,” KHRG News Bulletin, KHRG #2010-B16, December 4, 2010.

<sup>25</sup> United Nations High Commissioner for Refugees, “UNHCR urges Thailand against forced returns to Myanmar,” UNHCR Press Release, December 28, 2010, and Phil Thornton, “When the people are the enemies of the state,” *Bangkok Post*, March 6, 2011, pp.3-5 (Spectrum section), Backpack Health Worker Team, “Update on the Conflict and Displacement of Civilians along the Thai-Burma border,” Mae Sot, BPHWT, February 15, 2011, Refugees International, “Thailand: No Safe Refuge,” RI Field Report, March 24, 2011.

number of reasons. Many of the villagers in the areas of fighting quickly flee, so there are few people available to force into portering duties. And because they are drawn from the very population the army is fighting, they are less reliable and more likely and capable of fleeing. Convict porters by contrast provide a reliable source of relatively able men to do the difficult work.

As discussed below, the Tatmadaw's use of uncompensated convict porters in dangerous armed conflict areas violates Burma's obligations under international humanitarian law. It is one of many violations of international law committed by the Tatmadaw in its fighting against insurgent forces. Yet, as is evident in the response of the Burmese government during Burma's Universal Periodic Review at the Human Rights Council in Geneva on January 26, 2011, the authorities do not acknowledge that any kind of inquiry into alleged abuses is warranted and claim to investigate abuses allegedly perpetrated by Burmese army personnel even though they do not make public the results of any purported investigation:

The insurgency is confined to a few localities in the border areas. Counter insurgency activities are conducted only against those remnant insurgents. Military operations are carried out in accordance with rules of engagement and strict instructions are also given to avoid civilian casualties. The Government is committed to investigate any allegation of human rights violations and takes action against any perpetrator in accordance with law.<sup>26</sup>

In March 2011, at the Human Rights Council, the Burmese government included a section on forced labor in its response to the report by UN Special Rapporteur on the situation of human rights in Myanmar Tomás Ojea Quintana even though convict labor was not specifically mentioned in the special rapporteur's report. Under the heading "Use of forced labor by military," the government asserted:

The authorities concerned have only sought prison labour on their own volition. Prisoners in return can enjoy benefits such as reducing certain period of their prison terms, receiving daily allowance including food rations and reparation in case of injuries.<sup>27</sup>

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<sup>26</sup> United Nations Human Rights Council, "Draft report of the Working Group on the Universal Periodic Review: Myanmar," Geneva, A/HRC/WG.6/10/L.7, February 2, 2011, para. 96, p.11. "Burma: UN Should Tackle Rights Crisis as New Parliament Convenes," Human Rights Watch news release, January 25, 2010, <http://www.hrw.org/en/news/2011/01/25/burma-un-should-tackle-rights-crisis-new-parliament-convenes>.

<sup>27</sup> Human Rights Council, "Note verbale dated 11 March 2011 from the Permanent Mission of Myanmar addressed to the Secretariat of the Human Rights Council," A/HRC/16/G/9, March 11, 2011, p.4.

The numerous accounts obtained by Human Rights Watch, the Karen Human Rights Group, and others paint a very different picture.

## Applicable International Law

The abuses against convict porters violate international humanitarian and human rights law. International humanitarian law, or the laws of war, applies in areas of armed conflict to both government and rebel forces. Article 3 common to the four Geneva Conventions of 1949 provides for the humane treatment of persons under the control of an armed force.<sup>28</sup> For persons taking no active part in the hostilities, it specifically prohibits “violence to life and person,” murder, cruel treatment and torture, and humiliating and degrading treatment.<sup>29</sup>

Customary international humanitarian law addresses a range of issues relating to the Tatmadaw’s use of convicts as porters in armed conflict areas.<sup>30</sup> The laws of war prohibit the use of uncompensated or abusive forced labor, including work directly related to the conduct of military operations or that would oblige them to take part in military operations.<sup>31</sup> Parties to a conflict have an obligation to take all feasible precautions to protect civilians under their control against the effects of attack.<sup>32</sup> In addition to the prohibitions against murder, torture, and other ill-treatment, international humanitarian law also prohibits “human shielding.” Shielding occurs when a party to a conflict deliberately uses civilians to render its forces immune from attack.<sup>33</sup> Individuals who order the use of human shields are committing a war crime.<sup>34</sup> Moreover, officials and commanders are criminally responsible if they knew or had reason to know that war crimes were being committed by their subordinates and did not take all necessary and reasonable measures to prevent their commission or punish those responsible.<sup>35</sup>

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<sup>28</sup> Geneva Conventions of 1949, art. 3. Article 3 applies to “armed conflict not of an international character occurring in the territory of one of the High Contracting Parties.”

<sup>29</sup> *Ibid.*

<sup>30</sup> Customary international humanitarian law can be found in the International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge, UK: Cambridge University Press, 2005) (available at <http://www.icrc.org/customary-ihl/eng/docs/home>). Many of the provisions of the Protocols Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 U.N.T.S. 3, entered into force December 7, 1978, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978, are considered reflective of customary international law during internal armed conflicts.

<sup>31</sup> See ICRC, *Customary International Humanitarian Law*, rule 95, citing Fourth Geneva Convention, arts. 40 and 95.

<sup>32</sup> *Ibid.*, rule 22, citing Protocol I, art. 58(c); Protocol II, art. 13(1).

<sup>33</sup> *Ibid.*, rule 97, citing, e.g. Fourth Geneva Convention, art. 28; Protocol I, art. 51(7).

<sup>34</sup> *Ibid.*, rule 156, citing Rome Statute of the International Criminal Court, art. 8(2)(b)(xxiii).

<sup>35</sup> *Ibid.*, rule 153, citing, e.g. Protocol I, art. 86(2); Rome Statute of the International Criminal Court, art. 28.

International human rights law also remains applicable during armed conflict situations. The Universal Declaration of Human Rights, which is broadly accepted as reflective of customary international law, prohibits violations of the right to life and torture or cruel, inhuman or degrading treatment or punishment.<sup>36</sup>

The involuntary use of convict labor as porters in conflict zones also comes within the definition of forced labor in ILO Convention No. 29 because it fails to meet any of the rules provided in respect of the prison labor exclusion.<sup>37</sup>

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<sup>36</sup> Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), arts. 3 and 5.

<sup>37</sup> Under Article 2 of ILO Convention No. 29, amongst other factors, forced or compulsory labor shall not include “any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations.”

## II. From Prison to Conflict Zone

The Tatmadaw's brutality and long history of disregard for civilian life in counterinsurgency operations, its unwillingness to devote greater resources to logistics particularly in rugged border areas, and the large pool of easily accessible labor in the country's prisons may explain but do not justify the illegal and immoral use of convict porters on the frontlines. This practice has been long utilized as a cheap and replaceable form of labor for the Tatmadaw predominantly in large-scale operations, but also in normal military deployments, such as the building of military bases and other activities.

Interviews conducted by Human Rights Watch and the Karen Human Rights Group over several years show that the use of convict labor is common but not widespread. It is usually employed to support major operations in rugged terrain, even when, according to some Tatmadaw deserters, combat units are capable of carrying their own supplies and equipment. Using convict porters thus becomes a cheap, expendable, and easy solution to logistical challenges. It is a willful deferment of military obligation onto a vulnerable civilian population.

In the offensive military operations following the November 2010 elections, the Tatmadaw, the correctional authorities, and the police worked in concert to choose and transport large numbers of prisoners to the military for use on the frontline. Burma's Prisons Department and the Myanmar Police Force come under the purview of the Ministry of Home Affairs, which has been implicated in facilitating the transport of prisoners to staging areas where they are handed over to military units.<sup>38</sup>

There are currently 42 prisons and 45 labor camps in Burma under control of the Corrections Department. Prisons are divided into three different classes: Class A prisons are equivalent to maximum security, Class B are medium security facilities, and Class C prisons are for petty offenders or those serving short sentences. Political prisoners are usually sent to Class A prisons. Serious offenders or those committing further offenses in prison are sent to labor camps, which include gravel production, agricultural service, road building, and specially designated porter camps which are little different from standard labor camps, but from

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<sup>38</sup> The departments under the Ministry of Home Affairs are the Myanmar Police Force, the General Administration Department, Corrections (or Prisons) Department, and Bureau of Special Investigation. The Ministry also controls several related organizations, the National Intelligence Bureau, Central Committee for Home Affairs, Central Committee for Drug Abuse Control, Myanmar Passport issuing Board, the Visa Issuing Board, Central Registration Board for Printer and Publishers, the Committee for Restriction of Transfer Immovable Property, Preliminary Scrutiny Committee for Awarding Titles and Medals, and the Board of Product using Prison Labors Objectives.

which convicts are drawn on a regular basis. The authorities select porters from all classes of prison and from labor camps.

### **Selecting Prisoners for Porter Duty**

Convict porters are drawn from a range of prisons throughout Burma, from the central Dry Zone, the former capital of Rangoon, and from prisons close to ethnic conflict areas such as Toungoo or Hpa-an in Karen State. The selection of prisoners from a large number of facilities indicates a well-established system of drawing prisoners, typically small groups of 30 to 100 men or so—for portering duties. One consequence of this system is that prison and military officials can reasonably argue that inmates who end up not accounted for have become “lost in the system” if they perish during portering service.

The allocation of prisoners for porter use reflects Tatmadaw practices dating back to the 1990s. In 1995, Human Rights Watch interviewed over 50 men who escaped from Tatmadaw units involved in a large-scale offensive against the rebel Karen National Union (KNU) headquarters at Manerplaw, where thousands of porters drawn from the civilian population and from various prisons were used. A porter recounted how one group of about 1,000 prisoners had come from Pa'an, the capital of Karen State, Insein jail in Rangoon, and from Myainggone prison labor camp.<sup>39</sup>

None of those interviewed by Human Rights Watch or the Karen Human Rights Group in 2010-2011 had volunteered for portering duty; even if porter service were voluntary, this would not justify inhumane treatment and abuse of porters. Only male prisoners were chosen. There are no credible reports of female prisoners being selected for porter duties, although civilian women and girls are often ordered by the army to engage in forced labor in conflict areas. Those interviewed by Human Rights Watch and the Karen Human Rights Group ranged in age from 17 to 57 years. Prison authorities selected names without any clearly stated criteria. There appeared to be no distinction according to the crime committed or length of sentence.

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<sup>39</sup> Human Rights Watch/Asia, *Burma: Abuses Linked to the Fall of Manerplaw*, March 1995.

**Prisons and Labor Camps from which Prisoners were Drawn in 2010-2011 for the Post-Election Offensive in Karen State**

| Facility             | Location        | Estimated Number of Prisoners |
|----------------------|-----------------|-------------------------------|
| Miektila Prison      | Mandalay Region | 30                            |
| Pakokku Prison       | Sagaing Region  | 30                            |
| Insein Prison        | Rangoon Region  | 100                           |
| Zin-kyike Labor Camp | Mon State       | 75-100                        |
| Taung-zun Labor Camp | Mon State       | 100                           |
| Yin-nyein Labor Camp | Mon State       | 75                            |
| Pya Prison           | Pegu Region     | 50                            |

Other prisons from which porters were drawn for service in the 2011 offensive include: Monywa, Mandalay, Magwe, Thayet, and Myingyan. Of the 20 escaped convict porters Human Rights Watch and the Karen Human Rights Group interviewed for this report in early 2011, the estimated total number of prisoners assembled in Hpa-an and Kawkariek on the first few days of January 2011 was 700-800.

**Prisons and Labor Camps from which Prisoners were Drawn in 2009-2011 for Ongoing Operations against the KNLA in Northern Karen State and Eastern Pegu Region**

| Facility               | Location        | Estimated Number of Prisoners |
|------------------------|-----------------|-------------------------------|
| Taungoo Prison         | Pegu Region     | 125                           |
| Yamethin Prison        | Mandalay Region | 175                           |
| Kin-tha (1) Labor Camp | Mandalay Region | 200                           |
| Kin-tha (2) Labor Camp | Mandalay Region | 150                           |
| Mote-pa-lin Labor Camp | Mon State       | 150                           |

Most of the prisoners we interviewed for this report were not informed of the purpose of their transfer. This is likely designed to confuse the prisoner and their relatives into believing their removal is part of a regular prison transfer. Some prisoners related how they at first believed they were being transferred to a labor camp, possibly to serve hard time with a reduction of



sentence. Many of those already in labor camps, already at the most punitive end of the penal system, suspected they were being sent for portering duties. Labor camps are deemed to be the harshest facilities: the only thing considered worse is portering.

#### Government Departments and Military Units Involved in Transporting and Using Convict Porters

|                                                                                                                                                       |                                                                                                                                                |                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
|  <p>Prisons Department under<br/>Ministry of Home Affairs</p>        |  <p>Myanmar Police Force</p>                                  |  <p>Tatmadaw infantry insignia</p>    |
|  <p>Southeast Region Military<br/>Command (Moulmein, Mon State)</p> |  <p>Light Infantry Division 22<br/>(Hpa-an, Karen State)</p> |  <p>Artillery Operations Command</p> |

Soe Myint, a 32-year-old drug offender from Mandalay with five years left in his seven-year sentence, was part of a group of 30 prisoners selected from Meiktila Class C prison in Mandalay Region in late December 2010. He told Human Rights Watch, “The prison guard told us we had the chance to go to a labor camp and have our sentences reduced. Thirty of us were chosen. I thought it was a chance to break rocks and get out of prison early.”<sup>40</sup>

Choosing prisoners from prisons in central Burma also meant many of the prisoners have never been to Karen State or the hinterlands of eastern Burma, cannot speak the local languages, and are not familiar with traversing thick jungles and mountains. Some prisoners in central Burma are ethnic minorities from northern Burma, such as Shan, Wa, and others,

<sup>40</sup> Human Rights Watch interview with escaped convict porter Soe Myint, Thailand-Burma border, March 5, 2011.

who may not speak Burmese fluently, and often Burmese is the only language that prisoners and Karen civilians share. Escape becomes even more daunting if the prisoner is unfamiliar with the terrain or limited in their ability to communicate.

In some cases, prisoners attempted to pay bribes in order to avoid being sent to the front lines, but these bribes were not always successful. Some were given perfunctory health checks, indicating collusion by prison medical authorities. Thaing Soe, a 30-year-old ethnic Burman imprisoned at Meiktila prison for getting into a brawl, suspected he was being sent on portering detail. He said:

No one told me at Meiktila prison where we were going. They chose 30 of us to go. I asked one of the guards to tell my family I had been told to go as a porter. We had two days until we left. My family paid 100,000 Kyat [US\$100] to the prison warden to make sure I didn't go. He took the money and sent me anyway.<sup>41</sup>

Thi Ha Soe, 30, had served only 10 days of his five-year sentence for murder (or manslaughter) in Pakokku, Sagaing Region, when authorities selected him as a porter in late 2010. He told the Karen Human Rights Group how some prisoners tried to bribe their way out of the service:

There were many people who gave money [to get off the list]. And we heard from other people and they said the jailers got a lot of money when porters were called. First they said 30 had to go as porters and 50 had to go to *yeh beh* [labor camp]. We thought, "We are new arrivals and we won't be included to go porter." There was no preparation because we had just arrived. We knew nothing about prison. They chose people on December 29 and 30 and they locked our legs with chains.... The jail warden [told us we going to be porters]. They already collected the name list. They already had the name list that would be included. For us, we knew nothing. From Pakokku, the army didn't come and call, just military trucks came with jailer U Kyaw Tha and policemen from the district. Ten policemen were in each truck with 15 prisoners. In total, there were 25 people in a truck.<sup>42</sup>

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<sup>41</sup> Human Rights Watch interview with escaped convict porter Thaing Soe, Thailand-Burma border, February 17, 2011.

<sup>42</sup> Karen Human Rights Group interview with escaped convict porter Thi Ha Soe, Thailand-Burma border, January 13, 2011

Ko Kyaw Htun, 28, was part of a group of 100 prisoners taken from Insein prison in Rangoon on January 1, 2011. He said:

They didn't say that they were taking us out to be porters, they said it was for *yeh beh*. They sent us to Hpa-an prison [in Karen State]. When we arrived at Hpa-an, they said we were going to be porters. We were all aghast when we heard "porter" because being a porter is very bad. They ordered us to carry their loads and we knew from there. The jailer and jail warden didn't tell us anything before about this. You can pay money if you don't want to go. You have to pay 30,000 Kyat [US\$30]. You have to pay to the leader, the three-striped guy [sergeant]. The jailer and jail warden also take it [the money]. They [the military officers] shared it with the jailer and jail warden after.<sup>43</sup>

For prisoners drawn from labor camps, the treatment was more perfunctory and brutal. Maung Pwe, an ethnic Mon imprisoned for manslaughter in 2003 and taken with 75 other prisoners from the Zin-kyike labor camp in Mon State, told Human Rights Watch, "They [prison authorities] didn't say anything, they picked us as they want. The soldiers kicked us and beat us onto trucks."<sup>44</sup>

## Transportation from Prison

Many of the prisoners interviewed provided details of how, though guarded by policemen, they were transported by military trucks through a number of other prisons before they reached the prison in Hpa-an, the capital of Karen State. During their transport, the prisoners were shackled or handcuffed, ordered to sit with their heads on their knees, and instructed not to talk or look around. Most were never told by their guards where they being transported to, or for what purpose.

Authorities transported Kyaw Min, a prisoner from Pya (Prome) prison in Pegu Region, with a group of 50 prisoners to Hpa-an in early January 2011. He said:

On December 20, 2010, at 4 p.m., they called out people's names one by one. They ordered us to line up and said that we were going to porter. I didn't know what "porter" is. I had never heard. They said people who can pay money can stay but people who can't pay money would be included. They

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<sup>43</sup> Karen Human Rights Group interview with escaped convict porter Ko Kyaw Htun, Thailand-Burma border, January 28, 2011.

<sup>44</sup> Human Rights Watch interview with escaped convict porter Maung Pwe, Thailand-Burma border, March 2, 2011.

took out 50 people from Pya (Prome) prison. People from my home [family] couldn't come [to give money] so I was included as a porter.... They took us out on December 31 at 8 a.m. [We drove] to Pegu prison. We had to sleep one night there. There were two trucks. They carried 25 people in a truck. There were five police included in each truck. They covered the truck with tarps. We couldn't see anything outside. Sometime we couldn't breathe very well. We had to wear prisoner uniforms and they shackled our legs in pairs. Just only one time we could eat. They packaged a small amount of rice when we [left] the prison. We could drink the water that we brought with us but if you didn't bring water, they didn't give water to us.<sup>45</sup>

Soe Myint from Meiktila prison told Human Rights Watch about his transportation:

The trucks were driven by soldiers but the guards were police. We were chained together on the way around our ankles. We had a small bag of rice, but we could use our money to give to the guards who brought us food on the way. We spent one night at Pegu [prison], then arrived at Hpa-an.<sup>46</sup>

Myint Swe, 23, in the same Meiktila group, described the journey to Human Rights Watch:

We could only talk at night. In the truck we had to sit with our heads on our arms around our knees. We were chained together. When we got to Kawkariek we were told by a [military] battalion officer that we were going to be porters, that we would be divided up to go with certain Tatmadaw units. I was afraid, I really wanted to run away, the army was treating us like animals, but we couldn't go anywhere. I shouldn't have been put on the list; my sentence was only one and a half years.<sup>47</sup>

Maung Pwe, from a labor camp in Paung Township of Mon State said, "Some of the prisoners were tied by their thumbs with plastic ties, others were tied [by their thumb] to the person next to them."<sup>48</sup>

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<sup>45</sup> Karen Human Rights Group interview with escaped convict porter Kyaw Min, Thailand-Burma border, January 28, 2011.

<sup>46</sup> Human Rights Watch interview with escaped convict porter Soe Myint, Thailand-Burma border, March 5, 2011.

<sup>47</sup> Human Rights Watch interview with escaped convict porter Myint Swe, Thailand-Burma border, February 6, 2011.

<sup>48</sup> Human Rights Watch interview with escaped convict porter Maung Pwe, Thailand-Burma border, March 9, 2011.

These accounts are similar to those heard two decades ago. In 1992, the Karen Human Rights Group interviewed Myint Aung, a 24-year-old prisoner from Mandalay prison who managed to escape from serving with Tatmadaw Infantry Battalion 117. He said:

One day near the end of September [1992] the guards told us to be ready, because in two or three days they'd come and call us. That's all they told us. Later we were each given one plastic sheet, a pair of flip-flops and another set of prison clothes. The next morning, on September 28, the army came and took 325 of us away on army trucks. When this happened we knew they were taking us to be porters, but we didn't know where. We were part of a truck convoy of prisoners from Mandalay, Myingyan, and Meiktila prisons. There were about 50 of us in the back of each truck, crowded together sitting with our legs drawn up. We traveled like this night and day for three days without ever stopping to get off the truck, except twice a day for just one hour for meals. They took us all the way from Mandalay to Pa Zau [Papun] town.<sup>49</sup>

Interviews conducted by the Karen Human Rights Group over the past several years indicates that prisoners are routinely drawn from prisons and labor camps and assigned to battalions at the front line to do menial labor, or retained in case of use in combat operations. Lwin Kaing, a 44-year-old ethnic Arakanese who was sentenced to 12 years in prison for drug offenses, was taken from the Hin Tha labor camp in the national capital, Naypyidaw, along with 200 other prisoners in December 2009. They were transported to Taungoo prison in northern Karen State where they stayed for four or five days. Lwin Kaing remembers that there were 86 trucks full of soldiers and porters who eventually transported them from Taungoo prison to Shwegyin township in Karen State. He told the Karen Human Rights Group:

[I]t was after 6 or about 7 in the evening when the army came to pick us up with the military truck and drove us to a place in a big jungle. In the jungle, there were big [army] barracks. They tied us with ropes, five people together, and [20] prisoners had to line up together and we slept like this. In the morning, we had to get into the truck, still tied with the ropes. The truck was going to Shwegyin [in northern Karen State]. We had to urinate and defecate together in the truck. We reached Kyauk Kyi in Shwegyin [township] at night. We had to sleep there for a night. In the morning, they drove again to Bpoh Hseh Koh.<sup>50</sup>

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<sup>49</sup> Karen Human Rights Group, "Report by an escaped SLORC munitions porter," Manerplaw, November 1992.

<sup>50</sup> Karen Human Rights Group interview with escaped convict porter Lwin Kaing, December 24, 2009, Papun District, Karen State.

## Assembly Close to Conflict Areas

In early January 2011, the authorities assembled approximately 700 prisoners from an estimated 13 penal facilities at the prison in Hpa-an. Many stayed for one to two days, were issued specific convict porter uniforms, and then were transferred en masse by army truck to the headquarters of the Tatmadaw Military Operations Command No.12 (MOC-12) at Kawkariek, close to Myawaddy town. There, according to several former porters, the prisoners were kept in two large barracks for one to two days. Around January 3 or 4, dozens of army trucks then drove the prisoners to the town of Palu, across from the Thai town of Baan Mae Khon Kaen, about 20 kilometers south of the border town of Myawaddy. From there, the prisoners were divided among an estimated 17 Tatmadaw units, and sent off on a range of duties in the Palu area and further south around the town of Waw Lay. These duties included carrying supplies to the front line, detecting landmines, foraging for firewood and water, fulfilling base support duties, and cooking for soldiers.

The assembly at Hpa-an prison and the army camp at Kawkariek illustrate the military command's deliberate policy to deploy convict porters to the front line, reflected in prepared uniforms and fixed assembly dates. This was not an ad-hoc gathering in an emergency, but indicative of patterns documented previously by human rights groups over the past two decades.

Soe Myint, from Meiktila prison, told Human Rights Watch what happened when his group of 30 prisoners arrived at Hpa-an prison:

One of the officers at Hpa-an prison told us there were over 800 prisoners from prisons all over Burma, so “you are not alone.” At Hpa-an I spoke with other prisoners from different prisons, they sent a lot more than Meiktila prison. I met men from Monywa, Pya [Prome], and other places. We were locked inside a building, and only allowed outside for bathing and for meals. We were all given new porter uniforms by the prison guards: a blue hat, two [blue] shirts, one *longyi* [sarong], one pair of pants, sandals, and a plastic sleeping mat. We kept our normal clothes from prison, we only had to wear the blue clothes when we were on patrol or walking to the front line. The guards came to each building and told us we were going to be porters, we would be going to Myawaddy. I knew that there was fighting in that place because at [Meiktila] prison we listened to the BBC Burmese Service [radio]. I was really afraid. I didn't want to go to the war area.<sup>51</sup>

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<sup>51</sup> Human Rights Watch interview with escaped convict porter Soe Myint, Thailand-Burma border, March 5, 2011.

At Kawkariiek, we were separated into different groups. All of us were separated: three went to a medical unit, some to carry supplies. Others went into a mine-clearance unit. The soldiers had metal detectors, but we were given sticks to check for mines. Luckily, I just had to cook for the officers. I had to carry a bamboo basket full of rice, fish paste, and oil. It was about 50 kilograms, on my shoulders and with a *longyi* strapped around my forehead.<sup>52</sup>

Thi Ha Soe, a 23-year-old convicted murderer from Pakokku prison, was issued the same uniform for portering duties:

They gave us prisoner uniforms in Hpa'an prison, blue colored clothes: two shirts, two *longyis*, and a pair of trousers. We brought our own clothes, civilian clothes, but we couldn't wear them. They wanted to see us wearing the clothes that they gave to us. We were not allowed to change and wear other clothes because the military ordered it and we are civilians, so there was no opportunity for us to respond to them.<sup>53</sup>

Maung Pwe, from a labor camp in Mon State, told Human Rights Watch that an army captain from Military Operations Command-12 (MOC-12, or *Sa Ka Ka*) told him, "We had nothing to be afraid of, we would be taken care of, and we would be returned alive and then freed."<sup>54</sup> Other prisoners were told nothing by any prison or military officials. Tun Mok, a 45-year-old drug offender from Shan State, had been drawn from one of the labor camps in Mon State. He told Human Rights Watch:

When we arrived at Hpa-an there were over 500 prisoners there already, a lot of trucks bringing prisoners from lots of other camps in the area. We drove to Kawkariiek and stayed there for two nights, then drove to Myawaddy and then to Palu. Ah, there were a lot of prisoners! The army didn't tell us anything, where we were going or what we would be doing. When we were on the truck we all said if we were made to carry supplies for the army, we would run away. We didn't want to die. One prisoner on the truck said he had carried supplies

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<sup>52</sup> Human Rights Watch interview with escaped convict porter Soe Myint, Thailand-Burma border, March 5, 2011.

<sup>53</sup> Karen Human Rights Group interview with escaped convict porter Thi Ha Soe, Thailand-Burma border, January 13, 2011.

<sup>54</sup> Human Rights Watch interview with escaped convict porter Maung Pwe, Thailand-Burma border, March 9, 2011.

for the Tatmadaw before, and had seen a soldier step on a landmine, and the explosion had blinded three prison porters.<sup>55</sup>

Matthew, an ethnic Chin from Pya prison in Pegu Region, described the experience of how he and other prisoners from Hpa-an were transported close to the front line:

The army came and picked us up from [Pa'an prison]. The army [from Zin Phyu Taung] wore camouflage uniforms. They came and picked us up with green trucks. They were horrible. They pointed at us with guns and said, "You guys, don't try to run or move." They climbed up on the roof of the car and they kept us inside the car. We were afraid. They called to us and said don't look around and keep your head down and we had to keep our heads down.<sup>56</sup>

Burmese authorities arrested Ko Kyaw Zwa in the Irrawaddy Delta for selling illegal lottery tickets in 2010 and first sent him to a prison close to his home before transferring him to a labor camp in Mon State. He was part of a group of 75 prisoners sent first to Hap-an, and then straight to Palu. Ko Kyaw Zwa said:

The soldiers told us on the way to Palu, "When you get there you have to fulfill your duty, and when it's finished you will be sent back and released. You will just have to collect firewood, build fences around the camps, that's all." Some of the prisoners believed all this and were happy, but I knew it wasn't true. With Burmese soldiers they always say one thing and do another.<sup>57</sup>

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<sup>55</sup> Human Rights Watch interview with escaped convict porter Tun Mok, Thailand-Burma border, February 6, 2011.

<sup>56</sup> Karen Human Rights Group interview with escaped convict porter Matthew, Doooplaya district, Karen State, January 28, 2011.

<sup>57</sup> Human Rights Watch interview with escaped convict porter Ko Kyaw Zwa, Thailand-Burma border, March 9, 2011.



### III. Abuses against Convict Porters in Armed Conflict

#### “Alive or Dead, It’s the Same Thing Here”

Tun Tun Aung, 20, an illiterate laborer from the Mandalay region, was sentenced to one year in prison for fighting with a neighbor. The authorities took him as part of a group of 30 prisoners from Meiktila prison in late December 2010. He told Human Rights Watch:

I didn’t know I was being taken as a porter. When we arrived in Karen State that’s when we knew, we were all afraid. There were about 1,000 prisoners there, but we were separated into small groups. My group went to La-pan village. We had to carry bombs [mortar or rocket-propelled grenade rounds] in a basket, 13 in each. We would start at 7 a.m. and reach the mountain [Tatmadaw base] at 3 p.m. We were never given food, never given water. After we dropped our loads [at the camp] we walked back down, but some of the porters had to stay there. We had to dig pits for their mortars. We had to struggle the whole time, the *sit-tha* [soldiers] would yell at us, “Quick, hurry, I will kill you! Are you fucking your mother or your sister?” Most of the soldiers are bad. We are Burmese like them, but the *sit-tha* have no kindness, they are selfish. It is easy to torture people.

Some of the porters went first [walking ahead]. Others were between the *sit-tha*. At 10 different times I saw porters step on landmines. Some died, others lost their legs or eyes. If the soldiers got injured we carried them back, but the injured porters just stayed there. Three or four times I had to carry the wounded *sit-tha*. Some had lost arms, a whole leg, injuries on their face and chest. We had to carry them slowly down the mountains and the soldiers would swear at us to go faster.

The soldiers told us at night that there was a lot of fighting on the mountain, and that if we were alive tomorrow night we would be lucky. We are all dead, I thought. Alive or dead, it’s the same thing here. So 15 of us planned to escape. It was a full moon that night, so we decided to run away at 11 p.m. We were not tied up. We were outside a monastery, and when the *sit-tha* fell asleep, we crept away. We were not far from the [Moei] river [along the Thai border], just five minutes to walk. We walked through the river to the Thai side. We heard the *sit-tha* yell, “Don’t run! Don’t run!” I turned around to look and was hit with the first shot. They shot at us four times I think. The bullet hit my right shoulder and broke my arm. It knocked me down onto the ground. I first felt dizzy,

everyone else just ran. My friend stayed and dragged me into a sugarcane field. We spent the night hiding there. In the morning we met a Thai man. I think he owned that field, and he called the Thai [health] officials who took me to the hospital [in Mae Sot].

I was told that if we escaped the army would send a letter to our family saying that we were killed by the enemy. I've never seen my son; he was born while I was in prison. I want to see him. I also want to see my grandfather, he is very sick. I will work here in Thailand for two or three months to get money and then go back [to Burma] to my family. I am worried I will get into trouble if I go back, but I have to go back.<sup>58</sup>

Convict porters used in northern Karen State in 2009-2010 and during the post-election offensive south of Myawaddy in 2011 endured horrific abuses at the hands of the Tatmadaw. These include killings and summary executions, “atrocious demining” (defined below), torture and beatings, denial of medical assistance, ill-treatment including denial of food and shelter, and abuses while attempting to escape.

## Extrajudicial Executions

Porters told Human Rights Watch and the Karen Human Rights Group about specific incidents they witnessed in which Tatmadaw soldiers or officers summarily executed porters. Soldiers usually killed porters for no longer being able to carry the loads, attempting to escape, or having injuries from landmines or from being beaten that rendered them unable to walk. Most of the porters we interviewed said they were repeatedly threatened that they would be killed if they could no longer carry the loads, if they were injured, or if they tried to escape. Matthew, an ethnic Chin, told the Karen Human Rights Group of his experience with a military unit. He described other porters having their throats cut, being shot, and their bodies being thrown over steep cliffs:

In front of me, two porters from [army] company asked permission from the captain to take a rest. They said they couldn't walk anymore. Their legs were full of wounds and their faces became swollen because they had been beaten and struck with guns. They apologized, explaining that they couldn't go on, and said “Let us take a rest.” The soldiers said “We didn't call you here to take a rest. We called you here to work. Are you really sure that you

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<sup>58</sup> Human Rights Watch interview with escaped convict porter Tun Tun Aung, Thailand-Burma border, February 17, 2011.

can't go anymore?" They said "We can't walk anymore," and they apologized. They [the soldiers] said, "If that is so, put your basket down." And those two people put down their baskets because they thought they would be given a rest. They were called to the cliff and he sliced their necks and kicked them down to the valley.

A guy whose legs were locked together with mine, his name was Aung Thu Win. He couldn't climb up [the mountain] anymore. I wanted to go and help him. He [a soldier] said don't go. He said, "If you can carry, can you carry the whole basket?" I couldn't carry [the whole basket] but I wanted to go and help [Aung Thu Win carry it]. He said, "Don't go and help him. He will carry it by himself. You go [keep walking]." He threatened me.... They ordered him to go to the gorge and run. The young boy [Aung Thu Win] told them, "If I run you will shoot me." They said "No, we won't kill you. You can run." They ordered the guy to run. Just as he walked down to the gorge, they shot him in the back. And they told us, "You guys, see what happens. You guys, if you also can't climb up, we will kill you like this." We were afraid.<sup>59</sup>

Pyit Zon from Insein prison witnessed three porters from the same prison attempting to escape on the front line:

One of them [porters] ran from the front [of the column] and escaped. The second one stepped on landmines. The last one was afraid and ran back. He ran back to be arrested. The soldiers pointed at him with guns and shot him on the mountain. They shot at him and kicked him. The one who was hit by landmines, he shouted, "Help me, help me." While he was shouting beside the tree, he was stabbed with a bayonet. They just left him like that.<sup>60</sup>

Many of the escaped porters described how soldiers executed porters who were wounded by landmines (see next section). Ko Kyaw Htun told the Karen Human Rights Group "Most of my friends [porters] were hit by mines and their legs were blown off. The soldiers said they would send them back and they called them behind the troops and shot and stabbed them with knives and kicked them down to the valley."<sup>61</sup>

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<sup>59</sup> Karen Human Rights Group interview with escaped convict porter Matthew, Dooplaya district, Karen State, January 28, 2011.

<sup>60</sup> Karen Human Rights Group interview with escaped convict porter Pyit Zon, Thailand-Burma border, January 28, 2011.

<sup>61</sup> Karen Human Rights Group interview with escaped convict porter Ko Kyaw Htun, Thailand-Burma border, January 28, 2011.

Maung Pwe, from a gravel labor camp in Mon State, witnessed soldiers and officers shooting porters after they had been wounded by landmines:

Every day we had to walk ahead of the soldiers. They said, “Walk head, go first, there are landmines.” It was our duty, we couldn’t say anything. Sometimes porters were injured by landmines and we carried them back. Other times they were shot. They [insurgents] shot at us about noon. I was carrying water gallons [bottles]. They shot at the front of the column, and I jumped on the ground. About 20 soldiers and porters were wounded or killed. We carried the wounded soldiers back, but the soldiers shot the wounded porters. I saw three of the wounded porters being shot: one by a captain, another by a corporal. They were shot in the leg first by the [rebel] DKBA [in an ambush]. Then the *sit-tha* shot them in the belly with the big gun [assault rifle]. The *bo-gyi* [captain] said, “Don’t carry them back to the camp, kill them on the spot.” I didn’t feel anything, I know I had to do anything they told me to do. The *bo-gyi* told me, “Your life can be sent back, but your body will stay here.” I knew I had to escape after that.<sup>62</sup>

Authorities took Soe Win, a young man serving time for breaking and entering, with a group of 500 prisoners from the Kin Tha labor camp near Naypyidaw in late 2009. They assigned him together with a small group of other porters to Infantry Battalion 58, on its way to the front line in Papun district of Karen State. Along the way soldiers beat him and deprived him of food. Aung Kyaw Moe witnessed a young soldier shooting and killing two porters. He said:

They punched me and hit me because I did not porter anymore during the trip and couldn’t continue to climb the mountains because I was sick. Other prisoners also were tortured and some were killed when they could not porter during the trip. I saw for myself that they shot dead two porters who tried to desert. One porter was shot in the side of his ear and another was shot in the chest. One of the majors told the soldier [name withheld] who had shot the porters to stop. After the major said that, he stopped shooting. The major did not give him any punishment even though his action was beyond the limit and caused death. These porters were Aung Zaw Min, Burmese ethnicity, about 25 years old, and the other one was Shan ethnicity, about 25 or 26 years old, also.<sup>63</sup>

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<sup>62</sup> Human Rights Watch interview with escaped convict porter Maung Pwe, Thailand-Burma border, March 2, 2011.

<sup>63</sup> Karen Human Rights Group interview with escaped convict porter Soe Win, Papun District, Karen State, Burma, January 2010.

Soldiers also provided accounts of the summary execution of convicts used by the military. Tin Soe, a 21-year-old soldier, told Human Rights Watch how one of his officers killed two convict laborers at his camp in October 2009:

We had two prisoners from Moulmein [Mon State] prison who were serving ten-year sentences. After they had been prisoners for seven years, their families came to our camp to get them out. They paid our commander to have them released. So our officer signed the papers, took the money, and promised to send them to the town the next day. We were walking them and one other prisoner to the town to release them when our officer said he forgot the keys to the shackles, and then shot the two men. The other one escaped, but he had been badly wounded. I buried the bodies myself. Usually we just throw them [dead prisoners] in the river.<sup>64</sup>

### **“Atrocity Demining”**

In violation of international humanitarian law prohibitions against “human shielding,” placing civilians at unnecessary risk, and using forced labor in combat areas, porters reported that they were forced to walk with patrols in mined areas. “Atrocity demining”—the practice of forcing porters to walk ahead of columns or patrols to detonate enemy antipersonnel landmines or command-detonated IEDs—is a war crime. Porters are also forced to clear and mark areas suspected of containing landmines or IEDs, with no specialist training or equipment to perform this task. In most cases, the porters were just ordered to use a stick to locate the mines.

The term “atrocity demining,” also referred to as “human mine sweeping,” has been used to describe forced passage of civilians over confirmed or suspected mined areas or the forced use of civilians to clear mines without appropriate training or equipment.<sup>65</sup> The International Campaign to Ban Landmines has documented the use of forced labor, civilian and prisoner, for

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<sup>64</sup> Human Rights Watch interview with Tatmadaw deserter Tin Soe, Thailand-Burma border, February 5, 2011.

<sup>65</sup> The term “atrocity demining” was coined by Yeshua Moser-Puangsuwan of the International Campaign to Ban Landmines (ICBL) in the ICBL publication *Landmine Monitor* in 1999. “Atrocity demining is the use of human beings to remove landmines. In a suspected mine area, they [the Burma army] will take [civilians] and they will march them ahead of military units to trigger any mines that may be there, intentionally to detonate any mines that may be there. Up to 70% of these people die during their military service. They can die being caught in the crossfire, they can die due to malnutrition and malaria, but they are also being killed by landmines, by being casualties simply in a war zone but also as human mine sweepers.” See Richard S. Ehrlich, “Making demining an atrocity,” *Bangkok Post*, September 16, 2003.

forced mine clearance with their bodies or with tools without training in areas with a known mine hazard every year in Burma since 1999.<sup>66</sup> It is a form of human shielding, which is a war crime.

Many of the convict porters interviewed by Human Rights Watch and the Karen Human Rights Group in 2010-2011 reported landmine deaths and injuries, several of which have already been described in the section above, highlighting the dangers arising from military operations to which porters are routinely exposed. Porters told Human Rights Watch and the Karen Human Rights Group that soldiers forced them to dig out landmines, to strike or beat the ground with a pitchfork or pickaxe before soldiers walked on it, or to walk in front of Tatmadaw columns in a mined area or in an area suspected to have been mined.

According to Htway Thu, a 28-year-old man from Magwe Region sentenced to 5 years for brawling, soldiers forced him to walk ahead of the column and probe for landmines:

“They did not ask us to walk in the same position because sometimes we had to sweep landmines with a kind of tool that has prongs like a pitchfork. We used it to scrape the ground and find the landmines. We did not know anything about landmines, but we had to scrape the ground and find landmines.”<sup>67</sup>

Ko Kyaw Htun recalls soldiers forcing them to walk ahead, knowing it was the wrong thing for them to do:

“They [soldiers] ordered us to walk in the front. When we went and carried water, we didn’t know about mines and had never heard what guns sounded like. Actually we were supposed to follow behind them. They knew and they were supposed to go in the front. But they ordered us to go first. They followed behind us. In their mind, if the mine explodes, the mine will hit us first.”<sup>68</sup>

Laing Oo, 43, who had been in prison since 1990, told the Karen Human Rights Group about two incidents in 2011 in which porters were injured by mines and then left by the soldiers without administering any medical assistance. He said:

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<sup>66</sup> See International Campaign to Ban Landmines, “Myanmar. Submission to the UN Universal Periodic Review,” Geneva, July 2010, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/MM/ICBL\\_InternationalCampaigntoBanLandmines\\_eng.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/MM/ICBL_InternationalCampaigntoBanLandmines_eng.pdf) (accessed May 9, 2011).

<sup>67</sup> Karen Human Rights Group interview with escaped convict porter Htway Thu, Thailand-Burma border January 13 2011.

<sup>68</sup> Karen Human Rights Group interview with escaped convict porter Ko Kyaw Htun, Thailand-Burma border, January 28, 2011.

The “point section” is the porters who walk at the front. One of the people [porters] from the point section ran. He ran and stepped on a mine. He ran and “Taw!” — we heard the sound of a landmine. He shouted that he couldn’t walk any more. They kept him like that there. There was nothing we could do for him. In front of us, there were two young guys who came together with us. They swept the road with us. A corporal wanted to move forward and he didn’t dare step off the path but he ordered the young guy [another convict porter] to move aside. That young guy was about 20.... [He] was hit by the mine when he moved aside. After the young guy stepped on the mine, both of his legs were blown off.<sup>69</sup>

Matthew, from Pya (Prome) prison, described how soldiers ordered him to walk ahead of the formation and search for mines: “The soldiers said, ‘Many of our soldiers were hit by mines. We will keep the porters at the front. If they don’t go, we will shoot them in the back. We will shoot them if they don’t go in the front. We will order them to clear up mines.’”<sup>70</sup>

Pyit Zon, who witnessed prisoners killed attempting to escape, was also present when a young porter was ordered to step off the path, when the soldiers clearly feared that landmines were present. He said:

There was a very narrow road that was only wide enough for one person to be able to walk [single-file]. A service personnel worker [porter] stood up here, the soldiers came across to him and they did not dare to step outside of the road. They ordered that service personnel worker to step outside of the road. That man moved beside them outside of the road and both of his legs were blown off. They shot him with a gun and left him like that.<sup>71</sup>

Maung Nyunt was carrying supplies to a Tatmadaw camp in early January 2011 when a porter walking ahead of troops stepped on a landmine and was seriously injured:

If the porters stepped on a landmine and were injured, the soldiers would just leave them there. We were carrying food up to the camp and one porter stepped on a mine and lost his leg. The soldiers left him, he was screaming but no one helped. When we came down the mountain he was dead. I looked

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<sup>69</sup> Karen Human Rights Group interview with escaped convict porter Laing Oo, January 28, 2011.

<sup>70</sup> Karen Human Rights Group interview with escaped convict porter Matthew, Doooplaya district, Karen State, January 28, 2011.

<sup>71</sup> Karen Human Rights Group interview with escaped convict porter Pyit Zon, Thailand-Burma border, January 28, 2011.

up and saw bits of his clothing in the trees, and parts of his leg in a tree. I was always afraid of the landmines. I came to fear the moon, because I knew that in the morning we would have to carry supplies.<sup>72</sup>

The Tatmadaw and non-state armed groups have used antipersonnel landmines extensively in Karen State and elsewhere in eastern Burma for many years. Burma is not a party to the 1997 Mine Ban Treaty, which bans the use, production, transfer, and stockpiling of antipersonnel landmines, and has abstained from voting the UN General Assembly's annual resolution calling for universalization of the treaty. Because landmines cannot distinguish between civilians and combatants, their use even where the Mine Ban Treaty is not in effect violates the international humanitarian law provision against indiscriminate attacks.<sup>73</sup>

In recent years, the militaries of Burma and Col. Gaddafi's Libya have been the only government armed forces confirmed to have used antipersonnel mines. Insurgent groups in Burma make use of improvised explosive devices (IEDs) for ambushes, and homemade landmines for use on trails. Their use by both government forces and insurgents is a serious violation of international humanitarian law.

Reported casualties remain high, but do not necessarily reflect the full extent of deaths and injuries because of haphazard and incomplete reporting by the Burmese authorities and by non-state armed groups. No party to Burma's armed conflicts has ever included numbers of convict porters in their official reporting on landmine injuries and deaths, nor has there ever been any official acknowledgement of the scale of injuries due to landmines.<sup>74</sup>

## Human Shields

In addition to their use in "atrocities demining," described above, convict porters have also been subject to other forms of "human shielding," a violation of international humanitarian law that amounts to a war crime. Porters interviewed by Human Rights Watch and the Karen Human Rights Group described how soldiers deliberately intermingled porters while walking in military columns in frontline areas.

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<sup>72</sup> Human Rights Watch interview with escaped convict porter Maung Nyunt, Thailand-Burma border, March 9, 2011.

<sup>73</sup> See ICRC, *Customary International Humanitarian Law*, rule 81.

<sup>74</sup> See International Campaign to Ban Landmines, "Landmines and Cluster Munition Monitor. Country Report: Myanmar/Burma," December 2010.



Porters related how they were forced to walk ahead of troops to either detonate landmines or draw fire from an ambush. Several porters specifically reported that soldiers forced them to walk before or on either side of them to shield military personnel during hostile fire.

They also described other practices that, even when not amounting to shielding, violate the international humanitarian law prohibition on putting civilians at unnecessary risk. Porters described how soldiers did not allow them to seek shelter in the trenches; forced them to stay out in the open during firefights; sent them to areas the army had just vacated under fire in order to retrieve military equipment hastily abandoned; and made them sleep in an unsheltered open area while soldiers slept in trenches or under shelter.

Laing Oo described his experiences within a Tatmadaw column on the front line:

It was like they [Burmese soldiers] took cover behind us. The point section [of porters] went in the front. We went after the point section. At the front, two service personnel [porters] had to go first and we directly had to follow after them. They sandwiched the soldiers with us. For instance, four or five service personnel would die if they shot one soldier. They were sandwiched in the middle like this.<sup>75</sup>

Chit Kawn, a 37-year-old ethnic Han Chinese taken from Myitkina prison with approximately 100 other convicts in northern Kachin State in late 2009, described his experiences at the front line in northern Karen State in 2010:

When fighting happened or when they heard a gun firing, they [soldiers] dragged us [the porters] roughly to walk in front of them. In a dangerous situation, they let the porters die. During my time as a porter, whenever fighting occurred, the captain and lieutenant ordered the porters to walk in front. I was forced to walk in the front. They [soldiers] were afraid to go, but they ordered the porters to go.<sup>76</sup>

Thi Ha Soe, who was with an army unit during the January 2011 fighting south of Myawaddy told the Karen Human Rights Group what happened when DKBA insurgents started directing fire on their position:

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<sup>75</sup> Karen Human Rights Group interview with escaped convict porter Laing Oo, Thailand-Burma border, January 28, 2011.

<sup>76</sup> Karen Human Rights Group interview with escaped convict porter Chit Kawn, Northern Karen State, January 6, 2010.

We were on the hill and had to hide. We dared not put up our heads. The bullets were flying at us and went over our heads but they didn't hit us. The soldiers who were kind told us how to stay low when the bullets came. The Burmese army marched to the front and the soldiers arrived at the top of a hill and the [DKBA] soldiers on this side shot at them and they dared not stay on the hill anymore. They retreated and their mortars and backpacks were still left on the hill. They could only bring their guns with them. We had to carry their materials for them. They asked seven porters to go and get back their materials. They said the DKBA would not shoot *won shawn* [porters]. They ordered us to go and get their materials back. They ordered us and we had to go and get them back.<sup>77</sup>

In other cases, military personnel forced porters to pillage civilian houses in the conflict area, a war crime. Ko Kyaw Zwa explained how he and other prisoners were ordered to loot civilian goods for the Tatmadaw:

Sometimes I had to go into Palu-gyi to steal things for the army. We took good things like TVs, motorbikes, CDs, good mattresses, doors, clothes, and food. We had to take all the rice storage as well, a lot of the food stocks, and all the animals we could see. About 10 or 15 of us prisoners had to do it. We forced doors open and stole things. The soldiers told us to do it, so we had to. The army trucks came and we put it all into the trucks. We kept it all at the monastery, and then the [army] officers came and took the very best things, the rest the *sit-tha* [soldiers] took. There were still some villagers in the town, if the *sit-tha* saw any women they would tease them, but most times the people would avoid the soldiers.<sup>78</sup>

## Torture and Beatings

Without exception, all porters we interviewed reported violence, physical abuse, or threats of violence against them. Porters said that Tatmadaw soldiers and officers beat them for things

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<sup>77</sup> Karen Human Rights Group interview with escaped convict porter Thi Ha Soe, Thailand-Burma border, January 13, 2011.

<sup>78</sup> Human Rights Watch interview with escaped convict porter Ko Kyaw Zwa, Thailand-Burma border, March 9, 2011. Palu town is only 20 kilometers south of the border town of Myawaddy, and directly across the Moei River from the Thai town of Baan Mae Khon Kaen. It has been a main DKBA base for several years, and as such has benefited from the relative peace in the area, and a thriving cross border trade in logging, corn cultivation, and other goods, as well as alleged methamphetamines production. It is thus relatively more prosperous than other border towns. For a map of the border checkpoints in this area, see the Human Rights Watch report, *From the Tiger to the Crocodile. Abuse of Migrant Workers in Thailand*, February 2010, p.24.

such as requesting a rest, slowing down, stopping, speaking to soldiers or with other porters, requesting a lighter load, or being unable to climb either up or down a mountain. Other porters reported that soldiers tortured them when they attempted to escape or failed to stop other prisoners from escaping. They said that soldiers and officers insulted them, punched them, kicked them with military boots, prodded them forward with gun barrels, stabbed them, and beat them with the butts of their weapons.

Ko Kyaw Htun told the Karen Human Rights Group, “They beat the prisoners when they didn’t do what they ordered. They stabbed them with a knife or beat them with their gun butts in the prisoners’ faces. Prisoners’ faces became swollen.”<sup>79</sup>

Matthew elaborated on this ill-treatment:

They [soldiers] treated us very rudely. We couldn’t talk to them. We had to go when they called us and do what they ordered us. Just a word, we couldn’t even talk back to them. We had no chance to speak. They beat, punched, and swore at us. Every day, we were called “sister/mother fucker.” They swore and called us “sister/mother fucker” and then beat us. They kicked us when we were not acting how they wanted. They beat us and ordered us to climb up the mountains.... They kicked us down and kicked us in the back when we couldn’t climb down and the porters rolled down [the mountain].<sup>80</sup>

Tun Mok, an ethnic Shan from northern Burma, told Human Rights Watch how soldiers beat him after he attempted to run away from the Tatmadaw just days after arriving in the conflict area:

I ran away from the monastery with two other prisoners at about 10 at night. On the way, we were caught by soldiers from another unit, at about 1 a.m. near the [Moei] river. These four soldiers beat us with big sticks, all over our bodies. We were sent back to Palu, to the monastery. The soldiers tied my hands behind my back, and tied up my ankles and stretched my legs out straight. One of the soldiers took a thick bamboo pole and rolled it hard up and down my shins for an hour. There were five or seven soldiers at the time, they were very drunk. The soldiers wanted to know why we left, and we told them we were scared. They got angry and said, “Don’t you love your

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<sup>79</sup> Karen Human Rights Group interview with escaped convict porter Ko Kyaw Htun, Thailand-Burma border, January 2011.

<sup>80</sup> Karen Human Rights Group interview with escaped convict porter Matthew, Doooplaya district, Karen State, January 28, 2011.

country?” But when they beat us they didn’t say much. One sergeant came and yelled at me, “If you try to escape again, I will kill you!”<sup>81</sup>

Soldiers beat Myint Swe, 23, twice:

They [soldiers] see prisoners about the age of their fathers and they kick them and beat them. They have no respect. I was beaten by the soldiers twice. Once I was too tired, so I rested [on the ground], the soldiers beat me with a big stick, all over my body. Another time I was on sentry duty at night, and after I fell asleep two prisoners escaped. He [the soldier] beat me and the prisoner who slept next to the two who escaped. He beat me all over for about 15 minutes, he was so mad. He told all of us, if any more prisoners escaped he would cut off our heads.<sup>82</sup>

Kaw Kay, an ethnic Han Chinese from the China-Burma border, was incarcerated in 2008 for drug related offenses. The authorities took him with hundreds of other porters to northern Karen State in late 2009, where he endured constant beatings at the hands of officers and soldiers, and witnessed other porters being beaten unconscious, possibly to death. He said:

Sometimes, they beat us and shouted at us.... Sometimes they swore at us, “You are not humans. You are prisoners. You came here for your crimes.” They felt a lot of hatred for us, the prisoners. There were many porters who could not continue walking in the front. The SPDC army beat, kicked, and hit them with guns. We could not count how many times they shouted or swore at us. I myself was tortured too. I was beaten three or four times. I was beaten with sticks and I was hit with guns. They tortured us because they do not have any sense of humanity. They cannot feel sympathy and pity for us because they do not see us as being human. Officers and soldiers are all the same. They all abuse the convict porters. Even though officers saw soldiers torturing the porters, they didn’t say anything to them. They commit abuses together. I saw a porter who was beaten and could not walk afterwards. They just left him there. I don’t know whether he lived or died.<sup>83</sup>

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<sup>81</sup> Human Rights Watch interview with escaped convict porter Tun Mok, Thailand-Burma border, February 6, 2011.

<sup>82</sup> Human Rights Watch interview with escaped convict porter Myint Shwe, Thailand-Burma border, February 6, 2011.

<sup>83</sup> Karen Human Rights Group interview with escaped convict porter Kaw Kay, Papun district, Karen State Burma, January 2010.

Lwin Kaing was assigned with 11 other prisoners to Light Infantry Battalion 237 or 238. He was forced to carry a heavy load of military mess tins as the battalion moved into the Bpleh Koh army camp. He said:

The oldest porters were over 50 years old. There were two porters, Kyaw Min and Thein Htay or Thein Myat, who were kicked and hit with a gun because they could not porter during the trip. These two porters threw their clothes and continued to porter, but the loads were still too heavy for them to carry as they had to climb the mountains. The SPDC army scolded them and called them “fuckers” and shouted at them “Even this, you cannot carry.” They hit Thein Htay or Thein Myat's hips twice with their guns and they kicked Kyaw Min's back with their foot. They treated us very cruelly. They never said nice words to us.<sup>84</sup>

## Denial of Medical Assistance

Many of the porters interviewed by Human Rights Watch and the Karen Human Rights Group said that the military denied porters basic or life-saving medical treatment. This resulted in convict porters dying from treatable injuries and diseases; porters being forced to carry loads while sick or injured; and porters being abandoned when injured, unable to walk, or in any other way incapacitated.

International humanitarian law requires that parties to an armed conflict “collect and care for the wounded and sick.”<sup>85</sup> The ILO Forced Labour Convention provides that governments using forced labor under the exemption provisions must ensure “all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care.”<sup>86</sup> The Forced Labour Convention requires that workers be “medically examined before commencing the work and at fixed intervals during the period of service.”<sup>87</sup>

Only two convict porters interviewed said that the prison from which they were sent conducted a medical examination. Both reported that prisoners were sent to be porters based on their ability or inability to pay bribes, and health considerations did not matter.

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<sup>84</sup> Karen Human Rights Group interview with escaped convict porter Lwin Kaing, Papun district Karen State, December 30, 2009.

<sup>85</sup> See Common Article 3 to the 1949 Geneva Conventions; see also ICRC, *Customary International Humanitarian Law*, rules 109 and 110, citing and Protocol II, art. 7(2).

<sup>86</sup> ILO Forced Labour Convention (1930), art. 17(1).

<sup>87</sup> ILO Forced Labour Convention (1930), art. 17 (1)(a).

Ko Kyaw Htun described how injuries and ailments accumulated during his forced service, and how Tatmadaw medical personnel refused to provide treatment:

Many of my friends who stayed in the same prison as me didn't have footwear. [The soldiers] wore boots. When we crossed rocky land, our legs got abrasions. We got injured and when we couldn't walk, they beat us with the butt of the gun and stabbed prisoners' thighs with knives. The prisoners were afraid and got sick at night. They didn't give them medical treatment. They let them die. You get sick and you die.<sup>88</sup>

Matthew likewise related how the soldiers refused to give any medicine for common ailments, and how many of the porters feared getting ill and weak, because it would signal almost certain death at the hands of the soldiers:

They don't give treatment. They don't have medicine. I had a cough, a runny nose, and a headache. I went and asked for the medicine. The medical officer was included with the army but the medicines were not included. He said, "We cure the people who get injured but we don't give medicines for diseases [illness]. We treat the people who get injured by guns. No medicine for fever or disease." They will shoot you when you get sick. They will shoot you when you can't walk anymore. We have to walk carefully so our legs are not hit by mines or injured by anything. They will kill you when your legs fold. We know that so we walk carefully.<sup>89</sup>

## Inadequate Food, Water, and Sanitation

Almost all of the 58 porters we interviewed reported that the military did not feed them often enough or provide them with enough food to carry out the work required of them on the front line. The ILO Forced Labour Convention requires that workers under the exemption provisions be guaranteed a "supply of ... food"<sup>90</sup> and an increased or ameliorated diet where performing "work to which they are not accustomed."<sup>91</sup>

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<sup>88</sup> Karen Human Rights Group interview with escaped convict porter Ko Kyaw Htun Thailand-Burma border, January 28, 2011.

<sup>89</sup> Karen Human Rights Group interview with escaped convict porter Matthew, Dooplaya district, Karen State, January 28, 2011.

<sup>90</sup> ILO Forced Labour Convention (1930), art. 17

<sup>91</sup> ILO Forced Labour Convention (1930), art. 16 (4)

Some convict porters described going full days without being fed once, being fed only once a day or being given food only if some was left over after the soldiers had finished eating. Others describe having to share small amounts of food between three or four other porters or having to forage for food in the jungle in order to try to get enough to eat. Many also described enormous disparities between what soldiers and porters were given to eat.

The Forced Labour Convention also requires that workers be guaranteed a supply of drinking water.<sup>92</sup> Many porters reported that they did not have ready access to water or that they were not permitted to drink a sufficient amount of water while portering. Porters reported being forced to work full days without being provided any water. Seven porters mentioned that they were not allowed to bathe or even wash their hands before eating despite extremely unhygienic and unsanitary conditions.

Ko Kyaw Zwa spent most of his service in the rear area, stealing from villages, digging foxholes, and cooking for soldiers. While he was rarely exposed to actual weapons fire or landmines, he was not immune from ill-treatment. He said:

We stayed at the monastery in Palu-gyi [Big Palu]. I didn't go to the front line, I had to dig a lot of holes [foxholes and trenches] for the soldiers to sleep in. I heard the sound of the fighting all the time. I was ordered by a soldier to cut grass [around the base] and do it within 30 minutes, but it was very tall. The soldier was drunk when he gave the order, and after 30 minutes he came and yelled at me, hit me a lot with the butt of his gun, and swore at me a lot, then gave me another 30 minutes to finish the job.<sup>93</sup>

Ko Kyaw Zwa was also privy to one of the paradoxes of armed conflict in Burma: Burmese soldiers listening to ostensibly banned exiled radio stations that carry news on Burma that circumvents Burma's strict censorship on news, especially reports on ongoing armed conflict. He said:

The soldiers listened to the BBC Burmese radio and heard interviews with porters who had escaped [in January 2011] who said they had been badly treated, were not given food, and some had been killed. The soldiers got very

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<sup>92</sup> ILO Forced Labour Convention (1930), art. 17.

<sup>93</sup> Human Rights Watch interview with escaped convict porter Ko Kyaw Zwa, Thailand-Burma border, March 9, 2011.

angry and said “What are those porters talking about? They lie! If they come back we will kill them!”<sup>94</sup>

## Experiences during Escape

Human Rights Watch and the Karen Human Rights Group interviewed 20 prisoners who escaped the post-election offensive in Karen State. It is impossible to estimate how many of the large group assembled in Hpa-an and Kawkariek managed to escape, were killed, or remain in service. Porters reported that they chose to escape because they believed they would be forced to porter on the frontline until they were killed or died from malnourishment, exhaustion, or disease. Many porters interviewed by the Karen Human Rights Group reported that after having served one battalion, the army forced them to remain on the front line to serve new battalions that rotated forward. Win Naing, a 27-year-old porter, told the Karen Human Rights Group about his fears of being kept in the conflict zone:

I didn’t want to stay with them anymore. Life and death, there is a greater chance of death when we stay with them. We didn’t know when they would go back. They go back and if they transfer us to another column, what can we do? Even if we don’t die with them, maybe we will die with another upcoming column.<sup>95</sup>

In addition to the widespread abuses they suffered while portering, many porters also reported abuses as they attempted to escape, including being shot at by Tatmadaw troops. Some prisoners were lucky in that they received help from soldiers, non-state armed groups, or villagers, who urged them to escape and in some cases helped them with information or money, food, shelter, and medical support after their escape. A soldier who was from the same town in Burma as Soe Myint was kind to him, and helped him during his time at Palu. Soe Myint eventually escaped in a group of 11 convict porters:

He [the soldier] told me that the officer and unit would rotate out, and that the unit coming after them would not be that nice. He told me to run away. Our camp in Palu was right by the river so we jumped over a fence and five feet away was the [Moei] river, so we crossed [it]. During the day we were so close we could see farmers in cornfields on the Thai side. The Burmese soldier told me if we crossed to the Thailand side, the *sit-tha* could not shoot at us. We ran away at midnight when the soldiers were changing [guard].

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<sup>94</sup> Human Rights Watch interview with escaped convict porter Ko Kyaw Zwa, Thailand-Burma border, March 9, 2011.

<sup>95</sup> Karen Human Rights Group interview with escaped convict porter Win Naing, Dooplaya district, Karen State, January 2011.



There was a big party to celebrate their victory. The 11 of us ran. The *sit-tha* shot once into the air, then fired the machine gun at us. Brrrrrrrr! One of the men was shot in the back. We all carried him to the top of the hill. Then we saw the *sit-tha* cross the river to chase after us. They had flashlights looking for us. They searched for about 10 minutes, then they went back [to the Burma side of the border]. We hid in the bushes and the grass. The man who was shot, we left him with his friend and we all ran away.<sup>96</sup>

Maung Nyunt was carrying mortar shells from an artillery unit when he and another porter took advantage of the widening distance between him and his Tatmadaw column and also their proximity to the Thailand border. He made his escape after less than two weeks on the frontline. He said:

The gap widened [between the soldiers and lead-porters], so I and one other man we dropped our baskets and ran through the field and into the river. The soldiers in the column couldn't see us run. The soldiers on the hill [at the base] saw us and shot at us, about eight times. I didn't dare to turn back, I just kept running.<sup>97</sup>

Laing Oo, 43, who had been in prison for more than 20 years, managed to escape with one other prisoner while doing menial chores for the officers at the river in the late morning. He said:

Our captain ordered us to wash the clothes. [As I washed I was thinking] I'm not sure I'll be alive or dead in four or five months. They [the soldiers] were about 200 feet from the place where we washed the clothes but they stayed under the bushes. They did not dare come out into the open. So we ran and crossed the river, it was about 40 or 60 feet wide. [We swam for] about five or six minutes. So tired at the shallow area. We heard six gunshots. We arrived at the Thai side. They could not see me once we arrived at this side. They shot the gun three times for each of us. We just wanted to escape that dangerous life. I thought, I just don't want to be dead.<sup>98</sup>

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<sup>96</sup> Human Rights Watch interview with escaped convict porter Soe Myint, Thailand-Burma border, March 5, 2011.

<sup>97</sup> Maung Nyunt told Human Rights Watch that the base he was carrying supplies from was a large fire-support base with numerous heavy mortars, called "artillery mountain" south of the town of Palu. He identified shoulder patches of the Tatmadaw's Artillery Operations Command worn by soldiers at this base. "The *sit-tha* had accidentally fired shells into Thailand, I overheard [from the soldiers], and they worried that if they did it again the Thai army would shoot at them, so they were moving the camp." Human Rights Watch interview with escaped convict porter Maung Nyunt, Thailand-Burma border, March 9, 2011.

<sup>98</sup> Karen Human Rights Group interview with escaped convict porter Laing Oo, Thailand-Burma border, January 28, 2011.

## IV. After Escape to Thailand

Twenty of the prisoners interviewed for this report escaped to Thailand between January and March 2011. All of these individuals expressed a desire to return home to Burma, and an equally strong fear of arrest and punishment, possibly death, if they did. Many others interviewed by the Karen Human Rights Group in other parts of Karen State in the past three years expressed similar dilemmas. We also learned that prisoners who survive their service as porters and remain in Burma may face difficulties upon return to prison, such as being transferred to prisons far from their homes or being denied special medical care.

Thailand is not a party to the 1951 Refugee Convention and its 1967 Protocol, and it has suspended its refugee status determination process for several years. This means that many of the 140,000 refugees in nine separate camps along the Thailand-Burma border are not officially recognized by United Nations High Commissioner for Refugees (UNHCR), though Thailand does allow the UNHCR to process refugees for eventual resettlement in third countries. Escaped Burmese convict porters seeking refugee protection in Thailand and other neighboring countries face particular difficulties in seeking refugee status because many are not members of minority ethnic groups long subject to persecution in Burma,<sup>99</sup> and because of their criminal records.<sup>100</sup> Many are too afraid to try.

Thailand is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”), which prohibits a state from returning a person to a country “where there are substantial grounds for believing that he would be in danger of being subjected to torture.”<sup>101</sup> Thailand is also bound under customary international law by the principle of non-refoulement, which protects refugees and asylum seekers from being returned to any country where their lives or freedoms could be threatened or where they face persecution. Thus, to the extent that the treatment or punishment meted out by Burmese authorities to convict porters constitutes torture or a form of persecution, their asylum claims should be given consideration.

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<sup>99</sup> Article 1(A)(2) of the Refugee Convention states that a refugee is someone with “a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country.”

<sup>100</sup> The Refugee Convention excludes from refugee status criminals who committed “a serious non-political crime” before admission to the host country, which might make ineligible those convict porters convicted of murder or other serious crimes. Refugee Convention, art. 1(F)(b).

<sup>101</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), *entered into force* June 26, 1987, art. 3.

Options for escaped convict porters in Thailand are slim. Many told us they planned to work in Thailand for some time to earn money to send to their families or save up, and that they would attempt to return in the future, be it in a few months or a few years. Thailand is currently host to an estimated two million migrant workers. About a third are legally registered with Thai migrant worker cards, but most live perilously as undocumented workers in fields such as agriculture, factory work, fishing, hospitality, construction, and domestic or sex work.

Ko Kyaw Htun from Insein prison told the Karen Human Rights Group he could not go home to Burma:

I will be arrested if I go back to Rangoon. So I will work in this country. My parents are poor. I never even dreamed about this place. I have never been to Thailand. We know we will get a lot of money if we work. Instead of going back, I will work and send the money back to my parents.<sup>102</sup>

Myint Shwe, who was initially sentenced to three years for fraud when he was 21, bribed the judge to reduce the sentence to one-and-a-half years. Within a year he was in Karen State carrying supplies on the front line. He said:

I feel foolish that I made a small mistake because I didn't understand the law, and now all of this happened. I would like to call my family, but I know they're being watched and will get in trouble if I call them. Before all this happened I used to believe the SPDC loved the people, that they are saving the country. When I was in prison I started to question this, and after working with the army I see they don't care about the people at all, they treated us like animals.<sup>103</sup>

Pyit Zon, also from Insein prison said:

In my heart, I want to fight these [Tatmadaw] people. If not, I don't want to go back to Burma. I will work here and support my parents. I will send money from here. I don't want to go back and I don't dare to go back. I'm afraid.... I

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<sup>102</sup> Karen Human Rights Group interview with escaped convict porter Ko Kyaw Htun, Thailand-Burma border, January 28, 2011.

<sup>103</sup> Human Rights Watch interview with escaped convict porter Myint Swe, Thailand-Burma border, February 6, 2011.

would like to request that you don't hand us over to the [Burmese or Thai] government.<sup>104</sup>

Soe Myint, from Mandalay, said he would try and return to Burma:

We [were] told that we were released from prison to serve as porters, that if we go back home we won't be arrested. So, from that, the soldiers say you are free, or dead, the same thing [you are dead]. I think it will be safe to go home to Mandalay, but I worry about getting arrested. I am worried about my life and all the danger I've been through. I don't want to talk about it. I do consider myself very lucky.<sup>105</sup>

Htway Thu, from the Irrawaddy Delta, fears returning to Burma and being put back into prison again, but mostly wants his family to know where he is:

I want to stay and work peacefully [in Thailand]. If I go back, I will be arrested again and have to stay in prison for a second time. I have my village phone number, but I do not know how to contact them [my family] for now. I want to contact them to let them know that I am still alive. It is good for me to make my father happy.... He will be happy when he knows that I am still alive.<sup>106</sup>

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<sup>104</sup> Karen Human Rights Group interview with escaped convict porter Pyit Zon, Thailand-Burma border, January 28, 2011.

<sup>105</sup> Human Rights Watch interview with escaped convict porter Soe Myint, Thailand-Burma border, March 5, 2011.

<sup>106</sup> Karen Human Rights Group interview with escaped convict porter Htway Thu, Thailand-Burma border, January 13, 2011.

## **Recommendations**

The Burmese government has long been responsible for serious violations of international humanitarian and human rights law in the conduct of military operations against rebel armed groups. It has failed completely to credibly investigate or hold accountable civilian officials and military personnel responsible for serious abuses, including the use and mistreatment of convict porters on the battlefield. This longstanding impunity led the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, to recommend in his March 2010 report to the UN Human Rights Council the formation of a UN commission of inquiry into serious violations of international humanitarian and human rights law in Burma.

Holding individuals accountable for human rights abuses and war crimes is important because it may deter future violations, promote respect for the rule of law, and provide avenues of redress for the victims and their families. It can promote discipline and professionalism in the armed forces and law enforcement agencies, maintain responsible command and control, and improve relations with the civilian population.

The United Nations through the General Assembly, the Human Rights Council, and its special rapporteurs has issued highly critical human rights reports on Burma annually for nearly two decades. These reports frequently demonstrate that serious crimes by government security forces are widespread and systematic. But while many commissions of inquiry have been established around the world to investigate violations of international law, no UN body has done so with respect to Burma. Human Rights Watch believes that it is not enough for the UN to simply continue to document and publish reports on the human rights situation in Burma. Instead, the UN General Assembly or Human Rights Council should use its existing reports as a basis for establishing an international commission of inquiry that can impartially investigate allegations of international crimes, with a view to bringing justice to the victims and holding perpetrators to account.

As of this writing, 16 countries have backed the special rapporteur's call and publicly voiced support for a commission of inquiry in Burma. These are Australia, Belgium, Canada, the Czech Republic, Denmark, Estonia, France, Hungary, Ireland, Latvia, Lithuania, the Netherlands, New Zealand, Slovakia, the United Kingdom, and the United States.

## **To the Burmese Government**

- Immediately cease the practice of using civilian porters, including convict porters, in armed conflict areas in Burma.
- Order the immediate release of civilian porters currently serving the Burmese military in conflict areas in Burma.
- Compile, in cooperation with the International Labour Organization (ILO), a complete list of all prisoners used as convict porters since the practice began, including information on their fate or current whereabouts, and provide this information to their families.
- Publicly order the armed forces to cease using porters as human shields, including ordering a halt to having porters lead military columns and using them for “atrocities demining.”
- Credibly investigate and prosecute those responsible for abuses against porters during military operations, regardless of rank or position. Suspend all military personnel implicated in committing abuses against porters pending investigation.
- Investigate and prosecute as appropriate senior government officials and military commanders responsible for planning and instituting the large-scale use of uncompensated convict porters in conflict areas.
- Bring law and practice on the use of forced labor in line with Burma’s obligations under international law, including prohibiting forced labor that is uncompensated or in conflict areas. Burma should ratify International Labour Organization (ILO) Convention No. 105 on the Abolition of Forced Labour (1957).
- Establish a parliamentary committee to report on the use of forced labor generally in Burma, including the use of convict labor in conflict areas.
- Provide the International Committee of the Red Cross (ICRC) access to prisons in accord with its standard procedures, and permit the ICRC to reopen its offices in ethnic conflict areas, specifically Moulmein in Mon State, Hpa-an in Karen State, and Kengtung in Shan State.
- Permit an increase in the number of ILO staff in Burma, including in regions outside Rangoon.
- Ratify the Mine Ban Treaty.
- Acknowledge past failure to pursue justice and fully support the establishment of a UN commission of inquiry into allegations of serious violations of international humanitarian and human rights law by all parties to the internal armed conflicts in Burma.

- Develop a national plan to address issues concerning all former convict porters, including commutation of sentences, medical care, and assistance by domestic and international organizations for psychological counseling and vocational training.

### **To the Corrections Department of the Ministry of Home Affairs**

- Immediately cease the practice of using convicts as porters in armed conflict areas in Burma.
- Identify and disclose the whereabouts of all prisoners transferred to military custody to serve as porters since the practice was initiated, and publish the list of whereabouts in the media or through the Government Gazette.
- Permit unfettered visits to prisons by the ILO to verify that the practice of forcibly sending prisoners for military service has ended.
- Without waiting for the current review of the 1894 Jail Manual to be completed, immediately enact specific regulations to ensure that prisoners cannot be removed from any prison or labor camp facility and placed in hazardous conditions or combat zones.
- Ensure the updated 1894 Jail Manual contains specific language banning the use of prisoners in conflict areas is fully in line with relevant ILO conventions and conforms to the United Nations Standard Minimum Rules for the Treatment of Prisoners, as promised in Burma's official submission to the Universal Periodic Review in January 2011.

### **To the Commander in Chief of the Armed Forces of Burma**

- Immediately cease the practice of using convicts as porters by all military units throughout Burma, in combat zones, and permit independent verification of these activities.
- Credibly investigate and prosecute Tatmadaw personnel, officers and rank and file, found to have committed serious crimes against convict porters.
- Immediately end the practice of forced labor of civilians and convict labor, by all military units in any capacity, in line with orders issued in 1999 and 2000.
- Immediately halt the practice of "atrocious demining" and instruct all field commanders to end the use of civilians as human minesweepers.

### **To the International Labour Organization**

- Seek to expand activities outside Rangoon to monitor use of porters, including convict porters, in conflict areas.
- Strengthen the ILO operation in Burma to ensure both the effective application of the Supplementary Understanding Forced Labour Complaints Mechanism (2007), which includes the use of convict porters towards providing legal redress to complainants, and enhanced monitoring and reporting mechanisms on the different categories of forced labor including the use of convict labor by the military.
- Assist the Burmese government in revising the 1894 Jail Manual to ensure it is in compliance with relevant ILO Conventions on prison and forced labor.
- Support civil society groups in assisting former convict porters, including safe return and access to channels by which they and their families can seek legal redress.
- Facilitate contact between former convict porters and families, including notification of the deaths of porters and protection of families from reprisal.

### **To Members of the UN Security Council, UN Secretary-General, and Members of the UN Human Rights Council**

- Publicly support a UN commission of inquiry as called for in the March 2010 report of the UN Special Rapporteur for the situation of human rights in Myanmar.

### **To the UN Country Team and Burma-based UN Agencies**

- Support civil society initiatives to reunite former convict porters with their families.
- Report incidents or information on forced labor including the unlawful use of civilian and convict porters to the ILO.
- Commence regular and systematic monitoring and reporting on the human rights situation in Burma, including the use of civilian or convict porters by the military.

### **To the United Nations High Commissioner for Refugees**

- Take steps to address the specific problems faced by escaped convict porters who are in Thailand.

### **To China, Russia, US, European Union, Japan, and ASEAN Member States**

- Publicly support creation of a UN commission of inquiry to look into serious violations of international humanitarian and human rights law by all parties to the



- conflicts in Burma. Actively mobilize other countries to support UN General Assembly or UN Human Rights Council action to create such a commission.
- Publicly call on Burma to immediately end the practice of using civilian porters, including convicts, in armed conflict areas.
  - Support as possible an expansion of the ILO's activities in Burma.

### **To the Government of Thailand**

- Uphold the principle of non-refoulement with respect to all Burmese asylum seekers in Thailand, including convict porters.
- Ratify the Refugee Convention and its 1967 Protocol.

## Appendix A: List of Labor Camps under the Correctional Department in Burma

| No. | Name                        | Category                 | Location                                        |
|-----|-----------------------------|--------------------------|-------------------------------------------------|
| 1.  | Taw-gyi-tan                 | Agriculture              | Twante Township, Rangoon Region                 |
| 2.  | Shwe-tha-htay               | Agriculture              | Twante Township, Rangoon Region                 |
| 3.  | Kyike-sagaw                 | Livestock                | Dike-U Township, Pegu Region                    |
| 4.  | Hlay-hlaw-Inn               | Agriculture              | Hlegu Township, Rangoon Region                  |
| 5.  | Prison Labor Camp (KaLaTha) | General                  | Hlegu Township, Rangoon Region                  |
| 6.  | No. 2 New Life Camp         | Agriculture              | I-Kalaung, Tikekyi Township, Rangoon Region     |
| 7.  | No. 9 New Life Camp         | Agriculture              | Tanyin Township, Rangoon Region                 |
| 8.  | Shwe-mya-ya                 | Agriculture (Rubber)     | Pegu Region                                     |
| 9.  | No. 11 New Life Camp        |                          | Kyu-Inn, Pyin Oo Lwin Township, Mandalay Region |
| 10. | No. 11 New Life Camp        |                          | Ho-Kho, Pyin Oo Lwin Township, Mandalay Region  |
| 11. | No. 6 New Life Camp         | Agriculture              | Kyike-Mayaw Township, Mon State                 |
| 12. | No. 7 New Life Camp         | Agriculture              | Hpa-an Township, Karen State                    |
| 13. | Porter Battalion            | Porter Recruiting Center | Thaton Township, Mon State                      |
| 14. | No. 1 Porter Battalion      | Porter Recruiting Center | Hpa-an Township, Karen State                    |
| 15. | No. 2 Porter Battalion      | Porter Recruiting Center | Hpa-an Township, Karen State                    |
| 16. | Ka-Sa-Kae                   | Agriculture              | Wakhema Township, Irrawaddy Region              |
| 17. | No. 3 New Life Camp         | Agriculture              | Nyaungdon Township, Irrawaddy Region            |
| 18. | In-ga-bo                    | Agriculture (Rubber)     | Belin Township, Mon State                       |
| 19. | Shwe-kyin-too               | Gravel Production        | Wakhema Township, Irrawaddy Region              |
| 20. | No. 1 New Life Camp         |                          | Tha-nan, Tamu Township, Sagaing Region          |
| 21. | No. 1 New Life Camp         |                          | Myo-thit, Tamu Township, Sagaing Region         |
| 22. | No. 1 New Life Camp         |                          | Tamu Township, Sagaing Region                   |

| No. | Name                       | Category     | Location                                      |
|-----|----------------------------|--------------|-----------------------------------------------|
| 23. | No. 10 New Life Camp       |              | Ya-za-gyo (1), Kalay Township, Sagaing Region |
| 24. | No. 10 New Life Camp       |              | Ya-za-gyo (2), Kalay Township, Sagaing Region |
| 25. | Taung-zun                  | Gravel       | Belin Township, Mon State                     |
| 26. | Yin-nyein                  | Gravel       | Paung Township, Mon State                     |
| 27. | Zin-kyike                  | Gravel       | Paung Township, Mon State                     |
| 28. | Mote-pa-lin                | Gravel       | Kyikehto Township, Mon State                  |
| 29. | Kin-tha (1)                | Gravel       | Pyinmana Township, Mandalay Region            |
| 30. | Kin-tha (2)                | Gravel       | Pyinmana Township, Mandalay Region            |
| 31. | Htone-bo (male)            | Gravel       | Pathaingyi Township, Mandalay Region          |
| 32. | Htone-bo (female) (1)      | Gravel       | Pathaingyi Township, Mandalay Region          |
| 33. | Htone-bo (female) (2)      | Gravel       | Pathaingyi Township, Mandalay Region          |
| 34. | Bae-lin (male)             | Gravel       | Pathaingyi Township, Mandalay Region          |
| 35. | Pa-ya-nga-su               | Gravel       | Pathaingyi Township, Mandalay Region          |
| 36. | Mote-pa-lin (female)       | Gravel       | Kyikehto Township, Mon State                  |
| 37. | Taungoo (4 mile)           | Gravel       | Taungoo Township, Pegu Region                 |
| 38. | Sun-pra-bum                | Road Project | Myitkyina Township, Kachin State              |
| 39. | Myitkyina Porter Battalion | Porter       | Myitkyina Township, Kachin State              |
| 40. | Hti-kan                    | Agriculture  | Yatsauk Township, Shan State                  |
| 41. | Ban-kan                    | Agriculture  | Yatsauk Township, Shan State                  |
| 42. | No. 8 New Life Camp        | Agriculture  | Tanai Township, Kachin State                  |
| 43. | No. 4 New Life Camp        | Agriculture  | Mergui Township, Tenasserim Region            |
| 44. | No. 5 New Life Camp        | Agriculture  | Mergui Township, Tenasserim Region            |
| 45. | Loikaw Porter Battalion    | Porter       | Loikaw, Kayah State                           |

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Documenting the voices of villagers in rural Burma

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# Dead Men Walking

## Convict Porters on the Front Lines in Eastern Burma

For decades the Burmese army has forced civilians to risk life and limb serving as porters in barbaric conditions during military operations against rebel armed groups. Among those taken to do this often deadly work, for indefinite periods and without compensation, are common criminals serving time in Burma's prisons and labor camps.

Based on 58 interviews with convict porter survivors who escaped the Burmese army in 2010 and 2011, *Dead Men Walking* details the harsh treatment prisoners are forced to endure on military operations.

Escaped convict porters described how the authorities selected them in a seemingly random fashion from prison and transferred them to army units fighting ethnic armed groups on the front lines. Soldiers force them to carry huge loads of supplies and munitions in mountainous terrain, giving them little food and no medical care. Often they are used as "human shields," put in front of columns of troops facing ambush or sent first through heavily mined areas. The wounded are left to die; those who try to escape are frequently executed, beaten, or tortured. The use of convict porters is not an isolated, local, or rogue practice employed by some units or commanders, but has been credibly documented since as early as 1992, and has been reported in other conflict zones of Burma.

As this report makes clear, serious abuses that amount to war crimes are being committed in Burma with the involvement or knowledge of high-level civilian and military officials. Officers and soldiers commit atrocities with impunity.

The use of convict porters on the front line is only one of the brutal counterinsurgency practices Burmese officials have used against ethnic minority populations since Burma's independence in 1948. These abuses have led to growing calls for the establishment of a United Nations commission of inquiry into longstanding allegations of violations of international humanitarian and human rights law by all parties to the armed conflicts in Burma.



*Convict porters in blue prison uniforms carry supplies for the Burmese army in northern Karen state, 2011. Forcing prisoners to work for the army in frontline areas is a longstanding practice in Burma.*

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