

Self-protection under strain:

Targeting of civilians and local responses in northern Karen State



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

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State

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Front cover photo: Displaced residents of Kyaukkyi Township, Nyaunglebin District, flee deeper into an upland area following attacks by the SPDC Army in February 2009. *[Photo: KHRG]*

Back cover photo: Smoke rises from hill fields belonging to villagers from Lu Thaw Township, Papun District. An SPDC Army camp is just 30 minutes' walk away, and villagers told KHRG they had to be prepared to evade Army patrols and shelling while working in these fields. *[Photo: KHRG]*

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Preface

This report is a detailed examination of the humanitarian consequences of ongoing SPDC Army attacks on the civilian population in upland northern Karen State, and the strategies villagers have developed to protect themselves and maintain their dignity. While these self-protection strategies have enabled tens of thousands of villagers to survive and remain close to their homes, they have also become strained, even insufficient, as humanitarian conditions worsen under sustained pressure from the SPDC Army. Such circumstances have prompted some individual villagers and entire communities to re-assess local priorities and concerns, and respond with alternative strategies – including uses of weapons or landmines. While this complicates discussions of legal and humanitarian protections for at-risk civilians, the following report makes clear that uses of weapons by civilians occur amidst increasing constraints on alternative self-protection measures. Consequently, external actors wishing to promote human rights in conflict areas of eastern Burma should seek a detailed understanding of local priorities and dynamics of abuse, and use this understanding to inform activities that broaden the range of feasible options for civilians to respond and protect themselves from abuse and military attack.

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Methodology and scope of research

1. Geographic Area

Research for this report was primarily conducted in Papun District, which is divided into three townships, locally referred to as Lu Thaw, Dweh Loh and Bu Thoh. Lu Thaw, which makes up the district's northern third, mostly consists of upland hills that link with hill areas in adjacent Toungoo and northeastern Nyaunglebin District. Dweh Loh and Bu Thoh, which form the southern thirds of the district, both have considerable lowland terrain. Dweh Loh and Bu Thoh also, however, contain upland areas, particularly northern and eastern Bu Tho Township. The Bilin River and Yunzalin River are the major waterways that run north to south through Papun District; many communities in Papun lie along these rivers and their tributaries. These features and others can be seen on maps 1 and 2.

Papun District is a local designation that loosely corresponds to an area officially classified by the SPDC as Hpapun Township, Kayin State. Papun District is part of a locally-designated "Karen State" that, according to official boundaries used by the SPDC, includes all or portions of Kayin, Kayah and Mon states and significant parts of Bago and Tanintharyi Divisions. When this report refers to "Karen State," it is in reference to this broader area.

2. Sources

This report draws primarily from research received between January 2009 and April 2010. This dataset includes 125 interviews with villagers in Lu Thaw Township and an additional 87 interviews with villagers elsewhere in Papun including both Bu Tho and Dweh Loh townships. Of this total figure, 35 interviews were conducted with students, so information regarding youths' experiences, particularly that used for Section IV: B-3, was not explained solely from the perspective of adults. Selections from a handful of specific interviews and field research from outside this timeframe were also used for additional context regarding key issues discussed in this report. Interviews were designed to be qualitative and open-ended: no survey was used and interviews were dictated by the priorities of individual villagers. In some cases, targeted follow-up interviews were conducted to clarify details regarding specific incidents or self-protection strategies employed by villagers. Interviewees included both village leaders and persons not in positions of leadership, men, women and youths. While KHRG is committed to interviewing villagers from all ethnic groups within its research areas, the majority of villagers in Lu Thaw are ethnic S'gaw Karen. Interviews were, however, conducted with ethnic Pwo Karen and Shan villagers, especially in northern Bu Thoh Township.

This report draws on more than 85 situation updates, incident reports and other notes from KHRG researchers and trained local volunteers operating and living in Papun, including 40 such documents from Lu Thaw Township. This report also draws on extensive experience and local knowledge developed by

KHRG researchers since formal documentation activities began in 1992. Veteran researchers were interviewed and queried for follow-up on targeted issues by information processing staff responsible for drafting this report. Information previously published by KHRG, both regarding the situation in Lu Thaw Township and conditions in adjacent areas, is also used to contextualise information from the sources describe above; 42 previously published KHRG reports have been footnoted as supplementary evidence. Four of these reports document the current situation in southern Papun and were released concurrently with this report in August 2010.

Information presented in this report was also discussed with local and international humanitarian, human rights and legal organisations, including staff from organisations providing services in the area. This is not to imply their agreement or verification of information or views presented here. KHRG is nonetheless indebted to their feedback and support.

3. Verification

Research was conducted by a network of salaried and volunteer researchers trained by KHRG. KHRG reporting emphasizes presenting the perspectives of individual villagers, rather than a focus on incident based reporting, and this report is based directly upon their testimony. Information regarding individual incidents of abuse presented in this text is typically directly attributed to a particular source, usually by being included in a quote. Information presented without direct attribution is presented as such only in situations where it has been assessed to be highly credible. Credibility assessments were conducted according to corroboration by multiple sources. Where verification by multiple sources was not possible due to research constraints, information was checked against local trends, first by field researchers permanently stationed in a given area and intimately aware of local conditions. A second check was then done by KHRG's information processing office, which compared information to local reports by other researchers and trends noted in 18 years of research in the area.

4. Independence, obstacles to research and selection bias

Though KHRG often operates in or through areas controlled by armed forces and groups including the SPDC Army, Karen National Liberation Army (KNLA) and Democratic Karen Buddhist Army (DKBA), KHRG is independent and unaffiliated. Access to some areas has sometimes been facilitated by the KNLA, particularly in cases where KHRG researchers need to cross vehicle roads or enter villages that the SPDC Army has burned or mined. For more on KNLA activities and road crossings by civilians, see Section III: A-1.

The SPDC Army and DKBA were not willing to facilitate research by KHRG; SPDC Army and DKBA soldiers are the chief obstacles to safely conducting research in Papun. Researchers operating in shoot-on-sight areas risk being killed, like all civilians in such areas, should they encounter the SPDC Army.

Researchers elsewhere in Papun operate with the understanding that they risk arrest or execution should the SPDC Army or DKBA learn of their activities; the SPDC Army has publicly placed bounties on the heads of researchers in both Dweh Loh and Bu Thoh townships. During the research period for this report, on August 23rd 2009, a retired KHRG researcher was shot and killed when he attempted to flee from a patrol near Mah Htaw village tract, Dweh Loh Township.

Because of the obstacles described above, it is only possible for KHRG researchers to interview civilians that are not likely to report the interview to SPDC Army or DKBA authorities. This fact does not represent a research constraint in the majority of Lu Thaw Township, as villagers there are likely to be killed or detained should the encounter the SPDC Army – reducing the probability that they might present a security threat for KHRG researchers. In Bu Thoh and Dweh Loh Townships, however, security considerations mean that KHRG researchers are not able to openly interview all types of villagers. Villagers most likely to compromise the security of KHRG researchers may also be villagers that are most likely to present a positive view of SPDC Army or DKBA practices, and be critical of the KNLA.

It is important to acknowledge that these limitations restrict KHRG's ability to make conclusions about all aspects of KNLA operations or potentially positive activities conducted by the SPDC or DKBA. It is equally important to acknowledge, however, that these limitations do not call into question the veracity of documentation regarding DKBA or SPDC Army practices. While there is a risk that individuals interviewed by KHRG might hold personal biases that cause them to provide exaggerated or inaccurate information, verification practices described above are designed to prevent such inaccuracies from being reported by KHRG. Inaccuracies from potential source biases are also minimized by comparison to the large sample size of information gathered for this report, and the extremely large sample size of information gathered by KHRG over the last 18 years.

5. Censoring of names, locations and other details

For reasons related to security and informed consent, the names of individual villagers and villages are censored, with the original name replaced by a random letter or pair of letters. These names do not correspond to the actual names in the relevant language – many of the consonant/vowel combinations used in this report do not exist in Karen or Burmese languages. All names and locations censored according to this system correspond to actual names and locations on file with KHRG. Thus, censoring should not be interpreted to mean detailed information is not on record. In some cases, further details have been withheld for the security of villagers and KHRG researchers.

Terms and abbreviations

BPHWT	Backpack Health Worker Team
CBO	Community based organisation
DKBA	Democratic Karen Buddhist Army; allied with the SPDC
FBR	Free Burma Rangers
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IHL	International Humanitarian Law
ILO	International Labour Organisation
KDHW	Karen Department of Health and Welfare
KED	Karen Education Department
KESAN	Karen Environmental and Social Action Network
KHRG	Karen Human Rights Group
KNDO	Karen National Defence Organisation
KNLA	Karen National Liberation Army
KNU	Karen National Union
KORD	Karen Office for Relief and Development
KTWG	Karen Teachers Working Group
KWO	Karen Women's Organisation
LIB	Light Infantry Battalion of the SPDC Army
MIMU	Myanmar Information Management Unit
MOC	Military Operations Command of the SPDC Army
NGO	Non-Governmental Organisation
NSAG	Non-state Armed Group
SLORC	State Law and Order Restoration Council
SPDC	State Peace and Development Council
TBBC	Thailand-Burma Border Consortium
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
baht	Thai currency; US \$1 equals (at time of writing) approx. 32 baht at market rate.
big tin	Unit of volume used to measure paddy, husked rice and seeds. One big tin of paddy equals 10.45 kg. / 23.04 lb. in weight. One big tin of husked rice equals 16 kg. / 35.2 lb. in weight.
<i>gher der</i>	'Home guard' groups organised by local villagers to undertake armed self-protection activities.
<i>kyat</i>	Burmese currency; US \$1 equals (at time of writing) 5.8 kyat at official rate, approx. 980 kyat at market rate
milk tin	Unit of volume used to measure husked rice. One milk tin of rice equals 195 g / 6.87 oz. in weight.



Map 2: Locally defined Karen State



Map 3: Burma



I. Introduction and executive summary

"We've had to flee more than ten times already... If they came to beat you to death, interrogate you, hit you, ask you to be a porter would you accept it?... When people were farming, they came and shot and killed them. They see us as their enemies."

- Saw E--- (male, 46), O--- village, Lu Thaw Township (December 2009)

"Before we left our village, our situation was better because we had our own land to farm, but now we don't have enough rice... I think things will get worse and worse if we continue to live here. We don't have good land to farm. But we have no choice but to farm on that kind of land because we don't dare to go back to our own place to farm. It's very difficult."

- Saw G--- (male, 58), Xa--- village, Lu Thaw Township (December 2009)

Villagers residing in upland northern Karen State continue to be targeted by the SPDC Army. These attacks are still occurring nearly two years after the termination of a three-year-long military campaign intended to bring the populations of difficult-to-control upland areas of northern Karen State under firmer SPDC authority. This report is a detailed examination of the humanitarian consequences of these attacks for the civilian population in one affected area, and the strategies villagers have developed to survive and maintain their dignity in the face of abuse. While these protection strategies have enabled tens of thousands of villagers to survive and remain close to their homes while evading abuse or forced relocation, these local responses have also become strained, even insufficient, as humanitarian conditions worsen under sustained pressure from the SPDC Army. Such circumstances have prompted some individual villagers and entire communities to re-assess local priorities and concerns, and respond with alternative strategies – including uses of weapons. Local responses to abuse, and the decision-making process that informs these responses, offer insight into local protection needs, as well as effective means of strengthening civilian protection in upland non-state spaces.

The main argument of this report, therefore, is that external actors wishing to promote human rights in conflict areas of eastern Burma should provide practical support for civilian self-protection strategies based on a detailed understanding of the local dynamics of abuse. KHRG has made this argument before. However, as this report documents, self-protection strategies in conflict areas of Karen State are now under increasing strain and some civilians have chosen to take up arms to address their protection concerns. Uses of weapons such as landmines by civilians as a protection strategy complicate

discussions of support for civilian protection efforts, particularly by humanitarian agencies. However, uses of weapons by civilians occur amidst increasing constraints on alternative self-protection measures. This fact only emphasises the need for increased practical support for self-protection efforts in order to broaden the range of feasible options for civilians caught in situations of abuse and military attack.

This report focuses on Lu Thaw Township, an upland area in northern Karen State's Papun District, and home to more than 27,000 displaced villagers who are actively seeking to evade attack by the SPDC Army. Focus on Lu Thaw is not meant to marginalise the impact of attacks on villagers elsewhere in Papun or in adjacent Nyaunglebin and Toungoo districts, nor imply that the ongoing targeting of civilian lives and livelihoods in Lu Thaw is unique from SPDC Army practices in other upland areas. On the contrary, KHRG continues to document repeated and ongoing abuses in upland non-state spaces across eastern Burma. However, the report's focus on Lu Thaw Township serves to provide a detailed picture of the dynamics of abuse in this area that also indicates potential entry points for practical external support for local self-protection strategies.

Key recommendations

- External actors wishing to promote human rights in conflict areas of eastern Burma should **provide practical support for civilian self-protection** activities based on a detailed understanding of local dynamics of abuse
- Locally driven civilian protection measures should be incorporated into humanitarian programming and extreme care should be taken to ensure that no humanitarian activities undermine local self-protection activities
- Governments, funding bodies and NGOs should **increase assistance** to actors **that can consistently access at risk populations**, including actors operating 'cross-border'
- Armed self-protection activities emphasise, rather than obviate, the need for practical support that **broadens civilians' range of feasible options for self-protection**
- Advocacy and engagement towards the SPDC should **focus on villagers' own protection priorities** and be designed to support civilian self-protection activities

Section II below is designed to emphasise that SPDC Army practices in Lu Thaw Township are part of a widely documented pattern that dates back to the 1950s. It focuses on an overview of the SPDC's 2005-2008 Offensive to provide recent historical context to SPDC military practices in Lu Thaw Township. Section III further explains these practices and details the ways in which villagers residing in non-state spaces of northern Lu Thaw Township, and their livelihoods, continue to be targeted by SPDC practices even since the end of the 2005-2008 Offensive. While the SPDC Army has reduced the overall frequency and intensity of its operations, villagers remain at constant risk of death or injury from periodic attacks, patrols and remote shelling, and SPDC forces have continued to launch sporadic attacks targeting the food resources of communities beyond state control. Additional measures such as movement restrictions and the obstruction of external humanitarian assistance have further targeted the food security and health of civilians.

Section IV describes how SPDC practices have acutely undermined food security, health and education in non-state spaces of Lu Thaw Township. Villagers confronting such humanitarian challenges have not, however, been passive or powerless; they have employed a number of established and effective local strategies to survive with dignity beyond SPDC control for prolonged periods of time. Such locally designed responses have been recognised as consistent with the humanitarian protection objectives of all actors interested in improving human rights conditions in eastern Burma. Section IV goes on to describe, however, the ways that sustained pressure exerted on civilians and humanitarian conditions in non-state spaces by SPDC Army practices is challenging the resilience of local communities' proven strategies, prompting some communities to re-evaluate and revise their protection methods according to new or more immediate concerns.

Section V outlines local protection methods involving uses of weapons that some villagers are employing in response to the deterioration of humanitarian conditions and physical security in certain areas of northern Lu Thaw Township. This section also considers villagers' reasons for adopting such methods, their perspectives on potential positive and negative consequences, and the perceived necessity of such methods for meeting the protection needs of communities that continue to face the threat of attack. Local points of view on protection, and the calculations that precede the use of specific strategies, are diverse and offer insight into what villagers in non-state spaces see as their most immediate needs and protection threats. Villagers are extensively quoted throughout this report in order to reflect this diversity, and it is recommended that readers refer to these quotes to best understand protection concerns and priorities articulated from villagers' perspectives.

Direct participation in hostilities by civilians in Lu Thaw raises questions about the potential legality of SPDC Army practices that indiscriminately target the civilian population in Lu Thaw. In an attempt to inform related discussions of

civilian armed protection strategies, Section VI first sets forth relevant provisions of International Humanitarian Law (IHL), and then analyses the these activities in light of established legal norms. This analysis makes clear that direct participation in hostilities by some civilians in Lu Thaw does not relax the SPDC's obligations under the most fundamental provisions of IHL: without exception, the SPDC Army must refrain from attacking, and otherwise pursue protection of, the broader civilian population. In situations where some civilians directly participate in hostilities to effectuate such protection, their actions may result in them losing immunity from attack, but can never provide legal grounds on which to justify SPDC practices that harm the broader civilian population in violation of IHL. Section VII then explains why outside actors looking to improve the humanitarian situation in Lu Thaw Township should consider directly or indirectly supporting proven local protection strategies, and suggests practical ways to offer such support without undermining existing protection methods and local protection objectives.

II. Targeting of civilians in Lu Thaw: Recent and historical antecedents

Villagers in Lu Thaw Township have faced attacks that are part of a wider pattern of targeting civilians by the SPDC Army across northern Karen State, most recently as part of a broad military campaign that began at the end of the 2005 rainy season.¹ Beginning in November 2005, SPDC Army troops systematically targeted thousands of civilians, civilian settlements and livelihoods in multi-battalion, coordinated attacks that spanned Karen State's northern Nyaunglebin, Toungoo and Papun districts. By November 2006, the Thai Burma Border Consortium (TBBC) calculated that 27,400 civilians had been displaced from more than 130 villages in northern Karen State, nearly doubling the total number of villagers living in hiding at the time to over 54,400.² Attacks on civilians continued for the next two years, and by November 2008 TBBC calculated that 60,300 civilians were in hiding and actively seeking to avoid being shot by the SPDC Army in northern Karen areas.³

Abuses by the SPDC during the Northern Karen State Offensive have been extensively documented by KHRG and other local organisations, including Burma Issues, the Free Burma Rangers, Karen Women's Organisation⁴ as well as international human rights organisations including Amnesty International

¹ KHRG has most frequently referred to this campaign as 'the Northern Karen State Offensive,' because it did not have a clear endpoint. Because KHRG now dates the end of the offensive to December 2008, it will hereinafter be referred to with a bounded date-range as the '2005-2008 Offensive,' as has been the practice with previous campaigns, such as the 1976 and 1997 offensives.

² TBBC figures from a survey that is conducted annually to estimate the displaced population in conflict areas of eastern Burma. The survey is widely recognised as the definitive source of figures regarding civilian displacement in the region. For figures from 2006, see *Internal Displacement in Eastern Burma: 2006 Survey*, Thailand-Burma Border Consortium (TBBC), November 2006, pp.20, 26, 34-9, 55-9. The figures cited in the text have been compiled from the TBBC's estimates for displaced persons and abandoned, relocated, or destroyed villages in Thandaung, Papun, Shwegyin, and Kyaukkyi townships; these are SPDC-drawn administrative areas in northern Karen State that approximately correspond to Toungoo, Papun, and Nyaunglebin districts, which are Karen designations used by Karen villagers and KHRG. Note that the figure of 54,400 IDPs does not include the estimated 6,400 persons forcibly relocated in SPDC-delineated Kyaukkyi Township in 2006. For more information on the difference between SPDC and local designations for areas in eastern Burma, see pp.5-7: Methodology and scope of research.

³ *Internal Displacement and International Law in Eastern Burma*, TBBC, November 2008, p.54

⁴ *Shoot on Sight: The ongoing SPDC offensive against villagers in northern Karen State*, Burma Issues, December 2006; *Campaign of Brutality*, Free Burma Rangers (FBR), April 2008; *State of Terror*, Karen Women's Organisation, February 2007.

and Human Rights Watch.⁵ In February 2007, the UN Special Rapporteur on the situation of human rights in Myanmar, in his annual report to the UN Human Rights Council, noted the intensifying military campaign in Northern Karen State, its disproportionate impact on civilians and their livelihoods, and the fact that the targeting of Karen villagers was part of the SPDC Army's strategy in the offensive.⁶ As attacks in northern Karen State intensified, the International Committee of the Red Cross (ICRC) was so systematically obstructed from monitoring the situation and providing humanitarian support that it ultimately took the rare step in June 2007 of breaking its strict policy of confidentiality to criticize the SPDC on several fronts, including the latter's gross and repeated violations of International Humanitarian Law against civilians in conflict-affected areas, including northern Karen State.⁷ An ICRC press release noted that, among other offences, SPDC forces were directly attacking civilians, the food supply and means of food production, as well as enforcing movement restrictions that undermined civilian livelihoods activities; the statement concluded that *"The repeated abuses committed against men, women and children living along the Thai-Myanmar border violate many provisions of international humanitarian law."*⁸

As international actors recognised the scale of the offensive and ensuing displacement and humanitarian concerns, the SPDC rejected claims that civilians were targeted by the military, that there were any internally displaced people at all within its borders,⁹ and that armed conflict even existed in Burma.¹⁰ Military activities were consistently framed, meanwhile, as 'counter-terrorism' activities¹¹ a significant about-face from earlier eras, when military officials publicly extolled the virtues of counter-insurgency strategy predicated

⁵ *Crimes Against Humanity in Eastern Myanmar*, Amnesty International, June 2008; "Burma: Army Forces Thousands to Flee," Human Rights Watch, November 2006.

⁶ "Report of the Special Rapporteur on the situation of human rights in Myanmar, Paulo Sergio Pinheiro," UN Human Rights Council (HRC), February 12th 2007, A/HRC/4/14 paras. 55-6, 58.

⁷ *Annual Report 2007*, International Committee of the Red Cross (ICRC), 2007, p.187.

⁸ "Myanmar: ICRC denounces major and repeated violations of international humanitarian law," ICRC, June 29th 2007, News Release 82/07.

⁹ "Statement by His Excellency U Nyunt Maung Shein, Ambassador/Permanent Representative and Leader of the Myanmar Observer Delegation at the Second Session of the Human Rights Council," Permanent Mission of the Union of Myanmar to the United Nations and other International Organizations in Geneva (Permanent Mission of Myanmar), September 27th 2006.

¹⁰ "Statement by U Nyunt Maung Shein," Permanent Mission of Myanmar, September 2006. Also: "Statement by Deputy Permanent Representative, U Nyunt Swe, the Union of Myanmar and Leader of the Myanmar Observer Delegation at the Fourth Session of the Human Rights Council" Permanent Mission of Myanmar, March 23rd 2007.

¹¹ "Note verbale dated 10 March 2008 from the Permanent Mission of Myanmar to the United Nations Office at Geneva addressed to the Secretariat of the Human Rights Council." UN HRC, March 10th 2008, Annex to UN Doc A/HRC/7/G/8, paragraph 47.

on the targeting of civilians.¹² Targeting of civilians by the Burma Army has often been explained as part of what was once explicit military doctrine, known as *pya ley pya*, or the ‘four cuts’ strategy. *Pya ley pya* was designed to cut armed opposition off from sources of “food, funds, intelligence and recruits” and, in practice, referred to an extensive scorched earth campaign widely credited with enabling the Burma Army to take control of much of the country beginning in the 1950s.¹³

From some perspectives, understanding SPDC Army operations in northern Karen State solely in terms of ‘counter-insurgency’ made sense, as the attacks were ostensibly designed to consolidate control of territory where the Karen National Liberation Army (KNLA) remained active. Indeed, the wide campaign was foreshadowed by attacks on the KNLA 9th Battalion Headquarters in Nyaunglebin District on September 21st 2005, in which the SPDC Army took control of the camp after a sustained military build-up in the area.¹⁴ By November 2005, the month sometimes cited as the starting point of the 2005-2008 Offensive,¹⁵ SPDC units in Toungoo District were attacking villagers living in areas of contested authority,¹⁶ as well as villagers who had fled to non-state spaces¹⁷ to avoid prior efforts to drive them into SPDC-designated relocation sites.

¹² Martin Smith. *Burma: Insurgency and the Politics of Ethnicity* (hereinafter *Burma*), New York: St. Martin’s Press, 1999, p.259. Smith notes public speeches by Brigadier San Yu and General Tin Oo, who is now a leader in the NLD.

¹³ Smith, *Burma*, 1999, pp. 258-262.

¹⁴ “Proliferation of SPDC Army Camps in Nyaunglebin District Leads to Torture, Killings, and Landmine Casualties,” KHRG, July 2005; “Nyaunglebin District: SPDC operations along the Shwegyin River, and the villagers’ response,” KHRG, December 2005. SDPC Army activities documented in the area following the attack on KNLA 9th Battalion included shelling and razing civilian villages; killing livestock; destroying food stores, utensils, baskets, and water storage containers; laying landmines; and preventing villagers, who had fled east across the Shwegyin River from returning to their fields during the key harvest month of October.

¹⁵ See, for example: *One Year On: Continuing abuses in Toungoo District*, KHRG, November 2006; *Internal Displacement in Eastern Burma*, TBBC, 2006, p.36

¹⁶ “Recent Attacks on Villages in Southeastern Toungoo District Send Thousands Fleeing into the Forests and to Thailand,” KHRG, March 2006.

¹⁷ This report will use the terms ‘state spaces’ and ‘non-state spaces’ to describe relative degrees of SPDC control, or lack thereof. The term does not necessarily imply fixed or geographically bounded areas, but spaces that open up, close, and shift according to the deployment and operations of SPDC Army battalions. For a discussion of the concept of non-state spaces, see: Kevin Malseed, “Networks of Noncompliance: Grassroots Resistance and Sovereignty in Militarised Burma,” KHRG Working Paper, April 2009; later published in: *Journal of Peasant Studies* 36:2, April 2009, pp.365-391., especially pp.21-22: “Rather than mutually exclusive categories, state and non-state spaces form two ends of a spectrum, with reality always falling between... the state can penetrate non-state spaces with military columns at any time, and has administrative structures in these places; people evade the columns and the administration, reflecting an aspiration to non-state space, even moving out of the way and reappearing when the column is gone, but it is not a pure non-state space.”

After an escalation of attacks in Nyaunglebin and Toungoo in February 2006, the campaign spread into Papun District in April 2006, with villagers and their livelihoods heavily affected by SPDC operations.¹⁸ Thousands of villagers were forced to move to government-selected relocation sites in lowland areas under firmer SPDC control, where they were subject to strict limitations on travel and trade and frequently required to work as unpaid forced labourers.¹⁹ Thousands more villagers attempted to evade forced relocation, and villagers remaining in upland areas have subsequently been treated as legitimate military targets. Non-state spaces in upland areas appear to function as 'free fire' zones in which civilians are shot on sight, regardless of age, gender or legal status as fighter or civilian.

The SPDC Army's forced relocation campaign and treatment of villagers in relocation sites, as well as in other areas over which the government has consolidated control, indicates a second important factor driving Army practices in KHRG research areas: effective control of territory and civilian populations is vital for an SPDC Army that is logistically dependent on civilian labour and material support, including the provision of materials such as paddy and building materials, porters to carry rations and equipment, and labourers to build and maintain roads, army camps and agricultural projects. These practices have sometimes been referred to as the army's 'live off the land' or 'self-reliance' policy, which has been reported to stem from an order issued by Burma's War Office in 1997 directing the country's Regional Commanders *"to meet their basic logistical needs locally, rather than rely on the central supply system."* Since troops are often unable to grow or purchase sufficient additional food resources to augment their minimal rations, one analyst has noted that since the 1997 order *"there is an increased likelihood of the armed forces being forced to live off the land, appropriating food and other supplies from the local population as required."*²⁰ The military's reliance on the civilian population for support was confirmed in a Commission of Inquiry conducted by the International Labour Organisation (ILO) to examine Burma's observance of its obligations to eliminate forced labour within its borders. The ILO concluded that, *"Government officials, in particular the military, treat the civilian population*

¹⁸ "Villagers displaced as SPDC offensive expands into Papun district," KHRG, May 2006; "SPDC troops commence full offensive in Papun district," KHRG, June 2006

¹⁹ For current information on living conditions in these relocation sites, see *Life in Burma's Relocation Sites*, Ethnic Nationalities Council Digital Mapping and Database Programme, January 2010.

²⁰ See, Andrew Selth, *Burma's Armed Forces: Power Without Glory*, Norwalk: Eastbridge, 2002 p. 136. See also, Mary Callahan, "Of kyay-zu and kyat-zu: the military in 2006," pp. 36-53 in Monique Skidmore and Trevor Wilson (eds.), *Myanmar: The State, Community and the Environment*, Canberra: Asia Pacific Press, 2007 p. 46.

as an unlimited pool of unpaid forced labourers and servants at their disposal.”²¹

Statements by international actors have indicated that the practice of using of forced labour to support military operations has continued through the 2005-2008 Offensive to the present day. The ICRC's June 2007 statement criticising the SPDC noted that convicts and civilians were forced to support SPDC Army operations,²² while as recently as March 2010 the UN's Special Rapporteur on human rights in Myanmar noted that in conflict areas *“Military operations have placed a particularly heavy burden on rural populations, affecting their ability to sustain livelihoods. There have been numerous and frequent reports of civilians being forced to serve as porters and guides for the military, to build and maintain roads, to construct military camps and to labour for infrastructure projects.”²³* It is important to note that the ILO's Liaison Officer in Burma has recently noted limited successes in attempts to reduced forced labour, particularly regarding the use of forced labour by civilian SPDC authorities. Both the Liaison officer and the ILO's Committee of Experts on the Application of Conventions and Recommendations have also, however, noted that significantly more progress must be made. In June 2010, for instance, the Committee of Experts concluded that the government *“has taken no concrete action shown to have brought about in any significant and lasting way an end to the exaction of forced labour in practice.”²⁴*

SPDC Army operations that began at the end of 2005 were especially difficult for villagers to contend with because SPDC troops remained deployed to forward camps at the end of the 2006 hot season and conducted offensive operations in upland areas throughout the rainy season. Attacks in upland areas during previous years had typically been cyclical, with attacks during the dryer winter and hot seasons and withdrawal during the monsoon rains. This new tactic, repeated during the 2007 and 2008 rainy seasons, not only threatened the physical security of villagers in hiding sites but also prevented

²¹ “Report of Commission of Inquiry reveals widespread and systematic forced labour in Myanmar (Burma),” International Labour Organisation (ILO), August 20th 1998, ILO/98/32.

²² “Myanmar: ICRC denounces major and repeated violations of international humanitarian law,” ICRC, June 29th 2007, News Release 82/07

²³ “Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomas Ojea Quintana,” (hereinafter “Progress Report of the Special Rapporteur”) UN HRC, March 10th 2010, A/HRC/13/48, paragraph 63.

²⁴ “Special sitting to examine developments concerning the question of observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No.29),” ILO Committee on the Application of Standards, June 2010, C.App./D.5. The relevant section of the Liaison Officer's report is available on p.10, in section B paragraph 7; the Committee of Experts' concluding comments are available on p.8, in section A paragraph 22.

many villagers who had fled the initial stages of the offensive²⁵ from returning to their villages to plant or tend paddy crops during the crucial monsoon agricultural period,²⁶ as well as gather possessions, retrieve food stores or take shelter from the rains. Although villagers living in hiding in upland northern Karen areas have been well-adapted to prolonged displacement from their home villages, and have developed strategies to address food shortages during displacement, the sustained military presence significantly constrained their ability to survive in hiding.²⁷

In December 2008, however, the intensity of the offensive was apparently scaled back as coordinated multi-battalion attacks decreased and soldiers withdrew from more than 30 camps across northern Karen State,²⁸ including 13 camps in Lu Thaw Township.²⁹ Because of these withdrawals, KHRG dates the end of the coordinated offensive³⁰ to 2008. More than a year later, withdrawal from forward camps has not significantly reduced the number of troops deployed in northern Karen State and villagers in state-spaces have continued to report being subjected to exploitative abuses by SPDC Army battalions reliant on them for material support.³¹ Significant numbers of civilians remain displaced and unwilling to return to their homes due to fears that they will be attacked by remaining SPDC forces at other camps or subjected to abuse in lowland state-spaces. TBBC's calculations for 2009

²⁵ "Recent Attacks on Villages in Southeastern Toungoo District Send Thousands Fleeing into the Forests and to Thailand," KHRG, March 2006; "Offensive columns shell and burn villages, round up villagers in northern Papun and Toungoo districts," KHRG, June 2006

²⁶ See: "Papun Update: SPDC attacks on villages continue," KHRG, October 2006; "SPDC forces attack rice harvest and force villagers into 'new towns'," KHRG, November 2006; "Bullets and Bulldozers: The SPDC offensive continues in Toungoo District," KHRG, February 2007

²⁷ See: "New SPDC military moves force villagers to flee," KHRG, July 2006; "SPDC military begins pincer movement, adds new camps in Papun District," KHRG, August 2006; "SPDC Attacks on Villages in Nyaunglebin and Papun Districts and the Civilian Response," KHRG, September 2006.

²⁸ *Protracted Displacement and Militarisation in Eastern Burma*, TBBC, November 2009, p.20

²⁹ "Starving them out: Food shortages and exploitative abuse in Papun District," KHRG, October 2009.

³⁰ This report uses the noun 'offensive' to indicate coordinated military activity by 10 or more battalions operating in concert. This usage is distinct from 'offensive' as an adjective, which contrasts military operations designed to obtain control over new territory, as opposed to 'defensive' military operations designed to hold a particular position. Distinguishing between usages of the term, particularly the former, is important so that activity during, for instance, the period 2005-2008 is understood differently from the ongoing, day-to-day targeting of civilians by SPDC Army battalions.

³¹ See: "Central Papun District: Abuse and the maintenance of military control," KHRG, August 2010; "Central Papun District: Village-level decision making and strategic displacement," KHRG, August 2010; "Southern Papun District: Abuse and the expansion of military control," KHRG, August 2010.

indicated that 68,000 civilians are hiding in upland northern Karen areas,³² and villagers in upland areas across all three districts have continued to report that they are targeted by SPDC attacks.³³ Papun District is home to 38,600 villagers that are displaced and in hiding – by far the highest concentration of any district in Karen State.³⁴ According to feeding figures provided by the Karen Office of Relief and Development (KORD), meanwhile, 27,228 displaced civilians live in Lu Thaw Township.³⁵

Villagers residing in non-state spaces of northern Lu Thaw Township, and their livelihoods, continue to be targeted by the SPDC Army even since the end of the 2005-2008 Offensive. While the frequency and intensity of SPDC operations in Lu Thaw have reportedly been reduced, villagers remain at constant risk of death or injury from periodic attacks, patrols and remote shelling, and SPDC forces have continued to launch sporadic attacks targeting the food resources of communities beyond state control. The continued SPDC Army presence which, though reduced, remains high, has also functioned to limit the space in which civilians can pursue vital livelihoods activities, acutely undermining humanitarian conditions – circumstances that are made worse by measures that restrict access to external humanitarian assistance. These SPDC Army practices, humanitarian consequences, and civilian responses are detailed further in subsequent sections of this report.

³² Figures were calculated as explained in footnote 2 and drawn from: *Protracted Displacement*, TBBC, November 2009, p.50. Note that this figure excludes villagers who have fled to other parts of Burma or Thailand to escape SPDC attacks or relocation efforts. The estimated 25,000 villagers living in relocation sites in northern Karen State in 2009 have also been excluded.

³³ “IDPs, land confiscation and forced recruitment in Papun District,” KHRG, July 2009; “Livelihood consequences of SPDC restrictions and patrols in Nyaunglebin District,” KHRG, September 2009; “Patrols, movement restrictions and forced labour in Toungoo District,” KHRG, September 2009.

³⁴ TBBC, *Protracted Displacement*, November 2009. Note that this figure is for SPDC designated Hpapun Township, which loosely conforms to locally defined Papun District.

³⁵ More information on activities by KORD in Lu Thaw can be found in Section IV: B-1. This figure is consistent with the combined target populations of medical teams operating in Lu Thaw, which attempted to serve a population of 21,026 people in 2009. More information these medical activities can be found in Section IV: B-2.

III. SPDC Army practices: Targeting civilian lives and livelihoods

A. Attacks on civilians

"In 1997, when the Burmese [SPDC] soldiers arrested us, we lost everything. For example, our cattle, rice and paddy and household furniture and tools were all lost. We only had clothes that we were wearing. We had nothing else. For places that they couldn't reach, they burned the village so everything was destroyed including rice. We just fled without anything with us. After we fled, we did farming and we could get rice and survive year by year. Again in 2007, we hadn't bought so many things. We only had rice and paddy, and household materials such as pots and blankets. When the Burmese soldiers came, we lost everything again. We didn't even have rice to eat."

- Naw A--- (female, 43), Z--- village, Lu Thaw Township (December 2009)

"The SPDC military camp at Se--- was the closest one to us. While we fled the SPDC destroyed all our plantations that they could see. But when we got the message that the SPDC were coming we started preparing our food and the things that we needed, and then we fled into the jungle."

- Saw B--- (male, 38), Y--- village, Lu Thaw Township (May 2009)

Only SPDC and KNLA units are active in this northernmost part of Papun District, contrasting with southern Papun, where the Democratic Karen Buddhist Army (DKBA) also controls significant territory.³⁶ KNLA activity in Papun District is detailed in Section V: A-1 below. SPDC Army access to Lu Thaw Township has chiefly been facilitated by a network of unpaved vehicle roads, which it has struggled to establish and maintain in the face of destruction by annual monsoon rains and KNLA attacks. Southern Lu Thaw is bisected by an east-west vehicle road running from Kyauk Kyi Town in Nyaunglebin District to Saw Hta, on the banks of the Salween River. A parallel east-west road runs across Toungoo District to the north, from Toungoo Town to Mawchi, in Karenni State. These roads have been linked by a north-south vehicle road running through western Lu Thaw Township, from Pwa Ghaw to Kler La, on the Toungoo to Mawchi road.³⁷ These roads (see Map 1), are not

³⁶ "Southwestern Papun District: Transitions to DKBA control along the Bilin River," KHRG, August 2010

³⁷ KHRG reported in November 2007 that, after a decade of construction efforts, the Papun section of Pwa Ghaw – Buh Hsa Kee road had been completed; see: "Increased roads, army



This photo, taken on February 28th 2009, shows a hill field prepared in Nah Yoh Hta village tract by residents of Fo---village. Land resources have been severely strained in Nah Yoh Hta village tract because large numbers of villagers have fled there from neighbouring areas to evade SPDC Army attacks. [Photo: KHRG]

all-season and subject to attacks and destruction by the KNLA; sections have at times become completely impassable and the SPDC Army has had to rely upon porters or mule pack trains to transport supplies.³⁸ Despite limitations, these roads have improved SPDC access to and mobility within the area, and correspondingly decreased security for civilians residing or seeking to maintain fields in the area.

The largest concentration of displaced civilians in

Papun is found in northern Lu Thaw Township, particularly in the village tracts³⁹ north of the Kyauk Kyi to Saw Hta vehicle road, although significant displaced populations can be found in other parts of Lu Thaw and in the upland areas of Bu Tho Township, for example in eastern Meh Nyu village tract. Six village tracts are located north of the Kyauk Kyi to Saw Hta vehicle road: Saw Muh Bplaw, Ler Muh Bplaw, Nah Yoh Hta, Kay Bpoo, Gk'leh Der, and Plah Koh. KHRG's most recent reports suggest that SPDC units are active in all of these areas except Nah Yoh Hta village tract. Villages in Nah Yoh Hta were however attacked and destroyed at the beginning of major government army

camps, and attacks on rural communities in Papun District," KHRG, November 2007. By the end of March 2008, the Toungoo section was also finished and SPDC units were overseeing the widening of the road; see: "SPDC Spies and the Campaign to Control Toungoo District," KHRG, March 2008). An April 2008 FBR report noted that the completion of the Pwa Ghaw – Buh Hsa Kee road roughly "cut the northern Karen State into quarters." See: *A Campaign of Brutality*, FBR, April 2008, p.32.

³⁸ "Bullets and Bulldozers: The SPDC offensive continues in Toungoo District," KHRG, February 2007; "Burma Army Launches New Attack, Killing Three People and Displacing 201 Villagers in Mon Township, Eastern Burma," FBR, March 2007. "Resilience in Karen State, Burma," FBR, January 2010.

³⁹ A village tract is a local administrative unit larger than a village, but smaller than a township, used in both SPDC and KNU geographic designations. Villages are the smallest SPDC administrative units, followed by village tracts, townships, and states or divisions; the KNU system has village, village tract and district-level administrative units. Village tracts consist of 5-20 villages and typically are centred on a larger, usually eponymous village.

offensives in 1997 and 2006,⁴⁰ and since the mid-1990's, thousands of villagers have fled to this area from SPDC offensive operations and deteriorating humanitarian conditions in the adjacent Saw Muh Bplaw, Ler Muh Bplaw and Kay Bpoo village tracts, as well as villages from further afield.⁴¹ KHRG researchers estimate that the population of Nah Yoh Htah village tract has nearly tripled from 3,500 to 11,000 people over this period, due to displacement. As a consequence, land resources and food security have been severely strained in what should be one of the most fertile and productive areas of northern Lu Thaw Township. Villagers in Plah Koh village tract have described similar pressure on their agricultural resources. The Karen Office of Relief and Development (KORD), meanwhile, reported a population of 27,228 people in Lu Thaw Township as of July 2010.

"Farming flat fields is better than hill fields. But now as the population grows, we have to share our farms. In the past one farm was owned by one person but now one farm is owned by two or three people... Some villagers from Saw Muh Bplaw, Ler Muh Bplaw [village tracts] and Q--- [village] came to live here... Both my own villagers and villagers from other villages are in the same situation."

- Saw C--- (male, 45), Nah Yoh Htah village tract, Lu Thaw Township
(December 2009)

"Before, the Burma army [SPDC] came and burnt our village and rice, and killed the villagers' animals; but in the last five or six years they haven't come and burnt [anything]. However, we never have enough food because people from Saw Muh Bplaw village tract fled and live with us in our area. So we had to make some new hill field cultivations that don't provide good enough crops for the people here."

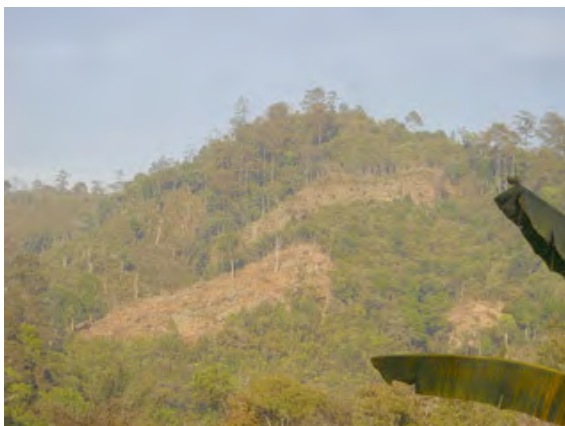
- Saw D--- (male, 35), P--- village, Lu Thaw Township (October 2009)

"We have to be afraid that the SPDC will come to our village. Now, they've based their camp not so far from our village, so if we go to work we have to worry about them. Even though we're afraid to go, we have to go because we can't do anything else... I hope that both our villagers and the people that came from other villages can work and get enough food to eat. It'd also be good if they could go back and work in their own villages. But now, the SPDC is still in their places, so we have to live together like this. We want to help them but we're also in a difficult situation, so I hope that the SPDC will go back to their place and we can live in our own villages."

⁴⁰ See: *Wholesale Destruction: The SLORC/SPDC Campaign to Obliterate All Hill Villages in Papun and Eastern Nyaunglebin Districts*, KHRG, February 1998; *Internal Displacement in Eastern Burma*, TBBC, November 2006, p.58

⁴¹ *Internal Displacement in Eastern Burma*, TBBC, November 2006, p.37

- Saw E--- (male, 46), O--- village, Lu Thaw Township (December 2009)



The photo on the left, taken on March 1st 2009, shows a hill field cut by residents of Je--- village while displaced at Xu---, Lu Thaw Township. The photo on the right, also taken on March 1st, shows flat fields near the SPDC Army camp at Htee Moo Kee, that M--- villagers cannot safely work due to the threat of SPDC shelling or attacks. [Photos: KHRG]

Many of the villagers currently displaced in northern Lu Thaw Township fled from elsewhere in Lu Thaw, or farther afield, at some point during the 2005-2008 Offensive, although the years between 2005 and 2008 were typically not the first time they had been displaced. Some villagers interviewed in this area by KHRG's researchers have noted experiences of displacement as far back as 1975 or the mid-1980's, when the Burma Army conducted its notorious 'four cuts' offensives⁴² in different districts of Karen State;⁴³ many interviewees described having been repeatedly displaced, at least since a slightly more recent offensive in 1997.⁴⁴ That villagers continue to actively struggle to survive in areas as close as possible to their home villages speaks to their attachment to their land and homes, and the deep feelings that undergird decisions to flee.

"I couldn't remember [when my parents fled from I---, Nyaunglebin District] because I was very small. All I remember is that my father carried me on his back... They fled to H---. The Burmese soldiers would kill my parents so they just fled without carrying anything with them. Then we moved to G--- and later to Ler Muh Bplaw [village tract]"

⁴² For more on the "four cuts" strategy, see Section II.

⁴³ This initial campaign was launched in 1975 in the Shwegyin hills of Nyaunglebin District, directly west of northern Lu Thaw Township. (Smith, *Burma*, 1999, pp.260, 308.) Sustained four cuts campaigns were also carried out across Karen State between 1984-1990 (pp.395-9).

⁴⁴ For brief details on the offensive in 1997, see Section II. See also *Forgotten Victims of a Hidden War: Internally Displaced Karen in Burma*, Burma Ethnic Research Group, April 1998.

and finally to F---... When my parents died, I had to live hand to mouth. After I got married and had children, I faced the same problems."

- Naw I--- (female, 38), F--- village, Lu Thaw Township (December 2009)

"We've fled because of SPDC operations since June 12th 1975. First, we fled to M---, then from M--- to L---, and from L--- to K---."

- Saw H--- (male, 60), J--- village, Lu Thaw Township (December 2009)

"Since 1996 we left our village. At that time there were 76 households in the village... The reason why E--- villagers can't live in their village is because of the Burmese soldiers' operations. Villagers have scattered to different places."

- Saw J--- (male, 42), D--- village, Lu Thaw Township (December 2009)

"Since 1997 we've moved step by step till here... We really want to go back to our village, but we haven't had a chance for that. If the SPDC would return [withdraw], we'd dare to go back to our village."

- Naw K--- (female, 29), C--- village, Lu Thaw Township (April 2009)



These photos, taken on December 16th 2006, show Saw Su---, 30, and Saw Tu---, 45, surveying their burnt rice barns after SPDC LIBs #361 and 362 attacked their village in northern Lu Thaw Township on December 12th. 100 big tins (1045 kg. / 2304 lb.) of Saw Su---'s paddy were destroyed, along with 105 big tins (1097 kg. / 2419 lb.) of paddy belonging to Saw Tu---. [Photos: KHRG]

The cessation of coordinated and sustained multi-battalion attacks throughout the hills of northern Karen State at the end of 2008 has not alleviated the circumstances that villagers have cited as precipitating their flight, namely the SPDC's offensive presence and activities targeting the physical security and livelihoods of civilian populations of upland areas. The objective of

depopulating the hills also does not appear to have changed.⁴⁵ The hardest-to-control areas of northern Lu Thaw Township, where most displaced villages can be found, continue to exist as free-fire zones in which SPDC soldiers treat all individuals, villages and food supplies as legitimate military targets.⁴⁶ In March 2010, the UN's Special Rapporteur on human rights in Burma reported the Human Rights Council that the civilian population was severely affected by conflict in Karen State and that the failure to protect civilians and internally displaced populations was part of *"a pattern of gross and systematic violation of human rights which has been in place for many years and still continues"* and that these violations were likely *"the result of a State policy that involves authorities in the executive, military and judiciary at all levels."*⁴⁷

Although the overall SPDC Army troop presence has diminished and certain camps have been abandoned in Lu Thaw Township,⁴⁸ camps located near large populations of villagers in hiding have remained occupied or simply been rebuilt nearby. As of early 2010, one Military Operations Command (MOC)⁴⁹ supported by approximately 1,176 troops from ten battalions was operational in Lu Thaw (See Figure 1). The geographic deployments of specific battalions are not fixed, however, as troops are frequently rotated. Residents of northern Lu Thaw Township may also be affected by other battalions operating under different commands in the northern Karen hills;⁵⁰ district and township borders

⁴⁵ In his 2010 report to the UN Human Rights Council, the Special Rapporteur on human rights in Burma noted that: *"Entire communities have been forced to relocate and their houses and food supplies burned to prevent their return. Those who refuse forced relocations and choose to hide risk military attacks."* See: "Progress Report of the Special Rapporteur," UN HRC, March 10th 2010, paragraph 61.

⁴⁶ Reports published by KHRG since the end of 2008 documenting ongoing abuses in Papun indicative of SPDC Army practices targeting civilians include: "SPDC mortar attack on school in Papun District," KHRG, February 2010; "Starving them out: Food shortages and exploitative abuse in Papun District," KHRG, October 2009; "IDPs, land confiscation and forced recruitment in Papun District," KHRG, July 2009; "IDP conditions and the rape of a young girl in Papun District," KHRG, April 2009; "Attacks, killings and the food crisis in Papun District," KHRG, February 2009.

⁴⁷ "Progress Report of the Special Rapporteur," UN HRC, March 10th 2010, paragraphs 67, 120-121. Note that the Rapporteur's report refers to Karen State as Kayin State, the name designated by the SPDC.

⁴⁸ KHRG previously reported the SPDC withdrawal from 13 camps in Lu Thaw Township; see: "Starving them out: Food shortages and exploitative abuse in Papun District," KHRG, October 2009. KHRG's most recent information indicates that two more SPDC camps, at Sweh Soe and Hso Kyo, were abandoned in May 2010.

⁴⁹ A Military Operations Command (MOC) is typically made up of ten battalions, divided into three Tactical Operations Command units.

⁵⁰ For example, KHRG has previously reported that, on February 19th 2010, SPDC soldiers troops from MOC #7, which is normally deployed in southern Toungoo District, shelled T---hiding site in northern Lu Thaw Township, killing one student and injuring two others; see: "SPDC mortar attack on school in Papun District," KHRG, February 2010. Section III: A-1 below cites an example from October 14th 2009 of soldiers from LIB #390, which is normally

that may appear clear on a map are not so in reality. Villagers have reported, for example, that as recently as March 3rd 2010 camp construction and patrols by recently deployed SPDC units in Saw Muh Bplaw and Ler Muh Bplaw village tracts resulted in 19 households with 102 people in total becoming displaced. The SPDC presence also prevented the displaced villagers from returning to tend their lands, creating food security concerns and prompting four families to continue fleeing to a refugee camp. According to Saw L---, the secretary of H--- village, 19 hill fields and 126 farm fields couldn't be worked due to SPDC activity in the area.

"Today, as the SPDC army has based in their workplaces in the B--- area, some villagers can't do their hill fields. They came to set up their camps on March 3rd 2010 therefore villagers had to leave their hill fields... There were 102 villagers who couldn't do their livelihoods and stay in their place. Some of those villagers had to go and stay in refugee camps; four families went to stay in refugee camps... The rest came back to stay with their relatives. Even though they didn't have hill fields, they work together with their brothers and sisters. In the coming year, it'll be a problem for them because their younger or older brothers or sisters living there [normally] do hill fields for themselves; now, one or two families have to combine and work in the same hill fields. I'm sure that they'll face food problems."

- Saw L--- (male, 37), H--- village, Lu Thaw Township (April 2010)

Non-state spaces into which villagers seeking to evade abuse of forced relocation may flee, moreover, have become increasingly encircled and therefore more vulnerable to attack due to the SPDC's construction of a strategic network of roads and camps in northern Lu Thaw. SPDC units are frequently rotated, and patrols and attacks continue to threaten both physical and food security, as well as prevent displaced villagers from feeling safe to return to their home villages. Humanitarian conditions have continued to deteriorate in non-state spaces as the displaced population has continued to grow and strain the limited resources available in hiding sites, making life just as difficult for some villagers in hiding as during the height of the 2005-2008 Offensive. Meanwhile, as military control of lowland parts of Papun District has become increasingly consolidated, heavy exploitative abuse and stifling movement restrictions have prompted villagers from controlled areas to flee further from SPDC or DKBA control, reinforcing why civilians in northern Lu Thaw have so persistently resisted relocation and SPDC control.⁵¹

deployed in Nyaunglebin District, destroying four farm fields belonging to villagers in Za--- village and prompting residents to temporarily flee, while on patrol in the area.

⁵¹ "Central Papun District: Abuse and the maintenance of military control," KHRG, August 2010; "Central Papun District: Village-level decision making and strategic displacement," KHRG, August 2010; "Southern Papun District: Abuse and the expansion of military control," KHRG, August 2010; "Southwestern Papun District: Transitions to DKBA control along the Bilin River," KHRG, August 2010

"Before 1997 we had to flee many times, but we could go back to our village after a few days. But since 1997, we've had to flee for long periods of time. We've faced more and more problems after that."

- Naw A--- (female, 43), Z--- village, Lu Thaw Township (December 2009)

"Last year was the most difficult year for me. I can say that the situation was still good in other years even though other years were difficult, because we could go back and do our old hill fields. Last year we couldn't go back to them due to SPDC operations and attacks."

- Naw M--- (female, 46), A--- village, Lu Thaw Township (December 2009)

"Saw Muh Bplaw village tract is divided into two parts because the enemy⁵² came and built the vehicle road. Because of the vehicle road, we can't work together. There are over 30 people on the side west of the vehicle road. They couldn't do their livelihoods every day due to the enemy's operation last year. Sometimes, they had to flee and sometimes they could stay. They had to flee when the SPDC came to operate in the area and when the SPDC army went back, they came back to do their livelihoods."

- Saw N--- (male, 37), H--- village, Lu Thaw Township (April 2010)

"We don't dare to go back because SPDC soldiers will kill us if they see us."

- Saw O--- (male, 48), A--- village, Lu Thaw Township (December 2009)

When considering the human rights situation in spaces beyond state control, it is vital to recognise that civilians in such areas are deliberately targeted as part of the SPDC Army's military strategy; this strategy aims to force displaced villagers out of hiding villages beyond SPDC-control, while reducing, and eventually eliminating, non-state spaces. The targeting of civilians can be adduced from forced relocation of villages and direct attacks carried out by SPDC forces against individuals and communities inhabiting the hills, as well as from more indirect methods that degrade humanitarian conditions to such an extent that non-state spaces are made effectively uninhabitable.

⁵² Civilians who have experienced abuse by the SPDC Army often speak as parties to the conflict rather than bystanders, though this does not necessarily reflect actual direct participation. Civilians previously interviewed by KHRG explained their use of the term as follows: *"They accuse us of being their enemy so we also accuse them of being our enemy."* See, Kevin Heppner, *"We Have Hands the Same as Them": Struggles for Local Sovereignty and Livelihoods by Internally Displaced Karen Villagers in Burma,* KHRG Working Paper, May 2006.

Figure 1. SPDC Battalions Stationed in Lu Thaw Township⁵³

Command	Battalion	Sub-Unit #	Commanding Officer	# of Men	Camp
MOC #21			Commander Soe Win	101	Bpo Khay Koh
	Commando	Company #1	Commander Nyar Yee Kyaw	47	
		Company #2	Commander Zaw Myo Kyi	48	
		Company #3	Commander Wa Na	47	
	LIB #438	Column #1	Lt. Colonel Myit Oo	58	Maw Law
		Column #2	Major Thein Lwin	22	Bpya GKaw Bpuh
			Major Aung Moe	39	
TOC #1			Colonel Soe Naing Oo	55	Kay Bpu
	IB #56	Column #1	Lt. Colonel Soe Hlaing	39	Hill ▲3917
		Column #2	Major Than Htay Aung	30	
			Captain Thant Zin Htun	23	Kay Bpu
	IB #223	Column #1	Lt. Colonel Than Aung	54	Ler Muh Bplaw
		Column #2	Captain Htun Htun	27	
			Captain Win Aung	23	Ku Muh Der
	LIB #602	Column #1	Lt. Colonel Wa Nah Aung	34	Nwan L'Boh
		Column #2	Major Nyan Htun Aung	19	
			Captain Yen Lin	28	Saw Muh Bplaw
			Lieutenant Zaw Naing Htun	10	Gk'Ser T'Gkwee
TOC #2			Lt. Colonel Khin Maung Lay	41	Hill ▲2833 Ler Gklay Kyo
	IB #47	Column #1	Lt. Colonel Myo Win	36	Maw Pu
		Column #2	Major Myo Win	26	
			Captain Myo Min Khaing	26	Thit Ta Bin Gone (Gkyuh Luh)
			Captain Nyi Nyi Aung	20	Hill ▲2833
	LIB #237	Column #1	Lt. Colonel Htun Nay Lin	32	Plah Koh
		Column #2	Major Toe Win	50	
			Major Zaw Win Naing	26	Nyaung Bin Gone (Kha Kho)

⁵³ This table reflects information received from KHRG field researchers on March 1st 2010. Please note that KHRG revised its transliteration rules in October 2006 to make them more consistent and accurate. Spellings of place names in this report may therefore differ from previous reports and on KHRG maps.

Command	Battalion	Sub-Unit #	Commanding Officer	# of Men	Camp
	LIB #320	Column #1	Lt. Colonel Khin Hlaing	43	Hill ▲ 1540 Wah Baw Kyoe
		Column #2	Major Min Lwin Oo	19	
			Captain Zay Yar Kyaw	24	Hill ▲ 2667 Gkaw Way Kyoe
		Commando company	Lieutenant Htun Thant Zin	19	Hill ▲ 3967 Kha Kho
	IB #92	Column #1	Major Kyaw Thu	30	Htee Hta (T'Khaw Hta)
		Column #2	Major Aung Zaw Lin	37	Htee Mu Hta (Thee Mu Hta)
			Captain Aung Thet Htway	28	Saw Hta
		Commando company	Captain Mya Min Htunt	15	
Total				1,176	

Targeting of civilians has often been explained in terms of 'counter-insurgency,' and limited to understandings related to cutting the KNLA off from civilian support bases. The very existence of a large displaced population in hiding also, however, represents a logistical challenge to SPDC efforts to project state authority throughout northern Lu Thaw Township. Control of civilians is a logistical necessity: SPDC Army battalions are expected to rely on local procurement and cannot sustain their presence in a given area without a tightly controlled civilian population from which to extract labour and material support.⁵⁴ The absence of tens of thousands of villagers, and the resources and labour pool they represent, undermines the sustainability of SPDC authority in such an area, insofar as that authority depends on a large military presence to enforce civilian compliance.

The practical challenge that large-scale strategic displacement poses to SPDC authority in northern Karen state helps to explain why displaced villagers and communities have been so aggressively targeted by SPDC military activities in Lu Thaw Township. The following two sections outline the tactics employed by SPDC forces to expand state-controlled spaces and the human rights and humanitarian implications of such measures. In contrast to reports on human rights conditions in areas of lowland Papun District under SPDC Army control, where abuses are frequent but of a different character, these sections will

⁵⁴ The SPDC Army's reliance on local procurement is detailed in Section II. Exploitative abuses related to local procurement in lowland Papun have recently been documented by KHRG; see especially: "Central Papun District: Abuse and the maintenance of military control," KHRG, August 2010; "Southern Papun District: Abuse and the expansion of military control," KHRG, August 2010.

detail relatively infrequent incidents targeting villagers; villagers are highly adept at avoiding attacks, while the SPDC Army has been relatively less active since the end of 2008. It is argued, however, that even infrequent attacks including patrols and shelling from hilltop positions, when combined with tactics that target civilian livelihoods, are creating unliveable conditions in Lu Thaw Township.

1. Attacks on civilians and civilian settlements

Offensive SPDC military operations against communities in Lu Thaw documented by KHRG during the 2005-2008 Offensive have included the following characteristics: SPDC units have identified suspected hiding sites or non-state villages from cooking fires, land under cultivation or from intelligence gathered by patrolling units. Such sites have then been shelled with mortars fired from SPDC camps or positions on higher ground. After shelling, patrols or larger units have approached the sites and



This photo, taken on July 30th 2008, shows an unexploded mortar shell SPDC Army soldiers based at Htaw Muh Bplaw, Lu Thaw Township, fired into a nearby hiding site. Since the end of the 2005-2008 Offensive, local villagers in hiding have told KHRG field researchers that their villages and workplaces have been regularly shelled by SPDC soldiers. [Photo: KHRG]

destroyed property left behind that could support life for villagers in hiding. Buildings, including homes, schools and churches have been destroyed; farm fields, food supplies, and rice barns and other food storage containers have been burnt; animals looted or slaughtered; and other key items such as water containers, cooking equipment, and farm tools removed or destroyed. SPDC soldiers operate under a shoot-on-sight policy in non-state spaces, meaning that they fire upon at anyone that has not fled in advance of their arrival; those unable to flee have typically been the elderly, the infirm, or farmers returning from fields or plantations who could not be warned about an approaching attack. Alternatively, civilians have been detained, interrogated or tortured by soldiers to glean information about other hiding sites or KNLA activities in the area. Before withdrawing after an assault, SPDC troops have laid landmines to prevent villagers who fled from returning to the area to live, cultivate land

and crops left behind, or retrieve food reserves and personal property⁵⁵. Later patrols or troops remaining in the area have shot villagers attempting to return and retrieve materials or food left behind during flight.

The SPDC Army has not always used all of these strategies, but the above description is accurate particularly for the sustained and coordinated attacks carried out during the 2005-2008 Offensive.⁵⁶ In the quote below, a villager interviewed after his village was attacked during the 2005-2008 Offensive describes the tactics used against his village:

"On April 30th 2007, a group of SPDC soldiers led by Lieutenant Colonel Myo Aung came and entered my village area and set up their military camp on the hilltop at Gk'Thwee Kyo. That was near my village, so our villagers didn't dare to live in Za--- village. They also shelled mortars into our village. When they shelled mortars we fled to Ya---, in the forest. After we had fled for one or two days, we went back and planted paddy seed in the farms near our village, and the SPDC came and shot at us at our farm but didn't injure anyone. After they shot us, they went back and burnt down some houses in Za--- village and they destroyed the rice barns which they saw. All the rice fell out onto the ground and when the rain fell all the rice was destroyed. The SPDC soldiers had also eaten our livestock that we had left in the village."

- Saw P--- (male, 15), Za--- village, Lu Thaw Township (September 2007)

"When we fled, one villager was shot by the Burmese [SPDC] soldiers and hit in the back. The soldiers shelled mortars into the place we were staying, so we moved out of that place... His name was Saw Q---. He didn't die when he was shot, but after he moved to a refugee camp, his injury became worse. He was sent to the hospital there but he can't be cured... His wife's name is Naw Plah Koh and they have eight children."

- Naw S--- (female, 18), Xa--- village, Lu Thaw Township (December 2009)

Not all attacks on civilians necessarily follow this pattern, however. KHRG researchers and villagers in Lu Thaw report that communities and agricultural lands in non-state spaces are now often periodically shelled without a follow-up attack by SPDC soldiers on foot; villagers may be shot on sight by SPDC patrols without buildings, food and property being destroyed; and fields and

⁵⁵ For more on SPDC attacks on civilians in non-state spaces, see: *Village Agency: Rural rights and resistance in a militarized Karen State*, KHRG, November 2008, pp.120-125.

⁵⁶ KHRG continues to document sustained multi-battalion attacks elsewhere in northern Karen State, particularly to the west in Nyaunglebin District. See, "Attacks and displacement in Nyaunglebin District," KHRG, April 2010.

rice barns found in non-state spaces may be burned or mined by SPDC troops without other attacks being carried out. Such isolated attacks appear to have become more common since the end of the 2005-2008 Offensive. KHRG field researchers reported that in 2009 and 2010, SPDC units deployed in northern Lu Thaw Township continued to regularly fire mortars from their camps, usually from atop hills with commanding views of the surrounding area into suspected hiding sites and agricultural areas. On February 19th 2010, for example, SPDC soldiers from MOC #7 stationed at Hsar Law Kyoh, Lu Thaw Township killed a 15-year-old student, and wounded a 10-year-old and an 8-year-old student when they fired an 81 mm mortar into Ro--- hiding site, prompting the 353 civilians residing in the site to flee to evade anticipated follow-up attacks.⁵⁷

“Villagers don’t dare to stay in their villages because of the SPDC’s oppression. My village tract isn’t under SPDC control. If the SPDC [soldiers] meet the villagers, they kill and torture them. And when they attack our village they burn down or destroy our houses. Our village tract has been destroyed by the SPDC since 1993 until now. Some people started leaving the village in 1993. From 1995 till 2008 the SPDC took over many villages. The villagers always had worry about their lives. In 2009, there have been three places destroyed by the SPDC; they are Wa---, Va--- and Ua---. There have been 45 hill fields destroyed.”

- Saw T--- (male, 42), Ta--- village, Lu Thaw Township (September 2009)



These photos, taken in October 2009, show villagers from Mone Township, Nyaunglebin District, after attacks by SPDC soldiers from IB #39, LIB #599, and LIB #390. The photo on the left shows villagers from Vo--- village after arriving at their hiding site. The photo on the right shows belongings left behind by villagers from Vo--- village, which was burned by SPDC soldiers. At the time the photo was taken, the burnt remains of the houses had already seen a number of days of rain that rotted or rusted what had not been already destroyed. [Photos: KHRG]

⁵⁷ “SPDC mortar attack on school in Papun District,” KHRG, February 2009; “FBR Report: Burma Army Kills One Child and Wounds Two in Attack on School,” FBR, February 24th 2010.

KHRG also received reports from locals that villages and agricultural lands in Kay Bpoo village tract were destroyed by SPDC patrols in 2009. Kay Bpoo is the northernmost village tract in Lu Thaw Township and, as the quote above indicates, civilians there have long been targeted by, and evaded, SPDC attacks. Saw U---, 62, and Saw V---, 35, the senior and deputy village tract leaders of Kay Bpoo village tract, reported to a KHRG field researcher that on October 13th 2009 SPDC soldiers from Light Infantry Battalion (LIB) #390 entered Za--- village in northern Kay Bpoo village tract on patrol from Ler Doh Township, in Nyaunglebin District to the west. At approximately 9:00 am on October 14th, as the unit was returning west across the Pwa Ghaw to Kler La vehicle road, they found and destroyed four hill fields belonging to local villagers who had temporarily fled in advance of the arrival of LIB #390. The incident reportedly provoked a clash with another group carrying arms; it is not clear whether this was a KNLA or civilian force, or whether the clash prevented more fields from being burned. More on armed responses to SPDC Army activities is included in Section V: A-1 to A-3. The villagers who had fled returned to the area on October 15th. In the following quote, the KHRG researcher who interviewed the Kay Bpoo village tract leaders on October 23rd describes the incident:

“On October 13th 2009, the Burma [SPDC] army LIB #390 entered Za-- village in Kay Bpoo village tract. On October 14th they destroyed four hill fields cultivated by the villagers Saw W--- from Sa--- village, Saw X-- from Sa--- village, Saw Y--- from Ra--- village, and Saw Z--- from Qa-- village. That day it caused a clash between the village security team and the Burma [SPDC] army.”

As humanitarian conditions continue to deteriorate in non-state spaces in northern Lu Thaw Township, even smaller scale attacks can be devastating to civilian populations. The destruction or mining of a field belonging to a family already confronting food shortages, and whose members' poor health may further constrain their ability to work or travel to acquire additional food resources, can under such circumstances have impacts similar to a more comprehensive military assault. Limited activities that simply reassert the presence of SPDC Army forces in a given area can also trigger displacement and disrupt livelihoods activities, as prior and recent experiences of more aggressive military operations have conditioned many villagers in non-state spaces to expect that they will be shot on sight, or else detained and abused, if encountered by SPDC soldiers. Under such circumstances, the apparent end of the 2005-2008 Offensive and reduction of military attacks has not necessarily resulted in the perception among displaced villagers that they are totally secure from attacks and free to pursue their livelihoods.

“This year we can do our work independently, but when the SPDC arrives in our village we all flee. People here don't stay under SPDC

control. When they arrive in our village, if they see our rice storage [barns] they burn them down."

- Saw Ba--- (male, 38), Pa--- village, Lu Thaw Township (October 2009)

"Yes, we can still get some rice from our rice stores in the village, but we have to watch out for the enemy. We have to do that in fear... Now the SPDC soldiers are not so far from where we live now. We always have to be alert and listen to the news about the movement of the Burmese soldiers [SPDC]."

- Saw Ca--- (male, 54), F--- village, Lu Thaw Township (December 2009)

"I started fleeing in April 2007. I've faced various kinds of problems. When we arrived at La--- village my mother had a hill field. When the time came to harvest the paddy, one day my mother went to her hill field and she met with Burmese [SPDC] soldiers. They came to kill her in her field. In reality, my mother wasn't their enemy; she was just a woman. After they shot and killed her they kicked her away from her hut... My mother's name was Naw Ka--- and she was 50 years old."

- Saw La--- (male, 35), L--- village, Lu Thaw Township (April 2009)

"Before we fled, the Burmese soldiers [SPDC] killed three of my buffalos... They couldn't chase us so they killed our buffalos instead. They also burnt our rice stores. That year, we got 300 tins of rice. They burnt all of them... They shot my oldest child, Naw Da---, when she went to harvest rice at Na--- [village]. She went together with us but she walked ahead of us a little. She was shot in her arm. At that time four people were injured."

- Naw Fa--- (female, 40), F--- village, Lu Thaw Township (December 2009)

The physical and livelihoods risks to civilians posed by landmines throughout northern Lu Thaw Township remain acute, even in places from which SPDC battalions have withdrawn. Landmines are widely deployed by both the SPDC and the KNLA,⁵⁸ and in some cases by villagers themselves to protect fields, food stores and hiding sites against SPDC attacks; these latter phenomena are discussed in further detail later in this section. Villagers have described how SPDC patrols have laid landmines in or around abandoned villages,

⁵⁸ Landmine Monitor's 2009 country report for Burma notes that both the SPDC and the KNLA manufacture and use landmines widely, and that "every township" of Karen State is hazardous for civilians, including SPDC-delineated Hpapun Township, which roughly corresponds to KNU-delineated Papun District. See, "Landmine Monitor Report 2009," Landmine Monitor, 2009, pp.1029-1040. For a description of the types of landmines used by the SPDC and KNLA, see "Insecurity amidst the DKBA – KNLA conflict in Dooplaya and Pa'an districts," KHRG, February 2009.

agricultural land and field huts, a practice that appears to specifically target civilians in hiding and their livelihoods activities. Landmines used by the SPDC Army are factory manufactured, and thus durable and long-lasting. They are also not typically marked and, in a context in which civilians are shot when encountered by the SPDC Army, no warnings or information about mined areas are provided to civilian communities in hiding.

"Last year the SPDC planted seven mines around our hiding site. They laid them on the path and also by our rice storage. They were M14 landmines."

- Saw Je--- (male, 34), C--- village, Lu Thaw Township (April 2009)

"One of my villagers named Saw Ke--- was killed by an SPDC landmine when he was going to do hill field cultivation. The place that it detonated is one of the SPDC's old places. He was married... Two of my villagers were also shot and killed by SPDC soldiers."

- Saw Le--- (male, 50), Ka--- village, Lu Thaw Township (December 2009)

"Nine people have been killed by them [the SPDC Army]. The first one was named Naw Va---, the second one was Naw Wa---, and the third one was Naw Xa---; they beat them to death on the same day. The fourth one was Saw Ya---. The fifth one was Be---. The sixth one was Ce---. They shot Saw Ya--- and Ce--- to death and beat Be--- to death. Another one was De---; they shot him, too. Another one was Fe---; they shot him to death. They also shot Ge--- to death... For He---, he stepped on a Burmese [SPDC] landmine. The Burmese soldiers [SPDC] came and planted landmines, then he went and stepped on it."

- Saw Yah Ber (male, 45), F--- village, Lu Thaw Township (December 2009)

The KNLA and Karen National Defence Organization (KNDO) also make extensive use of landmines, which are typically handmade and fabricated from glass bottles, metal pipes or cans, wooden blocks or sections of bamboo. Unlike factory manufactured landmines, these homemade devices typically only last for six months before becoming inactive. KNLA or KNDO landmines have been documented on roads and paths, as well as near SPDC Army camps. Villagers have reported that the KNLA or KNDO inform local villagers about their locations, and have deactivated or removed KNLA, KNDO or SPDC landmines at the request of local villagers. For instance, villagers reported that in areas where villagers must cross vehicle roads, the KNLA will designate times when the roads can safely be crossed. During these times, the KNLA will both guard the crossing point to delay an SPDC patrol should it approach, and deactivate KNLA landmines that themselves would pose a risk to civilians. Villagers have described this as a crucial protection activity that facilitates movement, trade and communication between villages and agricultural areas.

However, it is important to note that landmines used on such roads are themselves a risk to villagers. In the following quote, Saw F--- describes how his son-in-law was killed by a KNLA landmine when he attempted to cross a vehicle road outside the time designated by the KNLA:

"One villager was killed by a landmine. He was 20 years old and his name was Me---. He was married and had one son. His wife is my daughter and her name is Naw S---. Now she's staying with me. She's 18 years old... He stepped on a landmine that was planted on Boh Nah Der vehicle road. He actually knew that the place was full of landmines but he crossed the road the day before the selected date."



This photo, taken on December 21st 2009, shows homemade KNLA landmines, which typically last six months before becoming inactive. KNLA soldiers plant landmines such as these along roads, paths, and near SPDC camps; villagers have reported that they are usually informed of the locations of KNLA landmines. Landmines nonetheless present a risk for villagers. [Photo: KHRG]

- Saw F--- (male, 45), Xa--- village, Lu Thaw Township (December 2009)

Regardless of the actor using landmines or the intent behind their placement, landmines remain inherently indiscriminate weapons and therefore pose a physical threat to all civilians in mine-affected areas. Morbidity figures from mobile health teams in the area, for instance, show 66 victims treated for landmine injuries in five areas of Lu Thaw Township accessed by two health organisations during the three-year period from 2007-2009.⁵⁹ More information regarding the mobile health teams that treated these victims is included in Section IV: B-2. According to a group of community-based organisations which are conducting a detailed 'Dangerous areas' survey and GPS mapping exercise to identify dangerous landmine areas, Papun District is home to at least 29 known mined areas.⁶⁰ These dangerous areas range in size from a few thousand square meters to nearly five square kilometres.⁶¹

⁵⁹ Figures courtesy of the Karen Department of Health and Welfare (KDHW) and the Backpack Health Worker Team (BPHWT), July 2010.

⁶⁰ Data courtesy of a local organisation, name with-held at request, July 2010. This Dangerous Areas survey is being conducted in five states and divisions across Burma. It consists of

That mines do not injure even more villagers is a testament to the skill with which villagers are able to survive in a dynamic conflict situation. The knock-on effects of mine casualties, injuries and mine pollution, however, can be devastating for already-constrained livelihoods and food production activities in non-state spaces.



This photo, taken on March 5th 2009, shows an MM-1 SPDC landmine laid by soldiers from LIB #242 in R---village and removed by KNLA soldiers on December 24th 2008. The MM-1 is a domestically manufactured variant of the Chinese Type 59 stake-mounted fragmentation mine. [Photo: KHRG]



This photo, taken on May 29th 2010, shows Saw Nu---, 18, who stepped on an SPDC landmine when returning to his village from Mo---village, Lu Thaw Township. The mine had been planted on a jungle path. [Photo: KHRG]

"My husband has lost one of his legs; he stepped on an SPDC landmine in 2005. He went to collect thatch and then was hurt by the landmine. He's 25 years old and he's only a villager. We don't have any children. He can't go on a long trip, so I always have to carry food by myself on a long trip."

- Naw K--- (female, 29), C--- village, Lu Thaw Township (April 2009)

interviews with mine victims and GPS mapping of incident locations as well as areas known to be contaminated by mines.

⁶¹ The threat landmines pose to civilians in Papun District has been particularly noted by UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana: "The use of anti-personnel mines along Myanmar's border areas, particularly in the east, endangers villagers. Both the military and non-State armed groups use anti-personnel mines. It is reported that from May until June 2009 and again since September the Democratic Karen Buddhist Army has increased the number of landmines it has placed in civilian areas throughout the Bu Tho and Dweh Loh townships. According to the information, villagers are not being notified of the location of the new landmines, which are on busy paths used by villagers, in farm field huts, around paddy fields and along the banks of canals." See, "Progress Report of the Special Rapporteur," UN HRC, March 10th 2010, paragraph 73.

"There is one villager who stepped on a landmine when the enemy came. His name is Saw Pe--- and he is a married man. His wife's name is Naw Qe---. He has six children. Now his wife went to live in a refugee camp."

- Saw Re--- (male, 42), Kay Bpoo village, Lu Thaw Township
(December 2009)

"There has been nobody shot and killed by the Burmese [SPDC] soldiers, but we have had to flee among their shooting. There was one villager named Se--- who stepped on a landmine."

- Saw G--- (male, 58), Xa--- village, Lu Thaw Township (December 2009)

2. Attacks on civilian livelihoods and denial of access to humanitarian support

"Because of the SPDC we don't dare to go somewhere to look for food freely. If we go somewhere, we'll meet with the SPDC; if we meet with them, they'll shoot us. It's very difficult to look for food here. We always have to stay in hunger.... For one big tin of rice, in the past we paid 150 baht and this year it's gone up to 200 baht. Even if we have 200 baht, we can't [always] find rice to buy. In our mind, we always think about our fear of the SPDC. We can't work without fear and can't concentrate on our work."

- Saw O--- (male, 47), A--- village, Lu Thaw Township (February 2009)

In addition to methods entailing the use of military force against civilian populations and objects in non-state spaces, SPDC units enforce other measures in controlled or partially-controlled spaces of Lu Thaw Township that exacerbate the physical and food insecurity fostered by attacks against displaced civilians. Villagers in hiding are permanently endangered by movement restrictions which effectively outlaw their existence beyond state control, and for violations of which soldiers shoot them on sight and lay landmines near their homes and in their fields. This situation highly constrains livelihoods activities, as displaced villagers may have to limit time spent in their fields or plantations, or avoid their workplaces altogether, depending on the level of SPDC activity at any given time. Reduced access to agricultural land can be especially devastating for villagers at key points in the agricultural cycle, such as harvest or planting periods. SPDC practices also obstruct access to humanitarian materials and support by humanitarian actors.

"[My husband] died after we'd left our home village and he was trying to get food for our family. It was when he went back to his farm hut to get food; later I got the message that he was shot and killed by SPDC"

soldiers... My husband and brother in-law were killed by SPDC soldiers together at the same time."

- Naw Te--- (female, 48), A--- village, Lu Thaw Township (December 2009)

"[My husband's] name was Saw Ve---... He was shot and killed in his farm hut... He knew [the SPDC were active] but he didn't know that would happen to him... There were three people including him. He was with one of our sons and another friend. [Only] His friend could escape... [My son's] name was Saw We---. He was our eldest son... He was already 15 years old."

- Naw Xe--- (female, 56), Ja--- village, Lu Thaw Township (December 2009)



These photos, taken on April 14th 2008, show 42 villagers preparing to cross the Kyaukkyi to Saw Hta vehicle road in Lu Thaw Township at 6 am. The photo on the left depicts the road itself, with KNLA soldiers providing security in the distance. The photo on the right shows villagers waiting for permission to cross the road safely. When KNLA soldiers are able to offer secure road crossings to villagers, they usually specify certain days and times that they will de-activate landmines in the area. [Photos: KHRG]

Those who depend on trading cash crops for food, or who must buy additional food resources, must exercise caution not only when cultivating their plantations, but also when travelling to marketplaces. Where such trade must be conducted by entering SPDC-controlled spaces, villagers incur further physical risk if local SPDC forces notice them crossing from non-state space into controlled territory, especially on or across vehicle roads. Such restrictions similarly make it difficult for villagers in hiding to procure medicines or access health services in SPDC-controlled areas.

In Saw Muh Bplaw, Ler Muh Bplaw and Kay Bpoo village tracts, which are bisected by the Pwa Ghaw to Kler La road, villagers have told KHRG field researchers that crossing the road is extremely dangerous and cannot be done without armed security, often provided by the KNLA. Security is not always available, as KNLA forces often allow villagers to cross roads only on specified

days; at these times they de-activate their mines and set up look-outs to watch for incoming SPDC forces (see Section III: A-1 above). The SPDC also deploys landmines along roads in northern Lu Thaw Township to prevent displaced villagers from crossing and to protect SPDC forces operating along roads from KNLA ambushes.⁶² KNLA soldiers, meanwhile, use landmines to obstruct road access and attack SPDC forces, and to maintain secure crossing points. Villagers who attempt to cross on their own risk being shot on sight by SPDC soldiers active along the road, or injured by either SPDC or KNLA landmines. Individuals who live on one side of the road and have agricultural land on the other thus cannot pursue their livelihoods activities freely. In the first quote below, a KHRG field researcher describes how the security situation along the Pwa Ghaw to Kler La vehicle road currently affects the livelihoods of local villagers; the subsequent quotes cite examples of villagers killed due to SPDC security measures along other roads in northern Lu Thaw Township:

"The Burma [SPDC] Army built the vehicle road from Der Kyuh through Saw Muh Bplaw village tract, Ler Muh Bplaw village tract, and Kay Bpoo village tract. The road separated the areas into two parts because the road is in the centre of the village tracts. Therefore, villagers have problems to cross the road to travel for their livelihoods, because they have to contact the village security team every time when they travel."

- Saw --- (male, 52), KHRG field researcher, Lu Thaw Township
(November 2009)

"In 2007, one villager was killed by the Burmese [SPDC] soldiers while he was crossing the road. His name was Saw Ye--- and he was 20 years old. He was married and had two children, one girl and one boy. Now his wife has gone to stay with her sister because she can't work to feed the family."

- Saw Ze--- (male, 44), Xa--- village, Lu Thaw Township (December 2009)

Complementary movement restrictions imposed on civilians living in state-spaces, meanwhile, undermine livelihoods and food security in controlled areas and limit access to or mobility in non-state spaces, further limiting the opportunities for commercial exchange between displaced and controlled populations. It is thus exceedingly difficult and physically dangerous for displaced villagers to replace food assets lost in direct military attacks and overcome food shortfalls resulting from lower agricultural productivity in areas beyond SPDC control, which is also a consequence of offensive SPDC operations. The humanitarian consequences of these restrictions, both in

⁶² Villagers subject to SPDC control and forced labour requirements are often ordered to clear brush along roads to enable SPDC soldiers to spot civilians and KNLA forces attempting to evade SPDC control. See: *Village Agency*, KHRG, November 2008, pp.49-50

terms of how they generate protection needs and limit potential responses, are further examined in Section IV below. KHRG has also previously documented the SPDC's use of trade restrictions to prevent the entry of rice and other essential food items, as well as medicines into non-state controlled spaces.⁶³ Considered against the backdrop of military attacks against displaced civilian communities it is hard not to see such measures as essentially siege tactics, specifically employed to undermine food security and health for villagers living beyond government control, and ultimately to force them into state-controlled spaces.

"This year most of the villagers don't have enough food. The villagers started facing the food crisis in 2008, and this year most of the villagers have had to go to take food from Ha---. We had to make an agreement with people in Ha--- to not let SPDC know about it... If the SPDC knows that villagers from other areas come to buy food in the village, they'll fault the shopkeepers."

- Saw Bi--- (male, 32), Ga--- village, Lu Thaw Township (September 2009)

SPDC Army practices that prevent villagers from safely travelling inside upland areas, or between upland and lowland areas, also undermine civilians' attempts to access humanitarian support or acquire vital humanitarian materials. Travel and trade restrictions prevent villagers from purchasing medicines and other crucial materials from lowland areas. Villagers attempting to pass through checkpoints on the periphery of state spaces are particularly targeted and restricted from carrying materials that might support villagers in hiding. Villagers have reported being searched for medicine, as well as facing limits on the amount of food they could take to their workspaces, including prohibitions on carrying uncooked rice or more than a few portions of cooked rice at a time.

International relief organisations permitted by the SPDC to operate in the country have been denied access to non-state spaces of eastern Burma, prompting remarks from even the ICRC, which normally maintains a strict policy of confidentiality.⁶⁴ Indeed, a "Who, what, where" map produced by the UN-affiliated Myanmar Information Management Unit (MIMU) shows one

⁶³ See, for example: *Village Agency*, KHRG, November 2008, p.126; "Forced Labour, Movement and Trade Restrictions in Toungoo District," KHRG, March 2010.

⁶⁴ *Annual Report 2009*, ICRC, May 2010, pp.208-210. "Government restrictions imposed on the ICRC remained in place and continued to prevent the organization from discharging its mandate in accordance with its internationally recognized working methods, which the Myanmar authorities had accepted until the end of 2005. At an operational level, this meant that the ICRC was unable to assist vulnerable civilians living in violence-affected border areas."

international humanitarian actor present in all of Papun as of May 2010.⁶⁵ Importantly, the humanitarian actor listed by MIMU is active in southern Papun – not in Lu Thaw.⁶⁶ Villagers queried by KHRG, meanwhile, report that they have not received support from international or national humanitarian organisations working through legal channels in Rangoon.⁶⁷ In a brainstorming session with a group of displaced villagers from across upland areas in northern Karen State held in Lu Thaw during November 2009, for instance, no villagers could report receiving any support from actors working through legal channels.

A handful of indigenous organisations provide support in Lu Thaw, chiefly through mobile distribution of health or other services and organised via administrative offices based in Thailand. These indigenous organisations regularly find their operations disrupted by SPDC military activities,⁶⁸ and medics and other staff must operate covertly amid grave physical security threats including injury by landmines and detention, abuse and death at the hands of hostile SPDC soldiers.⁶⁹ The following statement from a group of Burmese, Karen and Western doctors and public health workers describes some of the obstacles faced by indigenous organisations attempting to provide humanitarian support in non-state spaces:

“In the black zones, carrying backpacks full of medicine and collecting health and demographic information is dangerous work. Since the inception of the program, six health workers have died because of landmines or attacks by SPDC soldiers, who actively target health

⁶⁵ “3W Country-wide Information: All Clusters All Orgs Count,” Myanmar Information Management Unit (MIMU), May 26th 2010.

⁶⁶ Clarification via email, MIMU, July 2010.

⁶⁷ The ability for local organisations operating above-ground to access non-state spaces in Burma was recently explored: Ashley South, with Malin Perhult and Nils Carstensen. *Conflict and Survival: Self-protection in southeast Burma* (hereinafter *Conflict and Survival*), report from the Local to Global Protection Project, Chatham House, Asia Programme Paper, forthcoming 2010. This report, however, does not explicitly mention any local above-ground groups operating in Lu Thaw Township. There is evidence that some faith-based organisations are providing services, including education, in non-state spaces of Lu Thaw, although the scope of services provided by such groups, and the extent to which they are able to access the population are not clear. It is clear however that they, like the civilian population and indigenous organisations providing humanitarian support, are also subject to attacks by the SPDC Army; see, for example, details of an incident in which Ebenezer Church, which provides education services in Lu Thaw, was attacked in 2007: *Growing up under militarization: Abuse and agency of Children in Karen State*, KHRG, April 2008, p.45.

⁶⁸ *Provision of Primary Health Care among Internally Displaced Persons and Vulnerable Populations of Burma: 2009 Annual Report*, Backpack Health Worker Team (BPHWT), 2009, p.6, 10.

⁶⁹ *Chronic Emergency: Health and Human Rights in Eastern Burma*, BPHWT, September 2006, p.22; *Provision of Primary Health Care*, BPHWT, 2009, p.6; *Grave Violations: Assessing abuses of child rights in Karen areas during 2009*, KHRG, January 2010, Chapter 6.

workers... Health worker mobility is severely restricted by security concerns. Existing roads and bridges are patrolled by soldiers, making it necessary for some health workers to walk... through jungle terrain.”⁷⁰



The photo on the left, taken on September 3rd 2008, shows members of an indigenous health organisation preparing to distribute medicines to villagers in hiding from Lu Thaw Township, Papun District. Health services in Lu Thaw are provided by organisations including the BPHWT and KDHW. The photo on the right, taken on September 2nd 2008, shows villagers in hiding from Lu Thaw Township gathered around a field hut to collect funds distributed by an indigenous relief organisation to purchase essential food items [Photos: KHRG]

Conditions generally described in the quote above are applicable to Lu Thaw Township. In its annual report released at the end of 2009, the Backpack Health Worker Team (BPHWT), for instance, which currently operates seven mobile medical teams in Papun, remarked upon the way that SPDC Army activities in Papun had made it difficult for the group to provide necessary health services.⁷¹ The Relief Coordinator of the Karen Office for Relief and Development (KORD) described similar constraints in Lu Thaw during an interview with KHRG during July 2010:

⁷⁰ Dr. Thomas J. Lee, Dr. Cynthia Maung, Saw Mahn Mahn et al. "The Impact of Human Rights Violations on Health among Internally Displaced Persons in Conflict Zones," in *Public Health and Human Rights: Evidence-based Approaches*, ed Chris Beyrer and H.F. Pizer, Baltimore, Maryland: The Johns Hopkins University Press, 2007 p40.

⁷¹ "In Papun, villagers and medics must carry health supplies by hand and the transportation of these supplies has generally been more hazardous due to an increase in military operations by the SPDC and the DKBA. Increased militarization has also led to increases in forced labour. These DKBA and SPDC military operations make it difficult for health workers to get into villages in time to provide necessary care to patients." In the same report, BPHWT noted the arrest of a health worker in southern Papun. See, *Provision of Primary Health Care*, BPHWT, 2009, pp.6, 10.

"When the SPDC Army troops are deployed... it is difficult for aid providers to reach to these areas. When we plan to give the relief, sometimes we can't cross the roads because the SPDC is active on the road. We have to wait until they [SPDC Army troops] withdraw and then we can start our trip to give relief."

- Saw Lu Ber Moo (male, 45), KORD Relief Coordinator (July, 2010)

IV. Self-protection under strain: Local priorities and local responses

A. Balancing protection concerns

"[Internally Displaced Person] means escaping to be alive. It's not a temporary place to stay, but it's safer than the villages which are attacked by the SPDC... The people responsible for the village tract keep in special contact with people in the hiding sites. Therefore the villagers can receive news of SPDC movements every day or every week."

- Saw Lo--- (male, 55), Ti--- village, Lu Thaw Township (October 2009)

For many villagers in Papun District becoming displaced is an active response to human rights abuses, as well as the livelihoods consequences of such abuses, in both state-controlled and non-state spaces. For many villagers, displacement is produced by SPDC Army attempts to forcibly relocate entire communities. Individuals and whole communities in militarized spaces have also frequently opted for temporary or permanent displacement when tactics such as negotiation or false compliance are insufficient to protect physical security and livelihoods from exploitative and violent abuses.⁷²

Pi--- village in Dweh Loh Township, for example, is located in one of the most militarised areas of Papun District; in 2009, residents had to confront heavy exploitative demands and movement restrictions imposed by soldiers from SPDC LIB #219 stationed in their village and at nearby camps, as well as DKBA units active in the area. In November, after an SPDC soldier stepped on a landmine between Pi--- and the nearby SPDC camp, villagers were subjected to three days of harsh treatment including heavy forced labour and denial of sufficient food, while children were separated from their parents and forced to sit in the sun all day. After the third day of abuse, 105 residents of Pi--- fled to several locations in Dweh Loh and Bu Tho Townships, deciding that the physical and food insecurity in areas beyond SPDC control would more conducive to their survival and livelihoods activities than remaining under exploitative and abusive control in their own village.⁷³

"We became Internally Displaced Persons because we were disturbed, abused and forced to do forced labour. We were forced to porter again

⁷² For details of strategies villagers use to protect themselves from abuse and the effects of abuse in state-spaces, see *Village Agency*, KHRG, November 2008, pp. 92-114.

⁷³ For a detailed account of the events that led the residents of Pi--- to flee, see: "Central Papun District: Village-level decision making and strategic displacement," KHRG, August 2010.

and again. It never ends, [the demands] to porter. As we had to comply longer and longer, we couldn't afford to do that anymore so we fled... As the villagers could no longer suffer the abuses, they told the village head that they couldn't suffer anymore and if we continued to stay there, we'd face more problems. Then, they discussed together and fled at night... Due to their operation, we couldn't do our hill fields and we didn't have a chance to eat our bananas that we planted in our village... Everything that we faced was difficult and a problem. So, we discussed with each other and fled."

- Saw Fu--- (male, 26), Pi--- village, Dweh Loh Township (December 2009)

"Yes, they informed us to go back and stay in our own village, but no one went back to stay... [Before the SPDC arrived in the village] We were able to live and do our livelihoods. We could do our livelihoods well. Since this year, we don't dare to stay due to the SPDC's heavy operations. They oppressed us and we fled. They ordered us 4-5 times per day. They ordered both men and women to work for them. They kept children in the army camp and under the sun. They looted our food and didn't allow us to pound paddy. They called us to attend a meeting. They also pretended that they didn't hear us although we complained."

- Naw Gu--- (female, 32), Pi--- village, Dweh Loh Township (December 2009)

This is not to say that all villagers that make these calculations arrive at a similar result; villagers' calculations may also lead them to remain living under control, accept forced relocation, move to other locations under control but administered by a different government or ceasefire non-state armed group,⁷⁴ or seek refuge in Thailand as migrant workers or formal refugees.⁷⁵ A variety of factors contribute to these decisions, including villagers' political views or available options, such as connections to power-holders in different locations or the logistical viability of evading the SPDC Army. Whatever their destination, it is crucial to recognise that villagers use displacement strategically as a method for protecting themselves from abuse. These decisions are not made lightly, and displaced villagers hiding in non-state spaces interviewed by KHRG repeatedly expressed a desire to return to their home villages. Many villagers in Lu Thaw made clear, however, that they did not feel they could safely return home and preferred to stay in hiding in spite of the difficulties of remaining in hiding.

⁷⁴ See, South et al, *Conflict and Survival*, 2010.

⁷⁵ Details on villagers' decisions to seek protection by finding work as migrant labourers can be found in *Abuse, Poverty, Migration: Investigating migrants' motivations to leave home in Burma*, KHRG, June 2009.

"They know about them [refugee camps] but they just don't want to go there. They want to stay here. If they really can't survive here, they might go to another place."

- Saw Ca--- (male, 54), F--- village, Lu Thaw Township (December 22nd 2009)

"I was so confused when I fled the Burmese [SPDC] soldiers. I wasn't sure if I should go to a refugee camp. I didn't want to go there though. I thought if other people can survive, I'd also be able to survive. I just want to stay in my own country. Actually, my younger sibling in a refugee camp told me to go there if I can't stay here, but I don't feel like going. I've decided to stay here even though it's difficult to do my livelihood."

- Naw Ci--- (female, 46), Xa--- village, Lu Thaw Township (December 2009)



This photo, taken on March 1st 2009, shows villagers from the Do--- village returning from their hiding site to finish disassembling their huts. Building materials are often removed for use in hiding sites, and to prevent destruction by SPDC patrols, by villagers who become strategically displaced. [Photo: KHRG]



This photo, taken on February 28th 2009, shows a cave used for temporary shelter by villagers from Fo--- village in Nah Yoh Hta village tract when they need to temporarily flee from an incoming SPDC attack. Temporary displacement is an important protection strategy in areas subject to sporadic or seasonal SPDC attacks. [Photo: KHRG]

B. Humanitarian conditions and evolving responses

More than 75,400 civilians continue to survive in hiding across Karen State⁷⁶ in spite of direct military attacks carried out against them and their livelihoods under the auspices of a large-scale and long-running forced relocation campaign. Villagers are not able to survive in these conditions by being passive victims, and KHRG has documented a number of strategies employed by displaced villagers to ensure that they are able to remain beyond state control for protracted periods of time, even as basic necessities of human survival such as food and health are themselves targeted. Common strategies used by villagers across KHRG research areas have included:⁷⁷

- Selecting and preparing hiding sites ahead of expected displacement
- Preparing and hiding food stores in case of SPDC attack
- Monitoring and sharing information, including with NSAGs, about troop movements as part of advance warning systems
- Retrieving food and other supplies left at villages during flight
- Covertly cultivating new or old agricultural fields
- Travelling to towns or 'jungle markets' to trade covertly with villagers from SPDC-controlled areas
- Sharing or loaning food and other essential resources to friends, family and neighbours
- Utilising locally-available foods and medicines
- Accessing aid from organisations operating cross-border from Thailand
- Organising community education and social services
- Cooperating with and assisting family and community members to overcome the daily challenges of life in hiding.

These local responses to abuse should be understood as serving a function that is in line with the humanitarian protection objectives of all actors interested in improving human rights conditions in eastern Burma.⁷⁸ Humanitarian

⁷⁶ *Protracted Displacement*, TBBC, November 2009, p50.

⁷⁷ See especially: *Village Agency*, KHRG, November 2008, pp.132-148. Note that many of these protection strategies are not exclusive to Lu Thaw Township or Papun District; many of the protection methods noted are employed in brown and black areas throughout eastern Burma to protect civilian populations from abuses by the SPDC and other armed actors.

⁷⁸ KHRG has also referred to some types of local responses as 'resistance strategies,' a term which emphasises the political character of responses to abuse which function as implicit statements about the local power relationships that buttress resource extraction and exploitative abuse across Karen State. See, *Village Agency*, KHRG, November 2008. This report will refer to these practices as 'local protection' or 'self-protection' strategies, however, in an effort to emphasise the degree to which these strategies are in line with traditionally understood humanitarian protection activities. This choice of language was first used by KHRG in June 2009. See, *Abuse, Poverty and Migration*, KHRG, June 2009. Both ways of understanding and describing local responses to abuse are important, as they each open unique, complimentary,

protection has been defined broadly as “all activities, aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights, humanitarian and refugee law).”⁷⁹ While definitions of protection that can potentially include any and all humanitarian activities have been criticised,⁸⁰ this report argues that, because evading abuse by hiding in upland non-state spaces is itself fundamentally a strategy of self-protection, all activities necessary to sustain life in hiding should also be understood as helping to protect civilians from acute harm.⁸¹

The crucial role of local protection activities has been widely recognised.⁸² The UN High Commissioner for Refugees has argued that protection is “*provided first of all by and through the local community*”⁸³ – a sentiment that has been explicitly affirmed by the Inter-Agency Standing Committee, a body made up by heads of some of the world’s largest humanitarian agencies.⁸⁴ The European Community Humanitarian Office (ECHO) has echoed this, highlighting support for community self-protection as a basic condition for effective protection programming: “*It is of crucial importance that people in need of protection are not seen just as the victims but also as the actors of their own protection.*”⁸⁵ The ALNAP guide for humanitarian protection, meanwhile, affirms “*the value of people’s own knowledge, capacity, insight and*

avenues of analysis that offer insight into local priorities, capacities and positive methods of external support.

⁷⁹ *Strengthening Protection in War: A Search for Professional Standards*, ICRC, 2001, pp.28-37. The ICRC definition was developed in a series of workshops beginning in 1996 involving in-depth discussion among 50 humanitarian, human rights and academic organisations/institutions involved in the protection of civilians in armed conflict.

⁸⁰ See, for instance: Mark Duffield. *Global Governance and the New Wars: the merging of development and security*, London: Zed Books, 2001 pp221-224.

⁸¹ This interpretation draws on Vincent and Sørensen, who include activities that protect movement-related needs as a protection strategy in a framework they developed for analysing response strategies used by displaced people. See, Marc Vincent and Birgitte Refslund Sørensen. *Caught between borders: response strategies of the internally displaced*, London: Pluto Press, 2001, p11.

⁸² This discussion draws heavily on the following report: Casey A. Barrs, *Preparedness Support: Helping Brace Beneficiaries, Local Staff and Partners for Violence*, research paper released under the auspices of the Cuny Center, May 2010.

⁸³ “Protection Aspects of UNHCR Activities on Behalf of Internally Displaced Persons,” UN High Commissioner for Refugees (UNHCR), August 17th 1994, EC/SCP/87

⁸⁴ “Protection of Internally Displaced Persons,” Inter-Agency Standing Committee (IASC). Inter-Agency Standing Committee Policy Paper, New York, December 1999, pp.9-10. IASC members include the Food and Agriculture Organization, Office for the Coordination of Humanitarian Affairs, United Nations Children’s Fund, United Nations Development Programme, UNHCR, World Food Programme and World Health Organization.

⁸⁵ *Humanitarian Protection: DG ECHO’s Funding Guidelines*, European Commission Directorate-General for Humanitarian Aid, April 21st 2009; p.9.

*innovation in any given situation that threatens them*⁸⁶ – a truth that led then UN Secretary General Kofi Annan to call local responses “*the basic source of protection*”⁸⁷ and Andrew Bonwick, one of lead authors of the ALNAP guide, to argue that “*the main players in the protection of civilians in conflict are the civilians themselves.*”⁸⁸

The sustained military pressure brought to bear on displaced communities in Lu Thaw Township however, has simultaneously created grave humanitarian conditions and significant barriers to local self-protection. The cumulative effect of SPDC forces extending deeper into non-state spaces in Lu Thaw their capacity to strike at villagers and their livelihoods, while steadily reducing the space available to displaced communities to evade abuse through flight, hiding, and contact with communities living under control, has created significant and complex challenges for protection of civilians in Lu Thaw Township. The following three sections detail humanitarian consequences of SPDC Army practices in three key areas, including food security, health and education, as well as evolving local responses – and the limits to these responses.

1. Food Security

Since SPDC Battalions deployed as part of the 2005-2008 Offensive were withdrawn in late 2008, food insecurity has remained the most acute problem confronting displaced communities in northern Lu Thaw Township. Food shortages have persisted for a number of mutually-reinforcing reasons, all of which are rooted in the SPDC’s campaign to bring people and resources under firm state control, on the one hand, and villagers’ sustained refusal to place their lives and livelihoods under SPDC authority, on the other.

“When we lived in our village even though we did farming, we had time to do our work, so we didn’t need to worry about our survival. Now nobody dares to go back and work in our village.”

- Saw Je--- (male, 34), C--- village, Lu Thaw Township (April 2009)

“Our land that is good for farming is too close to the place where the SPDC is stationed, so we have to farm among wild plants. This isn’t so good, but we have no choice.”

- Saw Mi--- (male, 54), Fa--- village, Lu Thaw Township (December 2009)

⁸⁶ Andrew Bonwick and Hugo Slim. *Protection: An ALNAP guide for humanitarian agencies*, Oxfam, 2006, p.113.

⁸⁷ “Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict,” UN Security Council, March 30th 2001, S/2001/331.

⁸⁸ Bonwick. “Who really protects civilians?,” 2006.

As noted in Section IV: A, displaced villagers actively monitor the security situation in the areas where they live and many still do not feel that conditions are sufficiently secure to permit return to their home villages, despite the withdrawal of SPDC forces from certain camps. This means that some of the most desirable agricultural lands – the lands near their home villages that locals would choose to cultivate in the absence of a hostile military presence – remain unavailable to displaced villagers. Paddy fields, hill fields and plantations kept by villagers in home villages have often been cultivated for generations; land in these areas is both fertile and sufficient to support local populations. Rural villagers' attachment to such lands, as well as the substantial labour and material resources invested in them over time, is evident in the behaviour and testimony of displaced villagers. Locals who flee typically try to remain near their homes and frequently express hope that they will soon be able to return to their villages in interviews with KHRG field researchers.

"If not for the pressure from the SPDC, we'd live in our village and we could have some property, but now they've destroyed everything so we have nothing left... When we lived in our village, there were villagers who farmed both flat fields and hill fields. There were a lot of flat areas to farm. But when we moved to this place, there was no flat land to farm so we had to do hill fields and the rice doesn't grow so well... The problem is that the land is not mature enough so the rice plants don't grow as they are supposed to."

- Saw Di--- (male, 34), Da---village, Lu Thaw Township (December 2009)



These photos, taken on March 1st 2009, show abandoned flat fields belonging to residents of Co--- village, Lu Thaw Township. Flat paddy fields produce more rice than hill fields, but the villagers have abandoned these particular fields because they fear that SPDC Army soldiers stationed nearby will launch an attack if they see them while farming. [Photos: KHRG]

"Since we left our village in 2006, our farming hasn't gone well. The crop isn't productive and we face the problem of food shortage. This happens every year... It's because we can't live in our own village, and we stay in other villages so there's not enough land for us to farm."

- Saw F--- (male, 45) N--- village, Lu Thaw Township (December 2009)

"It's a difficult thing for us. There isn't so much land to grow rice. Only areas located near the SPDC are available for farming. In areas located near our village, only young hill land is available."

- Saw E--- (male, 46), O--- village, Lu Thaw Township (December 2009)

Carrying out productive agricultural activities in non-SPDC controlled spaces, by contrast, is exceedingly difficult. Soil quality is generally poorer in the steep hills that are best suited to evading SPDC forces. Since villagers often do not carry all of their agricultural materials, such as tools and seeds, when fleeing, most must attempt to cultivate low-productivity land with extremely limited inputs; individuals unfamiliar with hill farming techniques face additional capacity-related obstacles. Many villagers have described how unpredictable weather, weeds, wild animals and insect infestations have damaged their hill crops.

"We farmed flat fields when we were at our village. So when we fled, we had to leave our paddy fields and couldn't go back to farm them again. We lost our poultry that we had raised. We also had to leave our furniture, tools, and clothes. We lost everything. That day, the Burmese attacked the village suddenly so we just fled with only one load with us. We lost rice plants, our rice stores and everything else."

- Naw Ne--- (female, 41), F--- village, Lu Thaw Township (December 2009)

"The land isn't old enough for farming, and the insect attacks make it difficult for the villagers to get enough rice. If we plant ten tins of paddy, we can only harvest 50 tins of paddy, and if we plant more than 10 tins, we'll get back only 70-80 tins; it's not enough for each family... In our village since 2006 the situation hasn't been so different each year, but food insecurity is getting a little bigger every year... I think if the situation continues like this the maximum that we can still survive here will be two to three years."

- Saw Ja--- (male, 33), Ma--- village, Lu Thaw Township (December 2009)

"Last year, we went back to farm in an area that is a little far from this place, but then wild pigs ate our plants... We grow rice but if we run out of food before the harvest time, we have to leave our farms and do other available work to get money to buy rice. So sometimes the

weeds over grow the rice plants, and when we come back from work we have to go to cut the weeds on our farms."

- Naw Fa--- (female, 40), F--- village, Lu Thaw Township (December 2009)

"Insects kill our paddy plants. We don't have any special kind of medicine to kill them. We sometimes trap them with soap and chilli."

- Saw Fi--- (male, 34), Ca--- village, Lu Thaw Township (April 2009)



This photo, taken on September 13th 2008, shows a white grub the size of a child's thumb in a hill field in Ler Muh Bplaw village tract. Villagers have reported that damage from insects has severely undermined the productivity of their crops, particularly in places where SPDC Army activity has prevented them from accessing their fields. [Photo: KHRG]



This photo, taken on December 4th 2006, shows cucumber peels that have been hung to dry in the sun, in No--- village, Lu Thaw Township. Villagers told a KHRG researcher they planned to ferment the peels and apply the solution to their paddy plants to prevent insects from destroying their crop. [Photo: KHRG]

These highly-constrained farming operations are further endangered by regular SPDC offensive operations targeting both displaced villagers and food resources in non-state spaces. SPDC patrols authorised to shoot villagers on sight and burn crops under cultivation constitute a serious physical security threat that necessarily limits the amount of time villagers can spend tending fields and plantations, thus increasing the chances that wild animals and weeds will damage unattended crops. This is especially damaging when SPDC operations coincide with key points in the agricultural cycle: for example, SPDC units in northern Lu Thaw Township frequently step up offensive activities after the rainy season in September and October, the months when paddy and hill fields must be harvested. Sustained SPDC operations or the deployment of landmines in non-state spaces may trigger re-displacement, forcing villagers once again to begin agricultural activities from scratch.

"In 1996 we cleared land to farm at Xe---. Before we could burn the trees that had been cut the Burmese soldiers came, so we didn't dare

to go back and burn the trees. When the soldiers left, we went back to burn down the trees. But when it was time to clear the left-over burnt trees, the Burmese soldiers came again and we fled again. When they left we went back to clear the land. Then we prepared the paddy seeds for planting. The day we went to plant the rice, the Burmese soldiers slept in our field so we couldn't go there. We planted the rice seeds when the Burmese soldiers left our field. One family from We--- came to stay with us. They had to leave their hill field so they worked with us. We used 15 tins of rice seeds and we only got 30 tins of unhusked rice back. Then we divided the rice equally; their family got 15 tins and we got 15 tins. That year we didn't have enough rice to eat so we came to live with our siblings in Kay Bpoo village."

- Naw Hi--- (female, 47), Xa--- village, Lu Thaw Township (December 2009)

"Sometimes, our paddy plants had grown very tall and they were almost ready for harvesting. We had worked so hard for them to grow. But the SLORC⁸⁹ found our paddy fields and burnt them. We didn't have so much property. We only had buffalos, cows, ducks and chickens, and they saw them and shot them and ate them. They burnt down all of our houses."

- Saw Di--- (male, 34), Da---village, Lu Thaw Township (December 2009)

"The bushes also grow tall in our working fields due to SPDC attacks, and sometimes we don't even have time to harvest and flee because of SPDC attacks, too. Then our rice which we left behind is damaged by wild animals. Our hill fields are near SPDC soldiers."

- Saw Le--- (male, 50), Ka--- village, Lu Thaw Township (December 2009)

Practical difficulties involved in travelling beyond upland hiding areas, as well as restrictions on movement and trade imposed by SPDC authorities in other parts of Karen State further limit the overall availability of outside food resources to villagers in hiding, making it harder to address food shortages precipitated by any of the above-mentioned factors, as well as by natural causes such as weather irregularities and rat or insect infestations. Such restrictions make it difficult for villagers in hiding who still have food or other agricultural resources in their abandoned villages to return and recover those supplies. Meanwhile, external food resources previously available via commerce with non-displaced communities have gradually become less available and less accessible as SPDC and DKBA forces have consolidated

⁸⁹ The State Law and Order Restoration Council (SLORC), the former name for Burma's military government. The SLORC changed its name to the State Peace and Development Council (SPDC) in 1997.

their control of other parts of Lu Thaw Township and Papun District, and imposed heavy exploitative demands and tighter movement restrictions on areas over which they exercise authority.⁹⁰

In spite of these difficulties, villagers reported to KHRG that they have gone to extensive lengths to procure supplies necessary to address food insecurity. Villagers residing in areas with the highest levels of displacement have told KHRG field researchers that the nearest places to procure rice are multiple days' walk from their hiding sites, in northern Bu Tho Township and in Karenni State, and that they often require security assistance from non-state armed groups to cross roads and avoid SPDC soldiers during the journey. Villagers in hiding say that food must be procured from these areas covertly, and in close cooperation with locals, because SPDC authorities will attempt to shut down any such trade conducted openly.

"My friends could get their food back from their rice barns because they were located far from the vehicle road, but for me my barn was too close to the vehicle road so I couldn't take my food."

- Naw S--- (female, 18), N--- village, Lu Thaw Township (December 2009)

"The people who don't get enough food have to buy it from Ha--- in Re--- village tract. We go a way that the SPDC can see us, but when we come back we carry the rice secretly. That place is under SPDC control, and its three days' journey."

- Naw Li--- (female, 40), Qe--- village, Lu Thaw Township (September 2009)

"We do hill fields the whole year but they could support us for just three or four years. We have to buy it [rice] from other villages. We have to cross jungle and bushes. Sometimes we have people to take security for us when we cross the vehicle road. We usually buy food from Pe---, Ne--- and Me---. During 2009, the majority of people here didn't have enough food."

- Saw Je--- (male, 34), C--- village, Lu Thaw Township (April 2009)

"People in the whole village tract are facing a food crisis. The villagers have to find food in Se--- and Ha---; if the SPDC knows about it they'll block the villagers' way for carrying food from other places."

- Saw Ki--- (male, 40), Vo--- village, Lu Thaw Township (September 2009)

⁹⁰ For an in-depth account of factors undermining food security in both SPDC controlled and non-SPDC controlled areas of Karen State, see: *Food Crisis: The cumulative impact of abuse in rural Burma*, KHRG, April 2009.



This photo, taken on May 17th 2008, shows a woman pounding rice paddy in a communal rice pounder, at a hiding village in Kay Bpoo village tract, Lu Thaw Township. When villagers are able to remain in their home villages, each household uses its own rice pounder; in this context, villagers had decided to share in response to livelihood constraints related to displacement. [Photo: KHRG]



This photo, taken on August 8th 2008, shows a villager in Ler Muh Bplaw village tract fabricating iron pieces for a stove, which he said he hoped to exchange for paddy or rice to supplement insufficient food supplies in anticipation of a poor harvest. [Photo: KHRG]

Because of the difficulties related to cultivating or acquiring sufficient food supplies, many villagers interviewed by KHRG have described how cooperation and sharing amongst family, friends and neighbours is essential to the survival of communities in hiding, because so few people have adequate food resources. Performing daily labour in exchange for a small amount of money or food is another strategy noted by villagers for overcoming food shortfalls.

"Now some are in a very difficult situation. They have to do wage labour to get food for each day. They can survive from day by day, but it's very difficult for them, too... When they first fled the village, they could still go back to get the rice that they had stored from their village, but when that rice was gone, they had to find new rice again. They can't go back and farm near their village because the place is near the enemy"

- Saw Ja--- (male, 33), Ma--- village, Lu Thaw Township (December 2009)

"We just share food with our friends and relatives because there's no other way to get money. Sometimes, the villagers borrow from others and when they have rice, they return the rice. Some carry stones at the gold mine and they get 3,000 kyat [US \$3] per day. One tin of rice costs 8,000 kyat [US \$8]. Some go to harvest cardamom in other people's farms, and get paid for that."

- Saw Gi--- (male, 45), Ze--- village, Lu Thaw Township (December 2009)

"This year, villagers' livelihoods aren't so good because they live in other people's village and there isn't much land to farm. They just have to share land with each other, and they get just a small amount of rice that isn't really enough for their families. They have to find ways to solve this problem... Some of them carry food or things for other people. They get 5,000 – 6,000 kyat [US \$5-6] per day. Some go to cut down trees on farms and they get one tin of un-husked rice or 2,000 kyat [US \$2] for payment per day."

- Saw G--- (male, 58), Xa--- village, Lu Thaw Township (December 2009)

"Every year, it's difficult for us to get enough food. When we fled to this place, people in the village had already finished planting the rice, so it was too late for us to farm. We just had to do daily wage labour to buy rice."

- Naw S--- (female, 18), N--- village, Lu Thaw Township (December 2009)

Strategies for addressing food insecurity that relate to sharing of food supplies and agricultural space have come under increasing strain as more people have fled into ever-more circumscribed territory in Lu Thaw. This has created a situation in which already limited and low-yielding land must be increasingly shared as the populations of displaced communities grow. Soil quality has become further degraded as the lack of available agricultural land has resulted in over-use, interfering with the sustainable rotational agriculture traditionally practiced in rural Karen State and ultimately undermining crop yields. Under normal circumstances, villagers maintaining hill fields prepare, plant and cultivate several acres of new land each year⁹¹ while land that has been cultivated for one year is left fallow for at least six or seven years to allow soil nutrients to replenish. Displaced villagers have told KHRG field researchers that land is so scarce in non-state spaces that they must farm smaller areas and can only leave recently-cultivated fields fallow for a few years before attempting to farm them again.

"Now the situation is getting worse. In the past, villagers could get enough rice from farming but now the land is becoming infertile. We just leave the land [fallow] for two or three years and farm on it again. We can't wait for ten years or more as we've normally done in the past"

⁹¹ The exact amount of land cultivated per household varies depending on the size of the household, particularly the number of dependents, how many family members will be available to assist with preparing and cultivating the land, and the individual work capacity of each family member.

because we have no more land to grow rice. Now as I've said we leave the land only for three years and then plant rice again, so the rice doesn't grow so well. The plants just disappear in the ground."

- Saw Bi--- (male, 34), Le--- village, Lu Thaw Township (December 2009)

"Villagers' economic situation is very bad now. The main cause is that we don't have enough land to farm, so they can't get enough food from farming. Because of pressure from the SPDC, villagers from other different villages have come to live with us here, so we have to share our farm land with them."

- Saw C--- (male, 45), U--- village, Lu Thaw Township (December 2009)

"In areas near this place, there isn't more fertile land because we just farmed it recently, and if we keep farming those lands, the rice won't produce well. But if we go back near our old villages, we have to be afraid of the SLORC."

- Saw Di--- (male, 34), Da---village, Lu Thaw Township (December 2009)

Protracted displacement has also created strains in some areas, as newly displaced households have built up debt or over-taxed their host communities' ability to support them over time. Repaying or servicing this debt typically requires giving away part of an often already-inadequate harvest and slipping deeper into debt and dependence on other members of the community.

"Because we live in other people's villages, we've asked help from them. They help us when we're in need, so we deal with the problem each year. But as it has been many years, it's difficult for us to have the local villagers help us."

- Saw F--- (male, 45) N--- village, Lu Thaw Township (December 2009)

"[The price of rice] was 200 [baht per tin] when villagers had just finished harvesting rice from their fields. But when the rainy season arrived, the price gradually increased to 230 to 250 and finally to 400 baht. I borrowed three tins of rice at the price of 400 baht. We had no rice so we had to borrow it. We couldn't go and buy it in Ha--- because I had to go with my children to school and my parents are old. We then paid it back when we finished harvesting. But some people bought rice with the price of 350 per tin. For those who have money, they could buy a lot of rice when the price was still low. But we couldn't do that because we just live hand to mouth... I'm not quite sure how many, but some people borrowed rice from others and can't pay it back."

- Naw Ne--- (female, 41), F--- village, Lu Thaw Township (December 2009)

"I grew [planted] eight tins of paddy, but four tins of paddy died. So this year I got 60 tins of paddy. I returned 20 tins that I had borrowed. There are five people in my family so the rice isn't enough for us."

- Naw Fa--- (female, 40), F--- village, Lu Thaw Township (December 2009)

"We got 80 baskets of un-husked rice. We had to pay back rice that we owed to other people, and only a small amount was left. We don't have enough rice for our family... Since we fled the Burmese soldiers, we never have enough rice. Every year, we have to borrow from our neighbours and pay them back when we harvest our crop."

- Naw Ni--- (female, 56), Ja--- village, Lu Thaw Township (December 2009)

Some villagers have received limited food assistance from relief organisations operating in Lu Thaw with administrative offices based in Thailand. These organisations are subject to the same threats of attack by SPDC Army soldiers as civilian populations. In spite of these risks, indigenous relief organisations have been able to provide significant amounts of support to help villagers address food insecurity. In July 2010, for instance, KORD reported that it has provided 13,545 big tins (216,720 kg. / 476,784 lb.) of rice to villagers in Lu Thaw during the past six months; in 2009, KORD reported providing 17,607 big tins (281,712 kg. / 619,766 lb.). Relief workers have remarked, meanwhile, on the degree to which their operations rely on local logistical support:

"It is very difficult to coordinate... not all the villagers have radios, and sometimes their houses are far [isolated]. We can't go one by one to each village or household, so we need villagers to meet us in one place. The villagers are quite active – they organize the [meeting] place, support KORD members – even [if] they are suffering a food crisis, they make curry, share rice. They come and carry the rice."

- Saw Lu Ber Moo (male, 45), KORD Relief Coordinator (July 2010)

Other villages and local groups have organised efforts at the community level to mitigate the effects of the food crisis. This has included strategies such as cooperating to produce communal supplies of rice to share during emergencies and collectively deciding to change or reduce consumption patterns. Where outside assistance is unavailable, and when entire communities do not have enough food, whole communities have coordinated to extend remaining rice supplies by eating a watered down rice porridge mixed with foraged vegetables (*dtah gka bpor*)⁹² or a more basic thin rice gruel

⁹² *Dtah gka bpor*, while an effective way to stretch declining food stores, is also a dish traditionally eaten by many Karen in upland areas.

mixed with salt (*may klaw*) in order to survive until the next harvest or until more food can be procured.

"We're planning to do a special [extra] hill field and save the rice that this hill field produces. When villagers face food problems we'll probably donate them rice from this hill field, which the villagers will gather together to farm."

- Saw B--- (male, 38), Y--- village, Lu Thaw Township (May 2009)

"Village people borrow from other people who have [food], and some rely on their relatives. Sometimes we get support from our leaders such as KORD."⁹³

- Saw H--- (male, 60), J--- village, Lu Thaw Township (December 2009)

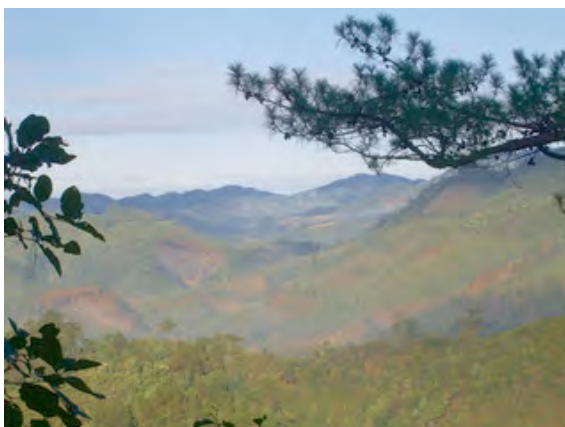
"We don't have anyone to support us. We try to eat rice porridge (dtah gka bpor) if we have only some rice but not enough for the year. For example, we eat ten milk tins of rice (1.95 kg. / 4.3 lb.) per day when we have enough rice, and two milk tins of rice (.39 kg. / .86 lb.) per day by eating rice porridge when we don't have enough rice, to save our lives. Sometimes we also have to eat boiled rice (may klaw) to be able to pass through a period of famine... As I remember, we've had to eat boiled rice twice: once for two months, and another time for three months. We had to eat vegetables and some other kinds of tubers and bulbs that we could eat. It means we really try for everyone to be able to survive."

- Saw Di--- (male, 34), F--- village, Lu Thaw Township (December 2009)

"This year the KWO [Karen Women's Organisation] has a plan that we'll collect money from our village tract and we'll buy rice. It'll be for emergency cases: when someone runs out of rice, we can sell it or lend it to them. It's a technique for us to reduce the food crisis in our village tract."

- Naw Li--- (female, 40), Qe--- village, Lu Thaw Township (September 2009)

⁹³ Villagers interviewed by KHRG often use the term 'leaders' in reference to a variety of Karen organisations; in some contexts it refers to village heads or KNU leaders; see: Heppner, "We Have Hands the Same as Them," 2006, p.11. In this quote, Saw H--- is using the term to refer directly to the Karen Office of Relief and Development (KORD).



This photo, taken on March 30th 2009, shows hill fields belonging to villagers from Ho--- village. The SPDC military camp at Htaw Muh Bpleh Meh is located on the mountain in the foreground of the photo, and villagers have reported that they cannot easily work their fields without detection by SPDC soldiers. [Photo: KHRG]



This photo, taken on March 30th 2009, shows hill fields belonging to villagers from Ho--- village in Ler Mu Bplaw village tract. The nearest SPDC Army camp is just a 30 minutes' walk, and the villagers said they had to be prepared to evade SPDC patrols and shelling while working in their fields. [Photo: KHRG]

In an attempt to protect against SPDC attacks on civilians and efforts to undermine food security in non-state spaces, villagers in hiding reported cooperating to coordinate security when members of the community carry out agricultural activities. Such active efforts to promote physical security, and ultimately to combat food insecurity, can involve a range of activities, including: monitoring radio transmissions for information about SPDC locations and movements; communicating with non-state armed actors for information about SPDC movements; posting lookouts above key approaches to areas under cultivation in case SPDC patrols approach while villagers are working; deploying home-made landmines along possible approaches to warn and defend against incoming SPDC patrols, and give villagers time to flee; and, in the event of an attack by an SPDC patrol, using rifles or home-made muskets to hold off incoming soldiers while villagers escape to safety. Not every village that coordinates security uses each of these methods, and some do not carry arms; each village that organises security does so locally, in light of local needs, resources and perceived threats. The phenomenon of village-level security, and the questions raised by circumstances in which civilians use weapons and landmines is examined below in Section V.

"The SPDC burnt down some of the villages and they also burnt down some of the villagers' rice barns. Villagers had to go during the night time and carry rice from rice barns, which weren't burnt down, and when they came back they shared the rice with each other. Most of our T--- villagers don't dare to go back and work on their farms. Only some villagers can go back and farm in their workplaces, those whose farms are far away from SPDC camps. For me, this year I can't go back and

work so in the coming year I'll have to face food problems. So I've picked up a weapon and take security for the villagers who can still do farming. If we don't that, none of us can do farm work. I took up the weapon and cooperated with KNLA soldiers. We are not KNLA soldiers; we're just ordinary villagers, but we'd like to defend ourselves and our workplaces. The villagers who have taken up weapons to defend ourselves, the KNU leaders called our group a 'Home Defence' group."

- Saw Si--- (male, 47), T--- village, Lu Thaw Township (October 2007)

"In 2009, our hill fields are close to the SPDC military camp at Htaw Muh Bpleh Meh, but we've taken responsibility to check security by ourselves. Our weakness now is that we don't have any walkie-talkies; therefore we'd like to get walkie-talkies to communicate with each other about security issues. We hope to see the SPDC's movements reduced."

- Saw Ri--- (male, 58), Ge--- village, Lu Thaw Township (September 2009)

2. Health

"Both of my parents died already after they suffered from diseases. I've had to face problems since my parents passed away... When I fled from Ler Muh Bplaw [village tract], I'd just given birth and my husband had died. When we fled, we didn't have rice to eat. I had to look for rice in the rain despite my baby being young. He was only three weeks old at that time. I had to carry him in the rain so now I suffer the consequences. I always feel dizzy. The older I grow, the unhealthier I become. It was very difficult for me the time I fled. I have to think about what to do tomorrow so that I can survive. I just ask my neighbours for rice sometimes. Sometimes I go to cut grass for one day or clear grass in others' sugar cane plantations. I struggle to get food so that my two children won't starve to death... My mother wouldn't have died if she'd had enough medicine. We couldn't help her because we didn't have medicine for her. Sometimes we went to carry things for people and they helped us with some medicine, but how can you survive when you have only tablet of medicine in one week or in one month? ... I had 12 siblings but only two left... They died of diseases because we didn't have enough medicine for them."

- Naw I--- (female, 38), F--- village, Lu Thaw Township (December 2009)

Another urgent humanitarian concern voiced by villagers in northern Lu Thaw Township is the limited access to and availability of adequate medicines and

health services. Availability and accessibility of medicines and medical services are undermined directly by SPDC activities in non-state spaces (See Section III: A-2). Movement restrictions obstruct villagers living beyond state control from travelling to visit health facilities or buy medicines; individuals who break these restrictions risk maiming by landmines or being shot on sight if spotted by SPDC patrols. Health problems confronting individuals in non-state spaces are often exacerbated by livelihoods constraints and food insecurity, and vice versa;⁹⁴ SPDC attacks and restrictions targeting food production and the availability of food therefore also indirectly undermine health in communities in hiding. Health problems among communities living beyond SPDC control arise and persist for various reasons, which are discussed below.

Displaced villagers interviewed by KHRG field researchers have reported having had to flee on short notice or at an unexpected time – for example, at night or during the rainy season – and not being able to take sufficient clothing or materials with them to protect against the elements or to construct shelters. Even when villagers flee with advance warning of an impending SPDC attack, they are rarely able to take all of their possessions with them. In the event that they must remain displaced for longer than anticipated, they might not be adequately equipped for the rainy or cold seasons. Uncertainty about whether villagers might need to flee further into the hills can result in displaced villagers choosing not to use limited resources to build shelters until their security outlook is clear.

“My husband was very ill when we had to flee. We’ve sometimes had to flee at night, sometimes in the daytime, sometimes in the rain. When I arrived here, I myself became sick.”

- Naw Ti--- (female, 45), Fe--- village, Lu Thaw Township (December 2009)

“There are four villagers who have died since we left our village until now due to the lack of food and poor shelter.”

- Saw Ji--- (male, 55), Te--- village, Lu Thaw Township (December 2009)

“When we’re fleeing from SPDC attacks... we have to sleep in the jungle and sleep under the trees and without any security. I have to carry my children in the rain. It’s very hard for me get through. We

⁹⁴ Interestingly, the close connection between food and health has been noted in certain interpretations of international human rights law. The United Nations’ Committee on Economic, Social and Cultural Rights has argued that the right to food itself, along with other key rights and “underlying determinants to health” such as nutrition and “an adequate supply of safe food”, are essential components of the right to the highest attainable standard of health as defined in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). See: “General Comment No.14,” Committee on Economic, Social and Cultural Rights, August 11th 2000, E/C.12/2000/4, paragraphs 3, 4, 11.

always have to flee into the jungle since the SPDC started their operations in our area.”

- Naw Vi--- (female, 40), De--- village, Lu Thaw Township (December 2009)

Exposure to the elements and living conditions in non-state spaces of Lu Thaw raises the risk of displaced villagers contracting minor or short-term illnesses, which often go untreated due to the limited supply and prohibitive costs of medicines or health services in non-state space, and the security risks, including SPDC patrols and landmines, associated with travelling to and from places where health care is available. Alternatively, a lack of medicines may result in illnesses being inadequately treated. Such circumstances gradually weaken individuals' immune systems, and thus resistance to more major diseases or long-term health problems for which treatment is equally difficult to access.⁹⁵

“[My husband] stepped on a landmine and got seriously injured... His health wasn't so good after he stepped on the landmine, so after two or three years he passed away.”

- Naw Pi--- (female, 60), Ke--- village, Lu Thaw Township (December 2009)

It's a very bad situation. There are many kinds of sickness. Sometimes we have to go to Ne--- to get medicine, but there isn't enough for the patients. Some villagers buy medicine themselves.”

- Saw Wi--- (male, 40), Ce--- village, Lu Thaw Township (December 2009)

“[My daughter] got a high fever. We didn't have any medicine for her so we couldn't save her life.”

- Naw Xi--- (female, 65), Be--- village, Lu Thaw Township (December 2009)

Health workers that spoke with KHRG described health concerns in Lu Thaw that are in line with the most at-risk parts of eastern Burma. The primary health concern highlighted was the risk of contracting communicable diseases, including TB and malaria; Burma is home to some of the highest rates of both

⁹⁵ In September and October 2009, for example, several hundred villagers in at least 35 villages in eastern Lu Thaw Township were infected by a rapidly-progressing “*influenza-like illness*” with “*an unusual seasonal peak*,” the outbreak was speculatively linked to overcrowding in Thet Poe Plaw village after residents of surrounding areas fled there to evade SPDC attacks. The disease also spread west into Ler Mu Bplaw village tract and northwards to areas on the border with Karenni State. See: “Statement by BPHWT regarding on FLU out-break in Papun District, Karen State, Burma,” BPHWT, October 2009. ; “Flu Outbreak in Papun District,” BPHWT, November 25th 2009.

diseases in the region.⁹⁶ Conflict areas of eastern Burma, meanwhile, have been documented to be home to high rates of malaria, chiefly *Plasmodium Falciparum*,⁹⁷ the strain of malaria with the highest risk of mortality. No prevalence or incidence estimates are available for Lu Thaw Township in particular. However, morbidity figures collected by clinics that are able to access some segments of the population in Lu Thaw provide a rough sense of the extent of malaria infection in the township during a given period. According to figures for 2009, 18.5% of the cases treated by medics working in both mobile teams and in health clinics in Lu Thaw were for malaria.⁹⁸ This is more than three times official national figures for treatment of malaria, which recorded just 6% of admissions to have been for malaria in 2008.⁹⁹

“Over ten people have died [since we fled]. Even just in my family, two people have died from diseases. One was my parent-in-law and the other was my child. My child was four years old when he died. He suffered from fever and we gave him seven D5Ws [Dextrose 5%, an intravenous fluid] and many other medicines, but we couldn’t help him. My parent-in-law died the night after we fled from the Burmese soldiers [SPDC] and came to this place.”

- Ye--- (male, 46), F--- village, Lu Thaw Township (December 2009)

“If the villagers just get sick, it doesn’t matter. If they get hurt by a gun or get a serious disease we have to send them to a hospital. Mostly people get sick from colds, fever and diarrhoea.”

- Saw La--- (male, 35), L--- village, Lu Thaw Township (April 2009)

Poor nutrition caused by chronic food shortages further undermines health among villagers in hiding, particularly among infants and children, and can make them more vulnerable to illness or extend the time it takes for individuals to recover from even minor illnesses. In a survey conducted with 458 children age five and under in 20 villages in Lu Thaw during 2008-2009, for instance, more than one in seven (14.2%) children were severely malnourished.¹⁰⁰ This

⁹⁶ For a summary of information regarding risks from communicable disease in Burma, see Chris Beyrer et al. “Responding to AIDS, Tuberculosis, Malaria, and Emerging Infectious Diseases in Burma: Dilemmas of Policy and Practice,” *PLoS Medicine*, Volume 3 Issue 10 October 2006.

⁹⁷ Adam K. Richards et al. “Prevalence of plasmodium falciparum in active conflict areas of eastern Burma: a summary of cross-sectional data,” *Conflict and Health* Volume 1 Issue 9 2007.

⁹⁸ Figures courtesy of KDHW and BPHWT, July 2010. Of 15,357 cases recorded by three KDHW clinics in Lu Thaw, 2,813 were for malaria. Of 1,625 cases recorded by two BPHWT mobile medical teams, 335 were for malaria.

⁹⁹ World Health Organization. *World Malaria Report 2009*; 2009 p126.

¹⁰⁰ These figures courtesy of KDHW and BPHWT, July 2010. Malnutrition was assessed by measuring the mid-upper arm circumference (MUAC) of children under five years old and comparing results to the World Health Organisation’s Child Growth Standards. These figures

number is a third higher than countrywide estimates by UNICEF (9%)¹⁰¹ and more than 14 times the estimate in nearby Thailand (1%).¹⁰² Expecting mothers and infants born in hiding likely face a particularly high risk of health problems due to limited pre-, peri- and post-natal health services, in addition to the problems listed above.¹⁰³

"People commonly get sick from cold, fever and diarrhoea... We hope that health care organizations will come to see us frequently and advise us how to improve our health."

- Saw B--- (male, 38), Y--- village, Lu Thaw Township (May 2009)

"This year, 2009, we've had a disease that really frightened villagers here because people have only one week to survive after getting this disease. Saw Yi---, who's two years old, and Saw Zi---, who's five, died from this disease in October 2009. This disease mostly happens to children under the age of five."

- Saw D--- (male, 35), P--- village, Lu Thaw Township (October 2009)

"Some pregnant women have to give birth in the forest where there's no bed, no mat or no chair to sit on, no hot water to warm their bodies and no shelter to sleep in. In some cases, the husbands are busy working to get food, and their children are too small to look after their mother. It's very difficult for them."

- Saw Gi--- (male, 45), Ze--- village, Lu Thaw Township (December 2009)

Persistent poor health has clear consequences for livelihoods and food security in non-state spaces. As explained above, efforts at food production and procurement are already severely constrained by a number of factors, and illness or injury can further limit the amount of time individuals can engage in

were estimated from a sub-set of a larger sample from a survey of eastern Burma. Since the survey was not designed for sub-analysis by township, the confidence interval for estimates from Lu Thaw alone may be quite wide.

¹⁰¹ "At a glance: Myanmar: Statistics." United Nations Children's Fund (UNICEF), updated March 2nd 2010. Available online at: <<http://www.unicef.org>>. Note that UNICEF figures were measured by weight-for-height and are thus not directly comparable to measurements based upon MUAC. Both methods assess acute malnutrition, however, and are therefore roughly comparable.

¹⁰² "At a glance: Thailand: Statistics." UNICEF, updated March 2nd 2010. Available online at: <http://www.unicef.org>

¹⁰³ Lu Thaw was included in a 2006 quantitative population-based survey that demonstrated "unacceptably low" maternal health interventions. However, a community-based maternal health worker programme has substantially increased coverage for target populations, including in some parts of Lu Thaw. See, Luke C. Mullany et al. "Impact of Community-Based Maternal Health Workers on Coverage of Essential Maternal Health Interventions among Internally Displaced Communities in Eastern Burma," *PLoS Medicine*, Volume 7 Issue 8 August 2010.

livelihoods activities or reduce their work capacity, particularly in the case of war wounds, such as maiming by landmines. This undercuts already-insufficient agricultural activities, making it even harder for villagers in hiding to secure adequate food resources. Some displaced villagers also described to KHRG researchers how they have sold off assets or gone into debt in order to obtain medicines for themselves or relatives; paying back this debt can further erode food and financial resources for families already living at, or below, subsistence levels.

"Some villagers suffer from diseases, so they can't clear the weeds in their rice fields on time and the crops get covered [overgrown] by weeds."

- Saw J--- (male, 42), D--- village, Lu Thaw Township (December 2009)

"Many times villagers suffer from diseases that make them unable to work on their farms. Now only two or three families have enough rice to survive throughout the year."

- Saw Bo--- (male, 33), Xa--- village, Lu Thaw Township (December 2009)



This photo, taken on June 2nd 2008, shows a woman ploughing a flat rice field in Go---village, Lu Thaw Township. Due to widespread food insecurity, all family members of households in Lu Thaw often must contribute to daily livelihoods activities. [Photo: KHRG]



This photo, taken on February 8th 2010, shows a villager with an amputated leg, presumably due to a landmine injury, attempting to flee up a mountain following attacks in Kyaukkyi Township, Nyaunglebin District. Poor health and physical injuries make flight through rugged terrain more difficult. [Photo: KHRG]

"When I moved to Ze---, I had to sell all my buffalos to buy food and medicine for my family. Now I have no buffalos left. I used to have seven, but now they're gone."

- Naw Hi--- (female, 47), Xa--- village, Lu Thaw Township (December 2009)

"If we have enough food it'll be better for us, because we sometimes suffer from diseases or illnesses and we have to buy medicine. If we have to struggle to get food and medicine at the same time, it's very difficult for us."

- Naw Ne--- (female, 41), F--- village, Lu Thaw Township (December 2009)

In communities experiencing sustained or chronic displacement, factors undermining health compound over time. When a family or community member becomes ill or is injured by a landmine or an SPDC attack and does not receive adequate treatment, he or she may no longer be able to contribute to the group's survival as before. For displaced villages already cooperating closely and supporting each other to address acute food security and health challenges, the illness, injury or loss of a single family or community member can strain these cooperative networks and impact a much larger group's efforts at survival in exceedingly difficult humanitarian circumstances, ultimately weakening food security, nutrition and health for a wider circle of people.

"[My husband] passed away on August 13th 2008. He died of a disease... When he was with us, he'd do farming and feed the family, do house tasks such as carrying water, cooking, pounding rice and looking after the children. Now we don't have enough rice for the family... I just ask for rice from my aunt, uncles and siblings. I can't pay them back. It's very difficult for me to get food. Sometimes, I came home and my children told me, 'Mom, if you can't find rice we'll starve.' Sometimes, they go to have meals at other people's houses."

- Naw Do--- (female, 29), Yi--- village, Lu Thaw Township (December 2009)

"My husband's name is Go---... He died from sickness... The biggest difficulty I've had to face is looking after my children without their father and looking after my mother-in-law. All of this since my husband died... She hasn't been in good health for more than a year. She also can't walk."

- Naw Vi--- (female, 40), De--- village, Lu Thaw Township (December 2009)

Despite such challenges to their short-term and long-term health, thousands of villagers continue to survive in non-state spaces and resist relocating to places under SPDC control. Several protection strategies are pursued at the local level in an effort to mitigate the health risks faced by villagers in Lu Thaw. Cooperation and sharing between family members, neighbours and communities remains a crucial part of day-to-day survival. Villagers in Lu Thaw also reported treating health problems with traditional or locally available alternative medicines.¹⁰⁴

"I have to work hard to feed myself and my daughter. I'm lucky that I have my parents and siblings to help me. If not, it'd be very difficult. I'd have to worry about my survival. Sometimes, I was sick and I couldn't work."

- Naw Ho--- (female, 40), Ma--- village, Lu Thaw Township (December 2009)

"During SPDC movements, when mothers deliver their babies in the jungle they don't receive enough medicine. We take care of each of them; luckily they don't face big difficulties during the time they have new infants. Just a few people face terrible situations when they deliver their babies."

- Naw Jo--- (female, 29), Naw Ko--- village, Lu Thaw Township (September 2009)

"There is one time that I fled from an SPDC attack and my grandfather was wounded, but he didn't die; he hid because he couldn't run far. My mother and I fled another way into the jungle. In the evening we went back home and people found my grandfather then brought him home. He was injured by an SPDC shell when fleeing. One of my nephews was also injured when fleeing... We didn't take them anywhere. They just were treated by herbal medicine at home."

- Saw Nu--- (male, 18), W--- village, Lu Thaw Township (December 2009)

¹⁰⁴ The Karen Environmental and Social Action Network (KESAN), for instance, has helped to establish six herbal medicine forests, three herbal gardens and four clinics using traditional medicine inside Karen State. These programs are part of KESAN's Healing and Herbal medicine Project, which is designed to "collect and share information on the use of herbal and traditional medicine by Karen villagers" in order to "preserve Karen traditional medicinal knowledge and promote the use of Karen traditional medicine by empowering communities to control their own primary healthcare by the establishment of herbal forests, herbal gardens, traditional medicine handbooks, clinics and training centres." Handbooks released and distributed by KESAN include: the Karen-language *Karen Traditional Herbal Medicine Handbook*; and: *Herbal Medicine, Karen State, Karen Community Knowledge*, in Karen and Burmese languages. For more information on these projects, visit the KESAN website: http://www.kesan.asia/traditional_medicine.html



This photo, taken on March 4th 2009, shows a villager from the Co--- hiding site receiving medicine during a visit by a mobile health unit from a local health organisation. [Photo: KHRG]



This photo, taken on June 4th 2008 in Zu--- village, Lu Thaw Township, shows a stone on which villagers pound herbs to make traditional medicine. Many communities in hiding treat illnesses and injuries with locally-available medicines due to SPDC restrictions on humanitarian access to Lu Thaw. [Photo: KHRG]

Finally, limited medical services are provided by a handful of clinics and mobile medical teams from local organisations operating in the area as well as with administrative support in Thailand, including the BPHWT and the Karen Department of Health and Welfare (KDHW). Clinics and mobile medical teams serve approximately three quarters (21,026 people) of the population in Lu Thaw. However, health workers that spoke to KHRG noted significant obstacles related to security and ease of movement, which restricted health providers and patients' access to one another, as well as limited resources, that continue to restrict their ability to access target populations. While these programmes face significant obstacles and cannot be overstated as a viable substitute for adequate and widely accessible health care, villagers have nonetheless described them as providing crucial support that enables them to survive in non-state spaces for sustained periods of time in spite of attacks by the SPDC Army.¹⁰⁵

"In 2007, many villagers suffered from measles so we couldn't work on our farms or fields... Our health department [the Karen Department of Health and Welfare (KDHW)] came and helped us, so we're lucky that no one died. The situation was very bad but we finally passed through it."

- Saw Mi--- (male, 54), Fa--- village, Lu Thaw Township (December 2009)

¹⁰⁵ Programme information and population data courtesy of BPHWT and KDHW, July 2010.

"When the villagers get sick they usually cure themselves by traditional medicines. If they get terribly sick they're sent to the other side of the road to get treatment from Karen soldiers [KNLA]."

- Saw Je--- (male, 34), C--- village, Lu Thaw Township (April 2009)

"Most people get sick from common colds, fever, cough and diarrhoea. Yesterday, Back Pack [the Back Pack Health Worker Team (BPHWT)] arrived in the village. They don't come to our village very often."

- Saw D--- (male, 40), P--- village, Lu Thaw Township (October 2009)

3. Education

"There was a school but now we can't have Wi--- School operate independently. It operates together with Vi--- School. In 1997 after we fled, there was no more school. In 2003, the first year we went back to Wi--- village, we still couldn't operate the school. From 2004 to 2006 we ran the school again but in 2007, the school was stopped... Four of my children go to school. I just ask people to help me pay for their school fees first and, if I have rice, I have to pay them back with rice like that... I hope that we'll be able to live and work in our own village, and that the children can go to school safely. But we can see that in our country, the Burmese soldiers [SPDC] occupy many places, and if they don't leave or retreat we can't go back."

- Naw A--- (female, 43), Z--- village, Lu Thaw Township (December 2009)

"I hope to see my children in good condition and with the chance to study well, to have enough food and have every important thing in their lives before I die... We're parents and we hope to see our children have the chance to work as other people do, to live as other people can live."

- Naw M--- (female, 46), A--- village, Lu Thaw Township (December 2009)

Stable education for children of displaced villagers in non-state spaces of Lu Thaw Township is directly and indirectly threatened by several factors stemming from SPDC Army activity, challenging humanitarian conditions and deepening poverty affecting communities that have fled from state control. Although not as biologically essential to survival as food and health, the priority placed upon securing education for children is reflected in statements made to

KHRG field researchers by both students and adults, as well as the resilience and flexibility of educational systems established by displaced communities.¹⁰⁶

"Ebenezer School¹⁰⁷ is located in Ni---. Because of the enemy movements, the school was moved here. It has been located here for three years. We had to study on the riverbank [before the school was set up] but we completed the course. Here, we still worry that the Burmese [SPDC] will come... I want to be a teacher to advance the students, for them to work for their people... For the future I hope students will be able to learn freely, with no more running."

- Naw Ku--- (female, 17), Ca--- village, Lu Thaw Township (December 2009)

"It became a problem when the SPDC came. I don't want those things to happen in the future and coming years; I hope we'll be able to learn freely without being interrupted by the Burmese army [SPDC]."

- Saw Ju--- (male, 17), Ni--- village, Lu Thaw Township (November 2009)

"The school had till grade three and we had two teachers... Each student had to provide their teachers [food]... The teachers had to do their own hill fields, but the students' parents helped them with cleaning weeds, harvesting and cutting down trees to make hill fields... A minority of children in the village attend school, because some children's parents can't afford to send their children to school. But we want our children to get an education and be educated people."

- Saw B--- (male, 38), Y--- village, Lu Thaw Township (May 2009)

Communities offer whatever schooling their resources can support with some receiving partial outside assistance from independent groups like the Karen Teachers Working Group (KTWG), the Karen Education Department (KED), the education wing of the KNU or other local indigenous or religious organisations. Local organisations provide support for teacher salaries, curriculum or basic materials, with parents making up the difference. Leaders from education groups active in Lu Thaw that spoke with KHRG emphasised the crucial role local communities play in maintaining education for their children, even in the face of attacks by the SPDC Army:

¹⁰⁶ The social value, in terms of preserving a sense of community and continuity, of maintaining education during displacement has also been argued in: Malseed, "Networks of Noncompliance," KHRG Working Paper, April 2009.. For more on the particular emphasis placed on education, and lack of education, in the formation of Karen identity, see Nick Cheeseman. "Seeing 'Karen' in the Union of Myanmar," *Asian Ethnicity*, Vol.3 No.2, September 2002.

¹⁰⁷ For details on Ebenezer School, including documentation of an incident in which nearby Ebenezer Church was attacked by SPDC Army soldiers, injuring the pastor and two children, see *Growing up under militarization*, KHRG, April 2008, pp.43-48.

"Schools were established by the community. This means... the community builds [the school] and manages it by themselves. The only things that we [provide] are to make education stronger, in a better system to run the school and support the children, to teachers to be able to continue to study and teach. The community builds the building, finds the teachers, organises the place. They organize themselves how to set up the school and what grades are [needed in] the village and how to continue [keeping] the school in the community... when the SPDC attacks, the children, the teachers, the parents, will still be together. Then after the SPDC goes, they will reorganize themselves to open the school again."

-Naw --- (female), KTWG Chairperson (July 2010)

"If SPDC approaches us the students don't attend school; sometimes the school has had to close for at least one month... There are three teachers and more than 20 students attending school. The school is supported by villagers, but some local organizations also come to provide materials to the school. And the teachers' salaries also come from the local organizations. But the students' parents have to provide the teachers' food."

- Saw Je--- (male, 34), C--- village, Lu Thaw Township (April 2009)

"There are 23 schools but they are in different sites; all of the schools are based in IDP sites. The schools are supported by missionaries, the KNU and some are supported by the villagers. There are two high schools till grade ten, three middle schools, and the others are primary schools. The teachers are supported by missionaries, the KNU and villagers, but the teachers here don't care about their salaries; they just sacrifice themselves for the children. Some curriculum and school text books are from the SPDC government and some others are from the KNU."

- Saw Lo--- (male, 55), Ti--- village, Lu Thaw Township (October 2009)

Direct SPDC attacks on villages or general SPDC activity nearby can force schools to close temporarily or permanently while children, parents and teachers are forced to flee. During the first year of the 2005-2008 Offensive, for instance, KHRG confirmed that schools in at least seven villages were forced to close because of SPDC attacks or nearby activity.¹⁰⁸ In February 2010, KHRG and the Free Burma Rangers (FBR) reported that an SPDC mortar attack on a school in the Ro--- IDP hiding site in northern Lu Thaw Township, which killed a 15-year-old student and wounded a 10-year-old and an 8-year old student, forced the residents of the site to flee and put the

¹⁰⁸ See, *Growing up under militarization*, KHRG, April 2008, pp.43-46.

students' exams on hold.¹⁰⁹ The fact that an escalation of attacks remains a distinct possibility means that education for children in non-state spaces will continue to be unstable for the foreseeable future.

"I didn't have to flee when I was in grade three, but when I studied in grade four I had to flee once. The soldiers didn't come to our village but they patrolled nearby, so we fled to the jungle. When they left, we came back to our village. When I was in grade seven, while we were taking our mid-term exam we heard the sound of mortar explosions, so we had to try to concentrate while listening to the explosions. Once we finished the exam we fled out of our village immediately. Later, we came back to our village and continued our school."

- Naw Mo--- (female, 15), Si--- village, Lu Thaw Township (December 2009)

"We had a school [in Te--- village], but only for three years, because of SPDC attacks."

- Saw Ji--- (male, 55), Te--- village, Lu Thaw Township (December 2009)

"[Our school] was first located in E--- village and we named it E--- Middle School. Later in 1996 and 1997, because the Burmese army [SPDC] attacked the village, villagers moved to other places so we also had to move the school. We all fled in 1997. We fled that whole year, we couldn't run the school... In 1998, we rebuilt the school at Pi---, near Ni--- village. Then we named the place Ebenezer... In 2003 we build a high school called KAFA [Karen Adventist Frontier Academy]... Later in 2006, the enemy launched its operations again. We moved to Saw Muh Bplaw, Ler Muh Bplaw and from place to place. Again we moved to E---, MI--- and to LI---. We knew that the enemy was very strong, so the villagers moved from place to place again and again... The Burmese soldiers [SPDC] planned and constructed a vehicle road between Dt' Roh Kee and Boh Nah Der, so it separated villagers into two groups. One group lives on the other side of the SPDC-controlled vehicle road and the other group is those who fled here. Now we can't meet each other easily."

- Saw Po--- (male, 45), F--- village, Lu Thaw Township (December 2009)

"[When] the Burmese army [SPDC] arrived at our school, they took the typewriter and they took many school materials. I was studying in grade 5 at that time. They tore our papers [and threw them] on the ground. They didn't burn the school but they burnt people's houses. I hope in the future this won't happen because students have lost the

¹⁰⁹ "SPDC mortar attack on school in Papun District," KHRG, February 2010

chance [to study]; the school courses couldn't be completed. If you go and study at another school, you can't catch up with your friends."

- Saw Hu--- (male, 19), To--- village, Lu Thaw Township (December 2009)

Following attacks or displacement, adults and students interviewed by KHRG in Lu Thaw described going to great lengths to continue educational activities. Villagers reported rebuilding destroyed schools, building temporary schools at hiding sites or holding classes in makeshift jungle 'classrooms.' Again emphasising the importance placed upon education by villagers in Lu Thaw, some adults and students described taking time to collect or carry educational materials during flight.¹¹⁰ In other cases, villagers reported using natural materials to fashion blackboards or desks from rock facings and bamboo. After the attack on Ro--- village disrupted exams in February 2010, for instance, villagers reported that students' exams were resumed at another location.

"When I was first studying, I had to flee one time from M--- School. That year, we had to do our examinations in the jungle. The last time I had to stop my studies for a half year and have my exams at the end of the year."

- Saw Lu--- (male, 20), Ja--- village, Lu Thaw Township (December 2009)

"[We had to flee] many times when I was studying in grade 5 and 6 at So--- village SDA [Seventh Day Adventist] School... I had to flee four to five times a year... Sometimes we hid for one week and sometimes for three or four days... Some of the teachers finished [our lessons] because we brought our books along with us when we were fleeing and continued studying in the jungle."

- Saw Mu--- (male, 20), Ja--- village, Lu Thaw Township (December 2009)

In spite of communities' attempts to maintain educational activities in the face of attacks, education is undermined by the inter-related humanitarian concerns of food insecurity, health, and poverty. When a family or community is confronted with a severe food shortage, older children may have to leave school in order to support their families' food production or procurement efforts by working in hill fields with their parent or parents, foraging for food, performing daily labour or taking care of younger siblings. In this way, the exigency of addressing one humanitarian concern serves to undermine another: families must sacrifice the education of their children to address food security and other household needs. Since school fees are often paid in kind, usually tins of paddy, students may also have to withdraw from school for

¹¹⁰ For more details on strategies villagers in other parts of Karen State use to maintain education during displacement, see *Growing up under militarization*, KHRG, April 2008.

financial reasons in times of acute food insecurity if their families can no longer afford school fees.



The photo on the left, taken on March 1st 2009, shows a girl taking care of her younger sibling at a hiding site in Lu Thaw Township. The photo on the right, taken on March 4th 2009, shows a young girl carrying water back to the hiding site where her family currently lives. Children often have to help out their families by performing household duties or looking after younger siblings while their parents and older family members are engaged in livelihoods activities. [Photos: KHRG]

"I just did farming to feed my family but I couldn't afford to pay my children's school fees anymore, so I kept one of them who'd reached the age for schooling out of school. I asked her to look after her younger siblings... I hope my children can go to school and they won't have to worry about their livelihood. I also hope that my children can help me with farming or work for our survival."

- Naw Do--- (female, 29), Yi--- village, Lu Thaw Township (December 2009)

"There are so many expenses for me. I have to buy salt. As three of my children go to school, I have to buy them shorts, shirts and other things... Because three of my children go to school, I got a discount for one child: I have to pay only for two of them. This year, I haven't paid the fees yet. I have to give half of my rice even though my rice isn't enough for my family."

- Naw Ti--- (female, 45), Ko--- village, Lu Thaw Township (December 2009)

"I can't afford to buy clothes for my children so their aunts and uncles give them clothes to wear. I also can't pay for my children's education, so I ask them to help me with farming. If all of them go to school, I can't work alone to feed them."

- Naw Pi--- (female, 60), Ke--- village, Lu Thaw Township (December 2009)

"Some years there are more students and some years we have fewer students. It's because parents have to move to different places to do farming, so they can't come back to the village to enrol their children in school on time. Sometimes they have to send their children to villages which are closer to their farms."

- Saw Ja--- (male, 33), Ma--- village, Lu Thaw Township (December 2009)

Illness or disease suffered directly by children can cause students to miss school; the ever-present risks to health posed by malnutrition and lack of adequate clothing and shelter, discussed above, greatly increase the chances that children in displaced communities will become sick and thus miss school. Health conditions in non-state spaces are also conducive to the spread of contagious maladies; as in the case of the unidentified illness described in Section IV: B-2, schools may have to close when large numbers of students become infected and the risk of contagion is high. Finally, illness, disease or death among family members may force older students out of school to support their families' livelihoods activities.

"First, patients get a runny nose and it can infect other people. Most of the students got sick from this kind of disease, therefore the school has had to be closed. The majority of the students got sick so we had to stop the school for a while. Mostly it's children around six or seven years old who get sick from this kind of disease... The other villages also had to shut down their schools like us. All of my children got sick from this disease; I think it'll spread to the whole village tract."

- Saw Qo--- (male, 45), Jo--- village, Lu Thaw Township (October 2009)

"I used to send my daughter to school for four years but she had to leave the school after her father's death."

- Naw Ro--- (female, 64), Za--- village, Lu Thaw Township (December 2009)

Despite the concerted efforts villagers and local organisations make to provide education for children in Lu Thaw, access to complete education continues to be limited and inconsistent. Primary education remains out of reach for children in some communities, while securing a complete education remains elusive or can involve children or entire families moving multiple times to areas with middle and high schools, and even then potentially enduring interruptions

in education due to SPDC military activities or humanitarian crises. Some families have decided that sending or taking their children to refugee camps on the Thailand – Burma border offers the best prospect for their children to obtain an adequate education.

“Now, we have many children who’d like to study but we don’t have a school... We also can’t buy pens and books for the children who can read or write.”

- Saw Di--- (male, 34), F--- village, Lu Thaw Township (December 2009)

“There was a school but after we fled we couldn’t manage to run it again, so the students just go to different schools in the area. Some went to study in refugee camps and some study in schools located on the other side of the vehicle road.”

- Naw S--- (female, 18), N--- village, Lu Thaw Township (December 2009)

“One family went to Hi--- village and seven families went to live in refugee camps. Now there are 15 households living near Fa--- village... Some of the villagers didn’t want their children’s education interrupted; they went there so their children can study freely.”

- Saw Mi--- (male, 54), Fa--- village, Lu Thaw Township (December 2009)



This photo, taken on February 19th 2010, shows Saw R---, 15, who died from a stomach injury sustained when SPDC soldiers from MOC #7 fired an 81 mm mortar into T--- hiding site, Lu Thaw Township. Saw R--- was sent to three different medical facilities but his wound was too severe to be treated. [Photo: KHRG]



This photo, taken on March 6th 2009, shows Saw Ru---, writing guitar chords on a blackboard during music class at Go--- school in Nah Yoh Hta village tract. Saw Ru--- doesn’t receive a salary for his teaching. [Photo: KHRG]

"In 2008 and 2009 I thought I couldn't send them to school here, so I sent three of them to a refugee camp. They're very small. They didn't want to go and live there but for them to become educated, I sent them, because I didn't have any other choice. There are so many difficulties that I have to face as a mother. Sometimes if I think about them, I can't sleep... Only two children live with me now, the oldest one and the youngest one... My oldest child has had to stop schooling to help me, and my youngest child is going to school now."

- Naw Hi--- (female, 47), Xa--- village, Lu Thaw Township (December 2009)

Education and schools in Lu Thaw do not appear to be deliberately targeted by the SPDC Army. However, as described above, when villagers are attacked or villagers calculate that they must flee, schools are destroyed and education is disrupted. The humanitarian consequences of SPDC activity in these areas, meanwhile, combine to affect the availability of and access to education to such an extent that some families feel that relocation is necessary in order for their children to receive an adequate education. Educational instability may therefore complement the SPDC's long-term objective of driving villagers in hiding out of non-state spaces. The decision by many families in hiding to take or send their children to schools in non-state spaces, or in refugee camps, rather than to SPDC-controlled areas, however, is yet another meaningful protection response.

V. Armed self-protection strategies: Causes and consequences

A. Armed self-protection strategies

The cumulative consequences of pressure maintained on displaced communities by the SPDC via attacks, restrictions and other measures in northern Lu Thaw Township during and after the 2005-2008 Offensive have seriously challenged many of the local protection strategies mentioned above. Growing displaced populations have been unable to extract sufficient food resources from the limited and unproductive land available in areas beyond the authority of the SPDC. Other measures, such as movement restrictions enforced with threats of physical violence and landmines, have also undercut the food supply across northern Papun District; constraints on individual agricultural productivity precipitated by disease and other health problems have further hampered individual and collective efforts at food security. Such conditions have forced many to begin attempting to cultivate lands near SPDC army camps or within the reach of regular patrols or artillery, despite the physical security risks inherent in doing so.

"I plan to look for a piece of land that is more fertile than that we worked on in the past few years. That'll be in an area located near the enemy. There isn't much land even near the enemy."

- Ye--- (male, 46), F--- village, Lu Thaw Township (December 2009)

"We could work on some of our farms which are farther away from the SPDC, and most of our farms were left over [not destroyed]. Because those farms are in open places, the SPDC can see us from their camp on the hilltop if we go back and do farming on our farms. Then they shell us with mortars. We just work together on the farms that we dare to work. If there is a small farm, two families work it and if there is a wider farm, three or four families work together. We'll face food problems for the coming year. Currently the crop fields aren't ripe yet so now we've started to have to drink porridge."

- Saw P--- (male, 15), Za--- village, Lu Thaw Township (September 2007)

Since the onset of the northern Karen Offensive the gradual yet persistent encroachment of SPDC military power into non-state spaces, as well as military operations targeting civilian populations and civilian agricultural activities in such areas, has contained displaced communities and the spaces available for flight or covert food production in Lu Thaw. These circumstances have also limited the capacity of the KNLA, from whom displaced villagers in

northern Lu Thaw say they have often sought protection support, to guarantee the security of many of the most affected displaced communities. As a consequence, the physical and food insecurity villagers must confront in order to continue to survive beyond SPDC control have greatly increased.

When essential protection strategies employed by local communities to promote individual and collective survival are acutely threatened by deteriorating humanitarian conditions and security threats, some villagers have pursued other, more extreme modes of protection. Villagers in Lu Thaw appear to be conducting armed security activities that are extremely varied in terms of the scope and nature of tactics used, objectives, number of participants, degree of organisation and degree of autonomy from non-state armed groups like the KNLA. The specific acts or activities undertaken to promote security appear to be dictated by local or individual needs, available resources, and perceived threats to security and survival. Different methods may promote or undermine the human rights and security of displaced villagers in important ways, a consideration that must be central to any discussion of their utility as protection strategies. The following sections outline some of these activities and discuss their potential impacts on the human rights and physical security of displaced civilian communities in northern Lu Thaw Township. The discussion of armed protection strategies accessed by civilians is neither intended to promote nor legitimise them, but to add to KHRG's ongoing documentation of the ways in which villagers in eastern Burma respond to human rights abuses that target civilians and civilian livelihoods, and develop methods of mitigating or preventing such abuse.

1. The KNLA, KNDO and civilian support

SPDC military attacks and other measures targeting displaced civilians in non-state spaces of northern Lu Thaw Township are carried out and justified under the auspices of SPDC counter-insurgency efforts against the KNU/KNLA. In official statements, the SPDC names the KNU as the group it is fighting in "*counter insurgency campaigns*" and "*counter-terrorist activities*."¹¹¹ The KNLA has, according to recent estimates by KNU Central Executive Committee member Saw David Htaw, "*no more than 3,000*" soldiers in total.¹¹² Members of the KNLA later hotly contested Saw David Htaw's estimate. Other analysts have estimated that the KNLA can draw upon approximately 5,000 soldiers.¹¹³ In either case, estimates for KNLA and KNDO troop strength is spread across an area of locally defined Karen State that stretches from Tenasserim Division

¹¹¹ See "Note verbale dated 10 March 2008 " UN HRC, March 10th 2008, paragraph 47.

¹¹² In the same interview, Saw David when on to say, "*We can't say accurately how many troops we have in reality*." See: "KNU in Serious Crisis," *The Irrawaddy*, March 24th 2009.

¹¹³ Ashley South. *Ethnic politics in Burma: States of conflict* (hereinafter *Ethnic Politics*), New York: Routledge, 2009 (2nd ed.), p56.

and across Mon and Karen states as well as eastern Bago Division. Papun District, which the KNLA refers to as '5th Brigade,' is where the KNLA is strongest.¹¹⁴ According to a major in KNLA 5th Brigade, two regular battalions are active in Papun, plus one *Tho du so* 'commando' battalion under orders from the KNLA central command. Regular battalions in KNLA 5th Brigade include Battalion #102, and a battalion known as *gher gaw*, or 'defend the country;' this consists of uniformed KNLA soldiers fully incorporated into the KNLA command structure, and is not to be confused with the *gher der* local security units organised and staffed by local villagers described below.¹¹⁵



These photos, taken on April 23rd 2009, show villagers from Ja--- village, Lu Thaw Township, before and after crossing the Kyaukkyi to Saw Hta vehicle road under security provided by KNLA soldiers. The villagers were travelling in an attempt to procure food in eastern Lu Thaw Township. [Photos: KHRG]

According to the same source in KNLA 5th Brigade, one battalion of the Karen National Defence Organisation (KNDO) is also present in Lu Thaw Township. The KNDO is a militia force of local volunteers¹¹⁶ trained and equipped by the KNLA, and incorporated into its battalion and command structure; its members wear uniforms and typically commit to two-year terms of service. KNLA and KNDO units engage in guerrilla operations¹¹⁷ against SPDC forces in Lu Thaw

¹¹⁴ "KNU in Serious Crisis," *The Irrawaddy*, March 2009.

¹¹⁵ The practice of identifying battalions by name rather than a number is not unprecedented in or unique to the KNLA. Another KNLA battalion active in Lu Thaw Township is known as *Tho du soe*, or 'commando' battalion. DKBA Battalion #777, active in southern Papun, particularly in Dweh Loh Township, is more often referred to as *Gk'Saw Wah*, or 'white elephant' battalion.

¹¹⁶ It has however been reported that KNDO units have in the past engaged in forcible recruitment, including of children, and accepted child volunteers, despite claims by the group to be putting an end to the practices. See: *My Gun Was as Tall as Me*, Human Rights Watch, October 16th 2002, p.131. See also: "Photoset 2005-A," KHRG, May 27th 2005, introduction and photo 12-15 in "Soldiers."

¹¹⁷ The KNLA formally adopted the use of guerrilla tactics in 1998 at a military conference in Mae Hta Raw Tha, Dooplaya District. See, South, *Ethnic Politics in Burma*, 2009, p.56.

Township, for example ambushing SPDC Army patrols or re-supply operations, destroying bulldozers used to clear roads and deploying landmines to deny SPDC columns access to certain areas.

Conditions in non-SPDC controlled spaces of Lu Thaw Township are such that interaction between the displaced civilian population and organised armed groups is inevitable. A lack of SPDC authority means that such spaces are conducive both to civilian avoidance of state control, as well as relatively freer movement for KNLA and KNDO troops. Civilians that choose to remain in, or flee to, Lu Thaw Township are likely see the KNU, and by extension the KNLA, as a more legitimate authority than the SPDC.¹¹⁸ Such perceptions may variously stem from personal and repeated experiences of SPDC abuses perpetrated in the context of decades of military offensives against the civilian population of non-state areas;¹¹⁹ ardent Karen nationalism; or dynamic protection calculations about which group is perceived to least threaten individual, family or community livelihoods and ultimately survival. In many cases, displaced civilians in Lu Thaw actively seek protection from the KNLA and KNDO units deployed near their villages, for example to remove landmines near their villages¹²⁰ or to provide security while crossing SPDC-controlled roads to conduct trade or livelihoods activities. In turn, some civilians provide voluntary, or involuntary, political, logistical, financial or material support to these groups: examples of such activities include the provision of food, money and other material resources and performing tasks such as guiding, cooking or portering.¹²¹

In some cases, displaced villagers directly cooperate in or support specific KNLA or KNDO commanded operations against SPDC personnel or objects. This kind of participation typically occurs in communities particularly threatened by their proximity to an SPDC base or repeated attacks by SPDC patrols or seasonal offensives. For example, a villager might support a KNLA unit in ambushing an SPDC patrol in various ways, for instance by carrying and using a weapon in the ambush; by portering materials essential to the attack such as weapons or a landmine; or by retrieving and communicating tactical (as opposed to strategic) intelligence to KNLA soldiers, such as location, movements or troop strength of the SPDC patrol to be attacked. Villagers

¹¹⁸ Other research has noted that villagers have also fled to areas controlled by other actors, such as the SPDC, DKBA or, in the context of refugees or migrant workers, the Thai government. See, South et al, *Conflict and Survival*, 2010.

¹¹⁹ Stephen Hull. "Articulating grievance in southeast Myanmar," paper presented at the conference *Civilians and Citizenship: Ethnographic and Political Economy Perspectives on Civil War in South Asia*, Delhi University, February 2010.

¹²⁰ For a recent example of KNDO members removing landmines from a village, see: *Grave Violations*, KHRG, January 2010, pp.8-9.

¹²¹ It is important to note that villagers have reported that taxes and requests for support levied by the KNLA or KNDO have been reduced in areas of Lu Thaw where food shortages have become especially acute.

participating in KNLA activities are usually provided weapons or equipment such as radios, depending on their role in a given operation.

“To protect ourselves, we combine and work with the KNLA. Sometimes, the villagers themselves buy weapons to use for security and sometimes, the security force gave them weapons to use only for a single time to protect themselves. They use [weapons] such as muskets.”

- Saw T--- (male, 42), Gi--- village, Lu Thaw Township (April 2010)

In many cases, KNLA operations that aim to undermine the capacity of SPDC forces to direct attacks into non-state spaces can simultaneously support both KNLA military objectives and the immediate protection needs of displaced communities, and may therefore attract the support of locals who perceive their participation in such activities as fundamentally security-oriented.¹²² Some activities on which villagers and KNLA or KNDO soldiers cooperate are in fact entirely geared towards promoting physical and livelihoods security for displaced civilians, such as patrolling around villages or agricultural lands while residents are working.

Individuals living beyond SPDC control in northern Lu Thaw Township have told KHRG field researchers, however, that they have increasingly had to share or take responsibility for their own security since the onset of the 2005-2008 Offensive, due to the incapacity of the relatively few KNLA and KNDO soldiers deployed in the area to provide adequate security for the large IDP population in the face of sustained military pressure and expanding control of territory by SPDC forces.

“Some villagers also take security for the village and join hands [cooperate] with KNLA soldiers. If there were only KNLA soldiers, they couldn’t take security for the whole area. We don’t dare to let ourselves be seen by the SPDC because when they see us, they’ll shoot to kill us. In the past, we had villagers that were shot and killed by the SPDC soldiers and the SDPC soldiers burnt down our village.”

- Saw To--- (male, 58), M--- village, Lu Thaw Township (April 2008)

“We went back in fear and took rice during the night time from the rice barns that were a little bit far from the SPDC. In that case, the KNLA soldiers had to take security for us and even when we worked, the KNLA soldiers patrolled around and took security for us every day. But the KNLA have a small number of soldiers, so villagers who are single

¹²² That KNLA operations may be perceived locally to improve the immediate security of villagers over the short-term is not to take a position on whether armed activities by the KNLA promotes villagers’ long-term security.

cooperate with KNLA soldiers and patrol around and defend our workplaces and our villagers."

- Naw So--- (female, 60), Fi--- village, Lu Thaw Township (September 2007)

The strength and influence of the KNLA and KNDO in northern Papun District should not, however, be overestimated. Neither group permanently controls territory and the extent to which each is able to provide protection to small groups of the 27,228 villagers in northern Papun has become greatly constrained by the persistent expansion of SPDC military power in the area.¹²³ Displaced villagers and communities often attempt to fill this protection gap by providing various forms of support to KNLA or KNDO operations and security measures. As the Section V: A-2 explains, even where minimal security support from non-state actors is unavailable, villagers do not necessarily flee to areas where KNLA/KNDO personnel may be able to better guarantee security or to SPDC-controlled areas. Many instead confront extreme physical and food insecurity and attempt to survive in hiding near their home villages under control of neither armed actor, making individual or collective security arrangements independently of the KNLA/KNDO. This suggests that for many displaced civilians in northern Lu Thaw Township, local and individual priorities motivate villager protection strategies, including methods involving the use of weapons, to a greater degree than individual political allegiances to any party to the conflict.

"Villagers in Saw Muh Bplaw village tract have to work closer to the Burma [SPDC] army camp because they only have a small space in their hiding places. Villagers have to protect themselves, their farms and hill fields because there isn't anyone to protect them."

- Saw --- (male, 52), KHRG field researcher, Lu Thaw Township (November 2009)

¹²³ The KNLA and KNDO have struggled in recent years to maintain control of core territory, including losing crucial positions in Pa'an District to the south. Problems have been variously attributed to lack of funding and declining economic opportunities, increased constraints on activity based in Thailand, difficulties acquiring weapons, ammunition and other necessary materials, and loss of crucial young officers and political cadres due to third country resettlement and fatigue. One recent report, for instance, described the KNLA as "largely restricted to a few patches of jungle (and refugee camps) along the Thailand-Burma border." See, South et al, *Conflict and Survival*, 2010.

"Sometimes we could hear the shooting of mortars in the distance, so we have to worry about that too. Currently, there are only a few soldiers to take security for us or defend us if the Burmese [SPDC] soldiers come."

- Saw C--- (male, 45), U--- village, Lu Thaw Township (December 2009)

2. Gher der home guard groups

"Now some of the free villagers have to take up weapons and take security for the villagers whose workplaces are near the SPDC camp. We defend ourselves and our workplaces. Even though we're holding guns, we aren't soldiers. We're just villagers who defend our workplaces and villages. The KNU leaders call us a home defence group."

- Saw Vo--- (male, 30), Di--- village, Lu Thaw Township (September 2007)

"[In Ci--- village] We only have villagers who take up weapons and take security for the village. We call them home guards."

- Saw Wo--- (male, 45), Ci--- village, Lu Thaw Township (April 2008)

Gher der or 'home guard' groups¹²⁴ have been organised locally in parts of Kay Bpoo, Nah Yoh Htah, Saw Muh Bplaw and Ler Muh Bplaw village tracts that are threatened by offensive SPDC military operations targeting civilians, and the resulting acute food insecurity. Villagers interviewed by KHRG report that these groups were established with the objective of providing security for communities of displaced civilians in non-state spaces while they reside in hiding sites, and in particular when they engage in food production or procurement activities. Although civilians have likely conducted similar protection activities independently or on an ad hoc basis at other times, *Gher der* in Lu Thaw were reportedly first formed as organised units in 2006 and 2007 at the height of the SPDC's 2005-2008 Offensive. Village heads from across northern Lu Thaw Township reportedly held a meeting in Kay Bpoo village tract to discuss security threats posed to displaced civilians' livelihoods and long-term survival by SPDC offensive operations. The heavy SPDC troop presence, pressure from sustained military operations including during the 2006 and 2007 rainy seasons, and the expansion of SPDC-controlled areas during the offensive had severely hampered the KNLA and KNDO's ability to provide protection to displaced communities, which IDPs had previously

¹²⁴ The Karen term *gher der* roughly translates as 'defend [our] homes;' see: Malseed, "Networks of Noncompliance," April 2009, p.20. The terms *gher der* and 'home guard' are used interchangeably in this report.

accessed as a means of self-protection.¹²⁵ Indeed, KNLA leadership explicitly told village leaders in some parts of northern Lu Thaw that they would not be able to protect them and suggested they abandon the area.¹²⁶ Villagers who were unwilling or unable to flee to more secure areas, or to refugee camps in Thailand, told KHRG they decided that organising their own security for their villages and livelihoods activities would be the best option to mitigate the impact of SPDC attacks, enhance physical and food security, and resist relocation to state-controlled areas.

"They came up to the mountainside and burnt down the villagers' houses and rice barns, and destroyed the food; and if they saw villagers they shot them dead. It was impossible for us to go back and cooperate with them. We don't dare to go back and stay under their control. If they continue their military movements more and more, the only way for us will be to take up weapons and defend ourselves and our workplaces, so that we'll have a better time to work for our livelihoods."

- Saw P--- (male, 15), Za--- village, Lu Thaw Township (September 2007)

"In Toungoo District villagers at Kler La, because they live under SPDC control, they can't go out and look for jobs or earn their livelihoods because of SPDC movement restrictions. We heard that some of the villagers started to drink porridge because they have no food. They want to go [leave] but they can't. We villagers who are outside control, we won't go back and stay under SPDC control. So we take up weapons and defend our workplaces for our villagers to be able to eat."

- Naw So--- (female, 60), Fi--- village, Lu Thaw Township (September 2007)

"The home guard has been formed in every village tract because the enemy, the SPDC, stays near civilians. The village tracts which that home guards are Ler Muh Bplaw, Saw Muh Bplaw, and Kay Bpoo

¹²⁵ Towards the end of the 1997-1999 SPDC Offensive, for example, many villages in northern Lu Thaw Township appointed two villagers from each community to observe SPDC movements and communicate with KNLA troops in order to provide information and advance warnings to villages about incoming SPDC patrols and attacks. This formal co-operation was reportedly suspended in 2000 after the offensive wound down; however, sharing information and the use of advanced warning systems, often supported logistically by the KNLA, have remained an important protection strategy employed by villagers in hiding to mitigate the impact of SPDC attacks. See: *Village Agency*, KHRG, November 2008, pp.123, 137.

¹²⁶ "If we move to another area the KNLA cannot secure it for us, and the SPDC will make bases around our villages so we won't be able to come back," one village leader responded. Village leaders "said they would rather stay on their land and flee when necessary, and that they were banding their villages together under the name 'Gher Der.'" See, Malseed, "Networks of Noncompliance," April 2009, p.20.

village tracts. They've set up home guards in each village tract. The leaders of each home guard from different village tracts call a meeting when it's necessary to hold one. They communicate with KNLA soldiers in order to get information about SPDC operations... We can't say that we can do our livelihoods freely because the SPDC offensive hasn't stopped and still continues now. When the SPDC army operates, we run away and when they go back, we come back. Therefore, we can't work freely. It makes big problems for us. But we can't become displaced to another place so we have to take security together in order to continue to live."

- Saw T--- (male, 42), Gi--- village, Lu Thaw Township (April 2010)

Interviews conducted by KHRG with *gher der* members as well as regular villagers indicate that *gher der* units are organised at the village tract level and consist of civilian community members¹²⁷ that perform a number of tasks to promote security at the village level, especially in villages threatened by their proximity to SPDC forces. These individuals monitor and share radio communications with nearby villages and the KNLA to keep informed about SPDC movements;

those lacking radio equipment observe SPDC activities and communicate information in person. When SPDC troops set up bases or patrol nearby, reports indicate that *gher der* members observe and secure approaches to their villages or agricultural land in case SPDC forces approach while villagers are working or sleeping; some members may have the expertise required to remove landmines placed by SPDC patrols in villages and fields in non-state spaces. Both *gher der* and individual villagers have also requested and received landmines from the KNLA; *Gher der* members say they deploy these to secure their villages, workplaces and hidden food storage containers that are spread over a much larger area than the few strategic points that a handful of armed villagers can secure on their own.



This photo, taken on August 7th 2008, shows members of a *gher der* home guard group providing security along the overgrown Pwa Ghaw to Kler La road as villagers from Bo--- village in Kay Bpoo village tract cross the road in an attempt to procure food. [Photo: KHRG]

¹²⁷ Further discussion of *Gher der* members' status as civilians is included in Section VI.

In the event of an attack by an SPDC patrol, members of *gher der* groups say they attempt to stall attacking soldiers with small arms fire, often from home-made muskets, or with home-made landmines acquired from the KNLA, to allow other civilians to escape before an incoming unit arrives in the area. In many cases, the observation and information-sharing activities of the *gher der* allow civilians ample time to flee before an SPDC attack. However, in communities where SPDC militarization has gradually circumscribed non-state space, for example in Saw Muh Bplaw village tract, civilians cannot always flee deeper into upland areas to evade SPDC attacks. Deteriorating land and food resources have thus pushed displaced villagers to brave heightened physical security risks by attempting to cultivate agricultural land nearer SPDC camps or roads than they would under less acute humanitarian circumstances. In such areas, *gher der* activities appear to be aimed at repelling SPDC attacks altogether and maintaining the limited remaining space for displaced villagers to pursue livelihoods and survive beyond state control.

"We have to monitor the SPDC operations secretly and work. We work and take security together in order for villagers to be able to live. At first, we didn't have anything [walkie-talkies] for communicating with each other. We just had to come back and tell villagers [news] by ourselves. Some home guards left to take security when we came back to inform the news to other villagers."

- Saw Xo--- (male, 45), Bi--- village, Lu Thaw Township (April 2010)

"Since I joined the home defence group, I've taken out six SPDC M14 landmines. On September 12th 2007 I took out three landmines at Zo---; on September 14th 2007 I again took out one landmine at Yo--- area and on October 2nd 2007 I took out two landmines in the Kay Bpoo village area."

- Saw Si--- (male, 47), T--- village, Lu Thaw Township (October 2007)

"We watch SPDC operations secretly when villagers cultivate their hill fields because the hill fields are close to the SPDC army camps, and the soldiers can see them clearly. We started using weapons over ten years ago. We organized ourselves and made muskets. Then, we took security for our villagers. When our villagers do their livelihoods, we go to take security for them. If we didn't look after our villagers in this way, they'd catch our villagers and us, too... Two or three home guards go to take security per day. Sometimes ten people, including new villagers that were called, go to take security per day. While cultivating hill fields close to the army camp, we watch the SPDC operations secretly and patrol. We arrange this plan on our own and the KNU [KNLA] only helps us."

- Saw Yo--- (male, 50), Bi--- village, Lu Thaw Township (April 2010)

All the *gher der* members interviewed by KHRG field researchers, as well as non-member civilians in the area, repeatedly claimed that *gher der* are not part of the KNLA and that the nature of their activities is fundamentally defensive. Determining the independence of *gher der* from the KNLA, and the protection-oriented design of their activities, helps to clarify whether home guards are locally developed responses to the protection requirements of displaced civilian communities, or units established to support specific KNLA military operations, capacity, or objectives. Statements by local villagers and members of *gher der* have affirmed that home guards operate independently of the KNLA, including repeated emphasis that they are not under the orders of the KNLA., although many noted mutual goals and pointed out actual or potential areas of cooperation. *Gher der* are locally-organised and largely self-equipped, but frequently request assistance from the KNU or KNLA in the form of weapons, which *gher der* lack; radio communications, which they cannot utilize for protection without support from KNLA relay stations;¹²⁸ and home-made landmines, which, while relatively easy to fabricate, deploy and deactivate, require a few key inputs such as explosives.¹²⁹ KHRG field interviews indicate that some home guard groups have recently requested that the KNLA supply them with uniforms to distinguish themselves from other villagers, as some presently write '*gher der*' on their clothes but others do not; KNLA officials are reportedly considering this request. That this request was highly formal in nature also suggests that *gher der* groups are not integrated into the KNLA command structure.

"The SPDC military camp isn't so far from us. We have to take security for ourselves. We don't have a lot of people to take security duty. We also have to work together with Karen soldiers [KNLA] about it."

- Saw Vu--- (male, 50), Wo--- village, Lu Thaw Township (September 2009)

"The KNLA/KNU army which wants freedom for civilians helps us as much as they can and supports us with some landmines. If they can help us with more weapons, we want and need more."

- Saw Yo--- (male, 50), Bi--- village, Lu Thaw Township (April 2010)

"The home guard group leads and manages tasks on its own. They are not under the army's [KNLA] control. The army just gives suggestions sometimes and looks after them and helps them... They don't get any support serving as home guards, but sometimes the KNU helps them"

¹²⁸ The KNLA administers two-way radio communications and operates radio base stations in areas beyond SPDC control. Anyone attempting to communicate via two-way radio in these areas, for logistical and security reasons, must therefore register their devices with the KNLA and rely upon KNLA communications support.

¹²⁹ Further information on landmines used by the KNLA, as well as information on SPDC and DKBA mines, is available in: "Insecurity amidst the DKBA – KNLA conflict in Dooplaya and Pa'an Districts," KHRG, February 2009.

with food. As we are Karen, the same nationality, and we work for the same thing, we have to look after each other. We have to work together in unity... The relationship between the KNU/KNLA and home guards is that, as we work for the same thing, we have to give suggestions to each other and negotiate with each other. In the home guard group, we don't have any contract for how many years a home guard has to commit in order to join the group. If they are energetic to work, they can work. If they can't work, they can leave and live as ordinary villagers. The home guard group operates independently. No one controls them."

- Saw Xo--- (male, 45), Bi--- village, Lu Thaw Township (April 2010)

Facts on the ground also bear out the distinction between the two groups. As explained above, home guards have been formed precisely because of the protection vacuum resulting in areas of Lu Thaw in which the KNLA has become less active or powerful.¹³⁰ In some areas, KNLA soldiers continue to provide security for villagers looking to cross vehicle roads to cultivate agricultural land or trade for essential food items, but cannot provide security to individual villages. While *gher der* activities appear to be condoned and actively supported by both KNU and KNLA authorities, it would be logistically difficult for the KNLA itself to exert full authority over *gher der* activities, and inaccurate to assume that such a relationship exists. *Gher der* activities are best understood as primarily designed to support local protection needs and objectives, and authorised locally, even though they may cohere with certain aspects of KNLA objectives in its conflict with the SPDC.

At the operational level, home guards appear to lack both the manpower and firepower to travel beyond their village tracts to carry out offensive ambushes or attacks against SPDC forces. Interviews with local villagers by KHRG field researchers suggests that at present there are between 70 and 100 individuals serving in *gher der* in northern Lu Thaw Township, although other civilians undertake similar activities on an independent basis where protection by home guards is unavailable. *Gher der* appear to have emerged as a local response to extremely precarious security circumstances in certain areas where protection strategies like evasion or protection by the KNLA are no longer viable. Leaving their communities to seek out engagements with SPDC forces would not only leave exposed the people they are supposed to protect, but would likely provoke reprisal attacks by SPDC units against which *gher der* are ill-equipped to defend. Statements from locals affirm that the bulk of *gher der* activities in fact entail observation and communication. Not all members of home guards carry or own weapons: many utilise home-made muskets and pass these on to other members of the home guard when they are not on duty. The home guards' heavy reliance on improvised landmines to defend

¹³⁰ See Malseed, "Networks of Noncompliance," April 2009, p.20.

approaches to villages or farm fields also reflects the imbalance in military capacity between the *gher der* and SPDC forces.

"In 2009, to be able to live and do our livelihoods, our villagers take responsibility for security. Although we don't have arms, we secretly watch SPDC operations, more than that we communicate with the KNLA, which takes responsibility for security at the front. We work together with them and they also give us news. For example, when the SPDC begins their operation, [the KNLA] warn us beforehand so that we can protect our selves and run... Sometimes, [the SPDC] shelled our living places. Their operations have continued from 2006 until now because they haven't abandoned any camps which they set up in our area. They often operate beside the vehicle road when rotating army units and sending rations... Sometimes, we civilians accompany them [KNLA] and we prepare by building secret huts or places to hide ourselves when the operations occur... The home guard takes responsibility when they [villagers] go to farm near the SPDC camp."

- Saw T--- (male, 42), Gi--- village, Lu Thaw Township (April 2010)

"Now, the villagers use more muskets to protect themselves. We can also make the muskets by hand. We don't use them to hurt our villagers; we only use them for their protection. We also use landmines to protect ourselves. For landmines we work with the KNU [KNLA] because we can't make landmines by ourselves. The KNU [KNLA] landmines are handmade. If the SPDC went back to their places and didn't harm us, we wouldn't use weapons anymore... When the SPDC operates near the villagers' hill fields, we go to monitor the situation and we have to shoot in order to threaten the SPDC army. When the SPDC army withdraws their operation from the area, the villagers can go and cultivate their hill fields... They [home guards] don't go and wait to shoot the SPDC army when they stay in their camp. They just go to monitor the army's operations when the army comes to operate close to their workplaces. They only protect themselves in order to be able to do their livelihoods. The most dangerous thing is the SPDC offensives. If they went back and didn't come to operate in our areas, we could work peacefully."

- Saw Xo--- (male, 45), Bi--- village, Lu Thaw Township (April 2010)

"The home guard group doesn't have any symbol [insignia] for the group. They just write 'home guard' on their clothes. They have muskets for almost every home guard. Sometimes, when there are five home guards and they have only two guns, one person takes the gun and goes to take security when it's necessary. Even though people take rest, guns are not kept [by them] and are still used [by a person on duty]... The home guards do not go and wait to shoot the SPDC

army... When we have only a walkie-talkie in the front, we can't communicate with each other. Now, we have very few walkie-talkies. When we take security at the front, we need walkie-talkies and when we stay in the rear we need them too."

- Saw Yo--- (male, 50), Bi--- village, Lu Thaw Township (April 2010)

3. Related civilian activities

Although the home guards and their activities may contribute positively to the security of certain displaced communities, their limited manpower and capabilities mean that they cannot help most of the thousands who are displaced in non-state spaces of northern Lu Thaw Township, especially those who live and farm farther from SPDC camps but are not beyond the reach of periodic patrols or attacks by SPDC forces. Where the availability of protection from KNLA, KNDO and *gher der* is limited, civilians reportedly engage in many of the same activities as the *gher der* units, but on an individual basis. This may include communicating with other communities and KNLA or KNDO units to gather information about SPDC activity near their villages, and carrying muskets or deploying other weapons including home-made landmines in attempts to improve security in villages and while villagers are engaged in livelihoods activities. As with the home guards, such villagers request and often receive support from KNLA or KNDO troops such as information, walkie-talkies, weapons and landmines.

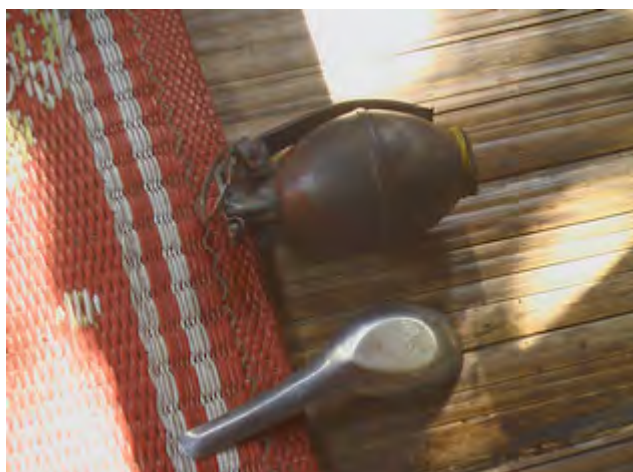
"The home guard often takes security for those working close to the army camp. For those workplaces far from the camp, the home guard takes security only sometimes, when it's necessary... When there's no home guard, some men ask their wives and children to work in their hill fields and they themselves go to watch the path closely. They take responsibility for security when it's time to harvest and there's no home guard. On one hand, they take responsibility for security by themselves and on the other hand, they come and work."

- Saw T--- (male, 42), Gi--- village, Lu Thaw Township (April 2010)

B. Positive and negative consequences

Activities that involve villagers in non-state areas carrying or using arms or deploying landmines are not unproblematic solutions to the protection concerns of displaced civilian communities. While many locals might see them as their best or only chance of preserving the limited remaining space to live and pursue livelihoods beyond SPDC control, such activities also raise human rights and protection concerns for members of the larger displaced civilian population that never pick up a weapon. Many IDPs may see the use of

landmines as essential to protecting against SPDC attacks and creating the minimum security required for villagers to carry out livelihoods activities; however, the increased use of inherently indiscriminate weapons, *ipso facto* threatens the physical security and livelihoods of civilian members of displaced communities, regardless of precautions taken to inform civilians of the location of mines or policies dictating that mines only be deployed defensively.



This photo, taken on December 21st 2009, shows a hand grenade belonging to a displaced villager in Toungoo District. The villager told a KHRG researcher that he carried this grenade for protection while working his hill field, in case of an SPDC attack. [Photo: KHRG]

Instances of civilians engaging SPDC soldiers with arms may further undermine human security and humanitarian conditions if they lead to SPDC forces targeting civilian populations inhabiting non-state spaces more aggressively, or with greater uses of force than has previously been the norm. At the national, regional or international level, simplistic interpretations of such incidents may lead analysts and policy-makers to inaccurately conclude that *all* displaced civilians are directly participating in the conflict in cooperation with non-state armed groups such as the KNLA, and that targeted or indiscriminate SPDC attacks on communities of the approximately 38,000 displaced civilians¹³¹ in Papun District are justifiable. Conversely, any discussion of home guards and civilian armed engagement of SPDC forces that seeks to legitimise or justify civilian uses of weapons, or other forms of participation in conflict, risks diverting focus from the positive or negative human rights and protection implications of such activities for the vast majority of civilians who do not participate.

1. Villagers' rationales for armed self-protection

"We believe that the use of weapons should be for protection. We use them to protect civilians, to be able to do livelihoods, to be able to live."

¹³¹ *Protracted Displacement*, TBBC, November 2009, p.50; figures calculated as explained in footnote 2.

They are very important and necessary for us, because we have to look after each other and we have to protect each other."

- Saw Xo--- (male, 45), Bi--- village, Lu Thaw Township (April 2010)

"In order to be able to protect themselves, some villagers also use landmines and get injured by their own landmines. It's dangerous to use them but if they don't use landmines, they can't protect themselves because they don't have a lot of human resources for protection. They use landmines and these become useful for life protection."

- Saw T--- (male, 42), Gi--- village, Lu Thaw Township (April 2010)

Statements made by villagers to KHRG researchers emphasise that they feel they have no choice but to use weapons to attempt to establish or preserve physical security in their local communities. Many individuals appeared to feel that landmines in particular are essential for protecting lives and enabling livelihoods activities due to the strategic imbalance between SPDC forces and displaced communities, including their poorly-equipped home guards. Villagers in non-state spaces of northern Lu Thaw, particularly those who have remained in hiding confronting the most acute humanitarian conditions, do not appear to consider relocation to SPDC-controlled areas, or elsewhere, as a viable or desirable option. They describe their uses of weapons and arms as designed to carve out the security and space required to conduct essential survival activities.

"If they weren't against us, we civilians would be quiet. As they are against us, we increase our home guard membership. If the SPDC operations aren't stopped, we'll need to use more guns. If the SPDC army withdrew from our area, we wouldn't use weapons such as guns and landmines anymore. We'd use muskets as usual only for hunting animals. We use weapons because the SPDC army oppresses us. The usage of weapons for protection is needed and very essential for our civilians in order to be able to live and survive."

- Saw Yo--- (male, 50), Bi--- village, Lu Thaw Township (April 2010)

"We hope that we'll have no SPDC operations in our village area and no civil war. Then we'll have the chance to do our hill fields freely with any disturbance. I think the villagers' lives will be better if we have that kind of situation."

- Saw Le--- (male, 50), Ka--- village, Lu Thaw Township (December 2009)

2. Human rights and physical security consequences for displaced civilians

One of the clearest threats to the security of displaced populations resulting from civilians using armed self-protection strategies is the proliferation of the use of landmines in non-state spaces. As noted above, *gher der* members and individual civilians use landmines to prevent SPDC units from entering and attacking villagers in their homes and fields. Some individuals do have the expertise to deactivate mines laid near villages or workplaces and fulfil a key protection function. Individuals who receive home-made landmines from the KNLA and deploy them with local protection objectives in mind may endanger or harm themselves and others, for example by not clearly marking or mapping the location of mines, or when they lack the expertise to remove active mines. Since displaced communities are often required to flee again, knowledge of existing landmines or mined areas can be lost due to displacement, though homemade landmines typically become degraded and inoperable, eventually reducing the threat they pose. Still, landmines placed by villagers or home guards add to the heavy mine contamination of northern Lu Thaw Township with KNLA and SPDC mines, compounding the danger that civilians will be indiscriminately wounded or killed by such devices.¹³² The death or injury of community members by landmines further strains livelihoods and food insecurity; it is also conceivable that instances of accidental or intentional civilian death or injury from civilian weapons other than landmines will increase, with similar consequences, if civilians continue and increase their uses of other arms.

Displaced villagers interviewed by KHRG field researchers have acknowledged the risks involved in the use of landmines by civilians, but have emphasized their utility to local protection efforts.

"The KNLA leaders always warn us to take good care when on security patrol. The KNLA soldiers take out a lot of SPDC landmines. Last month one Vi--- villager named Saw Pu--- was injured by an SPDC landmine, and one of his legs was cut off. Now he's in U--- clinic."

- Saw Si--- (male, 47), T--- village, Lu Thaw Township (October 2007)

¹³² According to interviews conducted as part of the Dangerous Areas survey project described in Section III: A-1, landmine injuries by homemade landmines outnumber injuries from factory-made mines in Papun for the period 2006-2008; of twelve victims that could identify the type of landmine they were injured by, eight reported the mine to have been homemade and five reported it to have been factory-made. Importantly, this information includes victims from all of Papun District, which includes significant territory where the DKBA and KNLA have also made extensive use of homemade mines, including southern Lu Thaw, Dweh Loh and Bu Thoh townships. While the information from the survey confirms that homemade landmines are a significant threat in Papun District, it is not possible to narrow this conclusion and determine whether the increased number of injuries from homemade mines is due to activity by villagers, the KNLA or the DKBA.



This photo, taken on May 29th 2010, shows Saw Qu---, 27, a *gher der* member from G--- village, Lu Thaw Township. Saw Qu--- was familiar with the locations of some landmines planted by the KNLA and the local *gher der*, but was injured when walking in an area he didn't realise had been mined. [Photo: KHRG]

This photo, taken on March 10th 2009, shows an M-14 landmine used by the SPDC Army, which was removed by *gher der* home guards in Ler Muh Bplaw village tract. This mine had been placed near a villager's hill field. [Photo: KHRG]

"We create them [landmines] ourselves. We use them to protect ourselves from the SPDC... Some people aren't careful about the landmines so they get hurt. When they are hurt by landmines, the villagers have to take responsibility for them. My son in law also got hurt by a landmine recently. It was a villager's landmine. When SPDC soldiers are close to us we start to plant our landmines, and after they move away from our village we take them out."

- Saw D--- (male, 40), P--- village, Lu Thaw Township (October 2009)

"Since 2005 landmines have been used more because oppression of the [SPDC] army has increased. The use of landmines is not a problem for villagers because we use them at the front and we tell them the locations of landmines that we plant. If a villager steps on a landmine accidentally we have to understand each other and consider whether it's mistake or not, because the sky can't escape from the clouds and humans can't escape from mistakes [Karen proverb]. We have to think about each other. We have to look after and help each other for medical treatment. We have to understand each other and work together."

- Saw Xo--- (male, 45), Bi--- village, Lu Thaw Township (April 2010)

"There have been four people who have stepped on their own landmines and got injured. They are Saw Zo---, Bu---, Cu--- and Saw Du---. All of them are village security guards except Cu---, who's the village head."

- Ye--- (male, 47), F--- village, Lu Thaw Township (December 2009)

In addition to the acknowledged and often accepted threats presented by civilian uses of landmines, protection activities involving the use of weapons undertaken by civilians also risk being used to justify SPDC military attacks against the broader displaced civilian population. SPDC forces already target civilian villagers in military attacks and refuse to acknowledge the presence of displaced civilians in non-state spaces, asserting instead that they only attack insurgents. As these attacks are already occurring, villagers' armed protection strategies should not be understood to be precipitating attacks. Armed protection strategies, may however, blur the line between civilians and KNLA or KNDO fighters and open the door to mischaracterisations of the nature of civilian protection activities or civilian support for the KNLA. The SPDC itself, as well as important international actors, may cite examples of armed civilian protection activities as evidence that the majority of the displaced civilian population actively participates in offensive KNLA military operations, and thus intentionally or unintentionally misrepresent the strength and influence of the KNLA or the legality of SPDC Army attacks on civilians. Such misrepresentations may lend substance to the SPDC's inaccurate characterisation of its military activities and lead to simplistic conclusions by outside observers that the SPDC's attacks on thousands of displaced civilians in northern Lu Thaw Township are justifiable, and that SPDC obligations to refrain from attacking civilians may be relaxed. This not only risks directly undermining the human rights and security of displaced communities by legitimising further unlawful attacks against them; it also threatens to divert support from displaced villagers' humanitarian and protection needs, and their efforts to address these needs, by viewing their actions only through the limited prism of the SPDC – KNLA conflict.¹³³

¹³³ For more on the problems of framing narratives of villagers in Karen areas in terms of conflict, see: *Village Agency*, KHRG, November 2008, pp.24-29.

VI. Legal implications: Direct participation and international humanitarian law

A. Understanding relevant international humanitarian law

This section examines relevant international humanitarian law (IHL) regarding the protection of civilians during armed conflict and circumstances in which that protection is forfeited. This framework is then applied to the context of Lu Thaw Township, where armed self-protection strategies may complicate both humanitarian actors' ability to provide support to civilians, and conclusions that SPDC Army practices are in contravention of IHL. The purpose of this analysis is to approach the issue of civilians in non-state spaces using weapons as objectively as possible, and consider if and how such activities affect the *legal* obligations and protections IHL variously accords state and non-state armed forces, as well as civilians, during armed hostilities.

Section VI: A-1 explains the principle of distinction, which is a foundational and uncontroversial rule of IHL that should govern the treatment of members of the civilian population during armed hostilities, and discusses its relevance to the situation in northern Lu Thaw Township. Section VI: A-2 discusses the duty of parties to an armed conflict to distinguish between civilians and fighters, which is a critical obligation that follows from the principle of distinction, and addresses in particular how each category is defined under IHL. Section VI: A-3 explains the special circumstances under which a civilian temporarily loses his or her protection under IHL and can consequently be lawfully targeted in military attacks.

In Section B, each of these three criteria are applied to the armed self-protection strategies used by civilians in Lu Thaw Township in an attempt to evaluate whether IHL permits individuals engaging in such activities to be legitimately targeted via military attacks. This analysis is not meant to be a legal defence of direct participation in conflict by civilians in Lu Thaw. Rather, it is designed to clarify whether instances of individual or small groups of villagers interacting with non-state armed groups, using weapons, or participating in armed hostilities affects the legal protection accorded to the broader displaced civilian population under IHL. It is emphasized that under no circumstances does IHL permit parties to a conflict to direct attacks against the civilian population in general, or against other non-participating civilians, simply because certain individuals have lost their entitlement to protection against direct attack.

1. The principle of distinction

The principle of distinction requires military forces engaging in conflict to distinguish at all times between civilians and those engaged in fighting, as well as between civilian objects and military objectives.¹³⁴ The principle is expressed in Common Article 3 to the 1949 Geneva Conventions, which Burma has ratified and has therefore committed to uphold;¹³⁵ its status as part of customary law applicable in international and non-international armed conflicts is “indisputable.”¹³⁶ The principle of distinction in fact underpins many other fundamental rules and principles of international humanitarian law,¹³⁷ including: the principle of proportionality;¹³⁸ rules prohibiting attacks directed against the civilian population, civilian objects, and objects essential to the survival of the civilian population; attacks designed to spread terror among the civilian population; indiscriminate attacks and the use of indiscriminate

¹³⁴ See, Jean-Marie Henckaerts. “Annex. List of Customary Rules of International Humanitarian Law,” (hereinafter “Annex”) *International Review of the Red Cross (ICRC Review)* Vol.87 No.857, March 2005, pp.198-212, Rule 1. This list was published as an annex to: “Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict,” *ICRC Review* Vol.87 No.857, March 2005, pp.175-212. See also: *The Manual on the Law of Non-International Armed Conflict with Commentary* (hereinafter *NIAC Manual*), San Remo International Institute of Humanitarian Law (San Remo Institute), 2006, Rule 1.2.2.

¹³⁵ *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* Article 3, August 12th 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31; *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces* Article 3, August 12th 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; *Geneva Convention Relative to the Treatment of Prisoners of War* Article 3, August 12th 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* Article 3, August 12th 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287. Note however that Burma has not ratified GC IV dealing with the treatment of civilians in armed conflict, or Additional Protocol II to the 1949 Geneva Conventions, which further defines rules of conduct for armed conflicts of a non-international character. Common Article 3 has long been considered to reflect “fundamental principles of humanitarian law” applicable in both international and non-international conflicts; see: *Case Concerning Military and Paramilitary Activities in or against Nicaragua*, Merits, 1986 ICJ Reports 14 (June 27), paragraph 218.

¹³⁶ *NIAC Manual*, San Remo Institute, 2006, Rule 1.2.2

¹³⁷ The *NIAC Manual* quotes the ICRC Commentary to the June 8th 1977 Additional Protocols to the Geneva Conventions that the principle of distinction is the ‘foundation on which the codification of the laws and customs of war rests.’ See: *NIAC Manual*, San Remo Institute, 2006, Rule 1.2.2. The International Court of Justice (ICJ) has argued that the principle of distinction is one of two “cardinal principles contained in the texts constituting the fabric of humanitarian law.” See: *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 ICJ Reports 226 (July 8), paragraph 78.

¹³⁸ The principle of proportionality prohibits attacks which could be expected to cause ‘excessive’ civilian casualties and/or damage to civilian objects, relative to the ‘concrete and direct military advantage anticipated’. See: Henckaerts, “Annex,” 2005, Rule 14; *NIAC Manual*, San Remo Institute, 2006, Rule 2.1.1.4.

weapons; starvation of civilians as a method of warfare; and the requirement that parties to a conflict to take precautions to minimise harm to civilian populations,¹³⁹ all of which have been recognised by the ICRC and other international legal authorities as customary rules applicable in both international and non-international conflict.¹⁴⁰

The principle of distinction is in fundamental tension with the main methods employed by SPDC forces to expand areas under state control and force civilians out of remaining non-state spaces. The estimated 38,000 civilians displaced in Papun District – again, approximately half of the population of Papun – can not all be part of non-state armed groups. Estimates place KNLA troop strength at no more than 3,000 to 5,000 in total across Karen State, with just three battalions active in Papun District.¹⁴¹ SPDC forces are therefore obliged to take precautions to ensure that civilians, civilian objects, and items essential to civilian survival are not attacked, and that force is only directed against legitimate military targets. Areas beyond SPDC control, however, are essentially treated as ‘free-fire’ zones,¹⁴² in which it is assumed that all individuals and communities are in fact active members of non-state armed groups and therefore legitimate military targets for attacks by SPDC forces. In these areas, SPDC soldiers are authorised to shoot on sight or arbitrarily detain villagers encountered; shell settlements; attack and destroy shelters, food stores, crops under cultivation and property belonging to villagers essential to food production and survival; and place large numbers of landmines around settlements and cultivation sites, and along footpaths and roadways.

Even if SPDC authorities were able to issue comprehensive instructions to civilians to leave non-state spaces, clearly explaining that such areas would become free-fire zones after a certain period, such steps would not release SPDC commanders and soldiers from the obligation to take precautions to

¹³⁹ Henckaerts, “Annex,” 2005, Rules 1-21, 53-56

¹⁴⁰ See for example, International Criminal Tribunal for Yugoslavia, *Prosecutor v. Tadic*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Appeals Chamber, Case IT-94-1 (2 October 1995), paragraph 127: “... it cannot be denied that customary rules have developed to govern internal strife. These rules... cover such areas as protection of civilians from hostilities, in particular from indiscriminate attacks, protection of civilian objects, in particular cultural property, protection of all those who do not (or no longer) take active part in hostilities, as well as means of warfare proscribed in international armed conflicts and ban of certain methods of conducting hostilities.” Also see generally, Jean-Marie Henckaerts and Louise Doswald-Beck. *Customary International Humanitarian Law*, Cambridge University Press, 2005.

¹⁴¹ “KNU in Serious Crisis,” *The Irrawaddy*, March 2009; South, *Ethnic Politics in Burma*, 2009, p.56; and Section V: A-1 of this report.

¹⁴² A discussion of the concept of free-fire zones, and their place in international humanitarian law, is available at: Lewis Simons. “Free Fire Zones,” in Anthony Dworkin et al (eds.). *Crimes of War 2.0: What the Public Should Know*. Norton: New York, 2007.

distinguish between civilians and members of non-state armed groups. Under such circumstances, it could neither be assumed that all civilians had complied, nor that the protected status of any remaining civilians under IHL had suddenly changed or been forfeited by a simple administrative order.¹⁴³ Civilians, civilian objects and items vital to survival of civilian populations in free fire areas enjoy immunity from attacks in accordance with the principle of distinction. The large number of displaced civilians in non-state parts of eastern Burma who do not participate in hostilities must therefore not be the object of direct military attacks, and SDPC forces are obliged to conduct military operations in a manner consistent with the principle of distinction.

The SPDC has never publicly stated that it rejects the principle of distinction or is not bound by it, but has resorted to a series of evasions, obfuscations and obstructions to attempt to pre-empt criticism of its use of measures targeting civilians in non-state spaces. SPDC authorities have previously attempted to deny the applicability of IHL to eastern Burma by asserting that no state of armed conflict exists, as well as denied the existence of a population of internally displaced persons in need of protection.¹⁴⁴ They have sought to discontinue references to, or deny the existence of the *Pya Ley Pya* 'Four Cuts' campaigns conducted since the 1970's in eastern Burma, and elsewhere in the country since the 1950's, that explicitly targeted civilian populations in order to undermine support for non-state armed groups, and which closely resemble current practices.¹⁴⁵ SPDC authorities have instead attempted to conflate non-state armed opposition activity with terrorism and frame military activities in eastern Burma as 'counter-terrorism,' and have denied that such activities target civilians or violate IHL.¹⁴⁶ They have obstructed or prevented access to displaced populations for groups such as the ICRC that could monitor, comment upon and assist their humanitarian situation, and communicate relevant IHL obligations, and violations of such obligations to the SPDC.¹⁴⁷

Such behaviour in fact indicates tacit recognition by the SPDC of the dual facts that it is bound by treaty-based and customary laws of war to uphold the principle of distinction, and that the methods targeting civilians historically employed by military forces in eastern Burma and continued until the present categorically violate this principle. Attempting to deny the existence of 38,000

¹⁴³ Simons, "Free-Fire Zones," 2007: Free fire zones "violate the rule against direct attack of civilians by presuming that after civilians are warned to vacate a zone, then anyone still present may lawfully be attacked. The rule prohibiting direct attacks on civilians provides no basis for a party to a conflict to shift the burden by declaring a whole zone to be 'civilian free.'"

¹⁴⁴ "Note verbale dated 10 March 2008," UN HRC, March 10th 2008, paragraph 42.

¹⁴⁵ Smith, *Burma*, 1999, p.259.

¹⁴⁶ "Note verbale dated 10 March 2008," UN HRC, March 10th 2008, paragraph 47.

¹⁴⁷ *Annual Report 2007*, ICRC, 2007, p.187; also: "Myanmar: ICRC denounces major and repeated violations of international humanitarian law," ICRC News Release 82/07, June 29th 2007.

displaced civilians in Papun District, and thousands more in eastern Burma,¹⁴⁸ or to characterise them as terrorists or terrorist supporters undeserving of the protections afforded civilians under international humanitarian law,¹⁴⁹ is thus an effort to deflect legitimate criticism of the SPDC's illegal conduct of warfare against civilians in non-state spaces, evade the obligations to distinguish and protect civilians that Burma has voluntarily adopted and acknowledges as legitimate, and indeed to provide a justification for continuing attacks on civilians.

Armed protection strategies employed by civilians are thus best understood in the context of three prevailing and interrelated circumstances in northern Karen State and particularly northern Papun District: (1) sustained SPDC military action against civilians and resources essential for their survival in non-state areas; (2) the prolonged failure of SPDC authorities to meet obligations to afford civilians appropriate protection and refrain from attacking them in accordance with the most basic principles of IHL, and indeed active efforts to evade such obligations; (3) and the persistent and determined efforts of civilians residing in non-state spaces to initiate measures to protect themselves in the absence of state protection, and thereby continue to survive beyond SPDC control. This point is not intended to justify the actions of or exculpate civilians in non-state areas who have carried arms, utilised landmines or participated in hostilities with SPDC forces: such individuals may lose their entitlement to protection from direct attack as civilians under IHL when they engage in certain activities, as explained below.

This analysis must, however, proceed with the caveat that assessments of the military or civilian status of specific individuals or assessment of whether or not they have taken active part in hostilities against government forces can only determine whether such *individuals* may be the lawful object of military attacks. Determinations that certain members of the civilian population may be lawfully attacked cannot permit targeted or indiscriminate attacks against the larger, non-participant civilian population; they do not form a legal basis for SPDC forces to disregard the fundamental principle of distinction in their conduct of offensive military operations in eastern Burma.

2. Distinguishing fighters and civilians

A crucial aspect of upholding the principle of distinction, and thereby protecting civilian populations, is how a party to an armed conflict should determine who

¹⁴⁸ *Protracted Displacement*, TBBC, November 2009, p.50

¹⁴⁹ Note verbale dated 10 March 2008," UN HRC, March 10th 2008, paragraph 47: "*Counter insurgency campaigns are conducted only against those insurgents that are engaged in acts of terrorism. Conducting counter-terrorist activities against terrorist groups cannot be regarded as violating the humanitarian law.*"

is a 'civilian' and who is not. Drawing on interpretations of treaty and customary international humanitarian law applicable in non-international conflicts, the ICRC's *Interpretative Guidance on the Notion of Direct Participation* (hereinafter *Interpretative Guidance*) defines civilians as "all persons who are not members of State armed forces or organized armed groups of a party to the conflict."¹⁵⁰ An organised armed group that constitutes the military wing of a broader insurgency, rebellion or secessionist movement must further be distinguished from that movement's political and humanitarian wings and "supportive segments of the civilian population," as well as unaffiliated or non-partisan civilians.¹⁵¹ Members of "organized armed groups belonging to a non-State party to a conflict" are only those "individuals whose continuous function is to take a direct part in hostilities."¹⁵² The 'continuous combat function' distinguishes members of organised armed groups from civilians "who directly participate in hostilities on a merely spontaneous, sporadic, or unorganized basis, or who assume exclusively political, administrative or other non-combat functions."¹⁵³

The 'continuous combat function' of a member of an organised armed group can be adduced from "*lasting integration into an organized armed group*" and a role involving the "*preparation, execution and command of acts or operations amounting to direct participation in hostilities*," for which a member will typically have been "*recruited, trained and equipped*" by an organised armed group and which may be evident in "*the carrying of uniforms, distinctive signs, or certain weapons*" or, indeed, "*conclusive behaviour*" suggesting a continuous combat function rather than spontaneous or temporary participation.¹⁵⁴ Such integration or membership gives permanence to an individual's status as a fighter, meaning that he or she would remain a legitimate target until being discharged or otherwise terminating membership in the group.¹⁵⁵

The two main examples of organised armed groups opposing the SPDC in northern Lu Thaw Township are the KNLA, the military wing of the KNU, and

¹⁵⁰ *Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law* (hereinafter *ICRC Interpretative Guidance on DPH*), ICRC, prepared by Nils Melzer, May 2009, p.36. For discussion of how this conclusion was drawn, with reference to international legal instruments and jurisprudence, see pp.27-36. See also: Michael Bothe. "Direct Participation in Hostilities in Non-International Armed Conflict," (hereinafter "DPH in NIAC") expert paper submitted to the *Second Expert Meeting on the Notion of Direct Participation in Hostilities*, The Hague, October 25th-26th 2004.

¹⁵¹ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, p.32.

¹⁵² *ICRC Interpretative Guidance on DPH*, ICRC, 2009, p.36. Note that the above analysis omits mention of members of State Armed Forces and members of Dissident Armed Forces, both of which can be considered as non-civilian participants in hostilities under IHL, but which do not apply to civilian participants in hostilities in eastern Burma.

¹⁵³ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, pp.33-34.

¹⁵⁴ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, pp.34-35.

¹⁵⁵ Bothe, "DPH in NIAC," 2004, pp.14-16.

the Karen National Defence Organisation (KNDO). Individuals serving in the KNLA and KNDO could not be considered civilians for the duration of their service and would be legitimate military targets for SPDC attacks at any time during this service. Civilians in the vicinity of or accompanying KNLA or KNDO regulars would also be exposed to increased risk of injury or death as collateral damage in attacks on the latter, although they could not themselves be targeted and attacks would have to adhere to the principle of proportionality to remain lawful.¹⁵⁶ The KNLA has an official policy that its soldiers may not remain overnight in a village, which should mitigate cases of such collateral damage to civilians, although it is not clear how strictly this rule is enforced.

3. Direct participation in hostilities

Among those afforded civilian status by virtue of their non-membership in an organised armed force and lack of a continuous combat function, a further distinction is drawn within IHL between civilians who directly participate in armed hostilities and those who do not.¹⁵⁷ Civilians who directly participate will not always enjoy the same immunity under the laws and customs of war as non-participant civilians; specifically, they will be unprotected and therefore legitimate targets of military attacks “*for such time as they take a direct part in hostilities.*”¹⁵⁸ Direct participation in hostilities is strictly defined as “*specific hostile acts carried out by individuals as part of the conduct of hostilities between parties to an armed conflict,*” which results in a “*temporary, activity-based loss of protection*” as opposed to a “*continuous, status- or function-based loss of protection.*”¹⁵⁹ The temporal limitation on the loss of protection against attack is notably different than the permanent loss of protection for members of organised armed groups, and may create space for individuals to abuse the protection on humanitarian grounds afforded to civilians by repeatedly entering and exiting a conflict in a manner resembling a *de facto* continuous combat function exhibited by members of organised armed groups.

¹⁵⁶ The principle of proportionality prohibits attacks which could be expected to cause ‘excessive’ civilian casualties and/or damage to civilian objects, relative to the ‘concrete and direct military advantage anticipated’. See: Henckaerts, “Annex,” 2005, Rule 14; *NIAC Manual*, San Remo Institute, 2006, Rule 2.1.1.4.

¹⁵⁷ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, p.12.

¹⁵⁸ Henckaerts, “Annex,” 2005, Rule 6. Although note that the “for such time” temporal limitation has been widely interpreted and debated. The *NIAC Manual* claims that the “for such time” limitation is “not confirmed by customary international law;” see: *NIAC Manual*, San Remo Institute, 2006, Rule 1.1.2.4. For a discussion of the various interpretations and critiques of the “for such time” limitation see: Michael Schmitt. “The Interpretative Guidance on the Notion of Direct Participation in Hostilities: A Critical Analysis” (hereinafter “Critical Analysis of the Interpretative Guidance on DPH”) *Harvard National Security Journal* Vol.1, May 5th 2010, pp.34-39.

¹⁵⁹ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, p.45.

This so-called ‘revolving door’ of civilian protection¹⁶⁰ is problematic for some, particularly military, analysts because it may disadvantage an adverse party to a conflict in its ability to respond militarily to hostile acts;¹⁶¹ the danger therefore exists that the revolving door will be cited by a party to a conflict as a problem that supposedly justifies attacks against civilians that violate IHL, for example attacks against the broader civilian population or indiscriminate attacks. To mitigate against such breaches, IHL norms require parties to a conflict to undertake a careful evaluation of objective circumstances each time a civilian may be participating in hostilities, to determine whether a specific civilian act or acts amounts to a defined act of direct participation, and the duration of his or her loss of protection.¹⁶² Indeed, the *Interpretative Guidance* takes the position that the revolving door should not be a problem but a safeguard mechanism that ensures protection of the civilian population from arbitrary or otherwise unlawful attacks by obliging parties to a conflict to make such objective calculations before initiating any attack.¹⁶³ Ultimately, attacks launched without such assessments, that are indiscriminate, or that target civilians not directly participating in hostilities, will contravene IHL regardless of the justification offered.¹⁶⁴

B. Evaluation of civilian armed self-protection strategies in Lu Thaw Township

While the *Interpretative Guidance*, military actors, legal bodies and academics have referred to certain activities and circumstances that may or may not amount to direct participation, these have been cited as illustrative, and often contentious, examples rather than exhaustive lists; the debate inspired by such examples in fact illustrates the need for substantive criteria by which direct civilian participation can be determined.¹⁶⁵ The *Interpretative Guidance* sought to establish such criteria; thus acts amounting to direct participation in hostilities are those acts “*carried out by individuals as part of the conduct of hostilities between parties to an armed conflict*”¹⁶⁶ and which satisfy the following three constitutive elements: (1) *Threshold of harm* refers to the

¹⁶⁰ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.70-73; Schmitt, “Critical Analysis of the Interpretative Guidance on DPH,” 2010, pp.37-38.

¹⁶¹ Schmitt, “Critical Analysis of the Interpretative Guidance on DPH,” 2010, p38.

¹⁶² Michael Schmitt, “Deconstructing the Notion of Direct Participation in Hostilities: The Constitutive Elements.” (Hereinafter: “Deconstructing DPH”) *New York University Journal of International Law and Politics* Vol.42:697 2010, p.704.

¹⁶³ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, p.71.

¹⁶⁴ In particular, assertions of military necessity do not justify actions that violate the principle of distinction, or rules based on the principle, as necessity has already been factored into the fundamental principles of IHL. See, *NIAC Manual*, San Remo Institute, 2006, Rule 1.2.1.b

¹⁶⁵ See especially the discussion in: Schmitt, “Deconstructing DPH,” 2010, pp.705-712

¹⁶⁶ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.43-45.

likelihood that the act in question will harm the military operations or capacity of a party to the conflict, or protected persons or objects.¹⁶⁷ (2) *Direct causation* refers to the direct link between the act, or operations of which the act is an integral part, and the harm likely to result.¹⁶⁸ (3) *Belligerent nexus*, meanwhile, is the requirement that an act be specifically intended to reach the threshold of harm to support one party to a conflict and harm an adverse party.¹⁶⁹

This section applies the IHL provisions regarding direct participation in hostilities to the specific armed self-protection activities outlined in Section V. While there are undoubtedly other types of direct civilian participation in conflict occurring in Lu Thaw Township, the following analysis is limited to examples of villagers in northern Lu Thaw Township supporting KNLA/KNDO activities or civilians serving in *gher der* units. Cases of civilians using weapons independently, in isolated contexts or on an *ad hoc* basis are by definition difficult to evaluate collectively, given the diverse forms they might take and the varied circumstances in which they occur, and applying similar analysis to these contexts would necessarily be speculative. *Gher der* units, while also *ad hoc* and difficult to evaluate, are nonetheless organised consistently enough to enable legal analysis grounded on concrete field research. By analysing this phenomenon, it is hoped that general conclusions can be drawn about the legality of SPDC Army practices targeting civilians in Lu Thaw Township. If direct participation in conflict by semi-organised groups of villagers does not void the immunity under IHL enjoyed by the broader civilian population in Lu Thaw, then the civilian population should continue to enjoy immunity even if isolated individuals opt to participate in the conflict on an *ad hoc* basis.

1. Civilian support for the KNLA and KNDO

Villagers who voluntarily or involuntarily give logistical, financial or material support to KNLA or KNDO units in the context of the general war effort quite clearly do not directly participate in hostilities and cannot be targeted for attack, based on the provisions in the *Interpretative Guidance*; civilians similarly supporting SPDC forces enjoy equal immunity from attacks by KNLA, KNDO or other organised armed groups.¹⁷⁰ The political allegiances of such 'supportive' civilians are irrelevant: protected civilian status is equally enjoyed by an

¹⁶⁷ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.47-50. For a critical analysis of the *Interpretative Guidance*'s treatment of threshold of harm, see: Schmitt, "Deconstructing DPH," 2010, pp.713-725.

¹⁶⁸ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.51-58; but see: Schmitt, "Deconstructing DPH," 2010, pp.725-735

¹⁶⁹ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.58-64; see also: Schmitt, "Deconstructing DPH," 2010, pp.735-736

¹⁷⁰ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, p.32.

individual involuntarily providing support to an organised armed group and a full-fledged KNU member not in the KNLA – or for that matter a civilian SPDC official not in the SPDC Army – as long as neither engages in acts amounting to direct participation.¹⁷¹ Civilians who, willingly or unwillingly, transport materials or perform other non-combat tasks supporting KNLA, KNDO or SPDC units could not be considered as members of those groups, nor as direct participants in hostilities and likewise could not be targeted in military attacks. Such individuals' presence among or proximity to members of armed groups would, however, heighten the risk that they might be injured or killed as collateral damage in a lawful attack on the armed group.¹⁷² There is also a key difference between direct and *indirect* participation.¹⁷³ Civilians involved in non-combat activities that generally support organised armed groups and their war efforts are generally considered indirect participants who are more likely to become casualties of lawful attacks on members of organised armed groups or other direct participants in hostilities. Attacks specifically targeting such individuals, however, would not be lawful within the meaning of IHL as they could not be said to be directly participating in hostilities.

By contrast, if a civilian performs a (non-continuous) combat function in support of a specific KNLA or KNDO offensive operation, he or she directly participates in hostilities and forfeits immunity from attack; the individual becomes a legitimate target for the duration of his or her participation, including during preparation, deployment, execution of the hostile act and return.¹⁷⁴ For example, a villager who helps a KNLA unit to ambush an SPDC patrol may be understood as directly 'participating' in the attack in a number of ways, for instance by carrying and using a weapon in the ambush; by portering materials or equipment essential to the attack such as weapons or a landmine; or by retrieving and communicating tactical (as opposed to strategic) intelligence essential to the operation to KNLA soldiers, such as location, movements or troop strength of the SPDC patrol to be attacked.

¹⁷¹ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, p.32: "It is crucial for the protection of the civilian population to distinguish a non-State party to a conflict (e.g., an insurgency, a rebellion, or a secessionist movement) from its armed forces (i.e., an organized armed group). As with State parties to armed conflicts, non-State parties comprise both fighting forces and supportive segments of the civilian population, such as political and humanitarian wings."

¹⁷² ICRC *Interpretative Guidance on DPH*, ICRC, 2009, p.35. The *Interpretative Guidance* further indicates that civilian protection should be afforded to several other categories of civilians that "continuously accompany or support an armed group" but whose functions do not entail activities amounting to direct participation (pp.34-35). Recruiters, trainers, financiers and propagandists, as well as individuals who purchase, smuggle, manufacture and maintain arms and military equipment, or collect non-tactical intelligence are among those listed as enjoying civilian status in most circumstances. These categories go beyond the activities typically assumed by villagers in northern Lu Thaw Township in support of organised armed groups, and are therefore excluded from further analysis.

¹⁷³ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.51-52

¹⁷⁴ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, pp.65-68.

Judged against the constitutive elements explained above, any of these acts would likely amount to direct participation in hostilities. First, such acts would be likely to adversely affect SPDC military operations or capacity by killing or wounding soldiers and denying access to a certain area (threshold of harm). This 'likely' harm would be an immediate consequence of the ambush, of which the acts in question would constitute an 'integral' part (direct causation). Finally, the ambush would be specifically designed to harm SPDC operations to the benefit of the KNLA and the detriment of the SPDC (belligerent nexus).¹⁷⁵ Although it is worth noting that villagers may participate in such an operation with the primary objective of weakening the SPDC's ability to target civilians and their livelihoods rather than weakening their military position vis-à-vis the KNLA, within IHL such subjective considerations are irrelevant as they are impossible to determine reliably on the battlefield, and because belligerent nexus is evaluated based on "*the objective purpose*" of an act, which is "*expressed in the design of the act or operation.*"¹⁷⁶ Thus the objective purpose of participating in such an ambush under KNLA command would effectively be to achieve KNLA operational objectives and harm SPDC military operations and capacity, thereby meeting the belligerent nexus criteria.

The duration for which an individual participating in such an operation would lose his or her civilian immunity, and therefore become a legitimate target of military attacks, is only discernable based on prevailing circumstances surrounding the concrete context of the act itself.¹⁷⁷ Continuing with the example of an ambush of an SPDC patrol, KNLA soldiers reportedly operate under instructions not to stay overnight in villages and not to attack SPDC soldiers while they are present in a village, in order to avoid SPDC forces accusing villagers of cooperating with KNLA units and carrying out reprisal attacks against civilian populations, as well as to limit 'collateral damage' civilian casualties in attacks against KNLA troops. An ambush planned by the KNLA would therefore likely require a participating villager to physically depart his or her village, rendezvous with KNLA soldiers, travel to the location of the attack and detach from the KNLA unit and return to his or her village afterwards. This would appear to create fairly clear parameters for the duration of participation that reflect the notions of 'deployment' and 'return' expressed in the *Interpretative Guidance*.¹⁷⁸ Villagers have also described how individuals participating in KNLA activities have been given rifles or

¹⁷⁵ Note that at least one analyst who participated in the expert process that produced the *Interpretative Guidance* has argued that an act designed only to harm a party to a conflict, but not to benefit another, should satisfy the belligerent nexus requirement; see: Schmitt: "Deconstructing DPH," 2010, p.736. By this interpretation, acts designed to harm the SPDC without clearly benefiting the KNLA or another adverse party, and satisfied the other constitutive elements would constitute direct participation.

¹⁷⁶ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, pp.59-60 and footnote 150.

¹⁷⁷ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, pp.67, 68.

¹⁷⁸ *ICRC Interpretative Guidance on DPH*, ICRC, 2009, pp.67-68.

equipment such as radios, depending on their role in a given operation, only for the duration of the attack or attacks in which they participate; for cases in which civilians return such items after an operation and then return home, it would be easier to clarify the termination of their participation in hostilities and the restoration of their entitlement to protection from direct attack.

In practice, determining whether a civilian is engaged in a specific hostile act constituting direct participation, and the period for which he or she may be lawfully attacked, is extremely difficult: facts or circumstances that can aid such determinations are typically far murkier than in the example discussed above. Situations in which civilians assume combat roles to support specific KNLA or KNDO operations in the immediate vicinity of their villages, or in which they repeatedly participate in offensive engagements against the SPDC, for example, would present particular challenges for SPDC soldiers if they attempted to distinguish protected civilians from fighters and from unprotected civilians. Further, such cases risk clouding the fact that SPDC forces conducting offensive operations in non-state parts of northern Karen State do not take precautions to distinguish civilians from fighters as required by the most fundamental provisions of IHL, let alone attempt the more nuanced distinction between protected and unprotected civilians. Despite the inherent illegality under IHL of targeting the civilian population, instances of civilians participating in the KNLA-SPDC conflict in the manner described above may lead to the perpetuation of such a military strategy. Alternatively, SPDC officials may claim that civilian harm resulting from attacks is unavoidable, and therefore justifiable, due to the difficulty of distinguishing protected from unprotected civilians, and civilians from fighters in the heat of an armed engagement. Ultimately, however, attacks that target members of the civilian population who do not directly participate, that are indiscriminate, or in which precautions to distinguish civilians from fighters are not taken, however, cannot be justified on such grounds within the framework of IHL.

In other words, a civilian who commits a hostile act amounting to direct participation in a KNLA or KNDO commanded offensive operation exposes him or herself to lawful attacks by SPDC forces, but neither undermines the immunity of other members of the civilian population nor relaxes SPDC obligations under IHL to uphold the principle of distinction. At the practical level, however, cases of civilians indirectly or directly participating in hostilities may be used by SPDC authorities as political justification for sustaining or escalating military practices that contravene IHL, and thereby severely undermine overall civilian security in non-state spaces. Conversely, since current SPDC military practices do not distinguish and in many instances directly target civilians, the outcome of certain individuals 'losing' civilian immunity may be immaterial in a practical sense, because SPDC practices do not accord them such protection in the first place. These points should not marginalise or obviate the IHL obligations of any party to or participant in conflict in eastern Burma. In fact, improved observance of IHL obligations to

protect civilians by SPDC forces would then result in a meaningful consequence for civilians directly participating in hostilities – they would lose actual protection – and thus raise the stakes for civilians contemplating such participation. Pursuing civilian protection in accordance with IHL might also weaken the perception among some members of the civilian population that armed protection strategies are necessary to achieving local protection objectives, and ultimately limit civilian activities that might amount to direct participation in hostilities: a positive outcome from both a military and an IHL perspective.

2. *Gher der* activities

There are two key factors to interpreting the status of members of *gher der* forces as civilians or fighters under IHL: (1) their degree of independence from the KNLA, and (2) whether their protection activities are defensive or offensive in nature. If home guards are sufficiently independent of the KNLA and do not pursue KNU and KNLA political or military objectives, it is difficult to classify them as part of an organised armed group of a party to a conflict with the SPDC. The wider displaced civilian population of areas that have formed and supported their own *gher der* units could not be interpreted as a party to a conflict without subverting the very object and purpose of the framework of IHL and the underlying principle of distinction: protection of civilians from the harmful consequences of warfare. If they are not KNLA or KNDO members, and not members of any other organised armed group of a party to the conflict, under IHL they must be regarded as civilians except during any acts amounting to direct participation in hostilities.

Further, if *gher der* groups engage only in *defensive* activities to protect communities of displaced civilians, they may retain their civilian immunity. The ICRC's *Interpretative Guidance* holds that acts that harm an adverse party but are committed "*in individual self-defence or defence of others against attacks otherwise prohibited under IHL*" lack belligerent nexus because they do not support one party to the conflict and because illegal attacks cannot be made legal after the fact, simply because protected civilians assumed combat functions to stop the attack.¹⁷⁹ Steps taken by home guards to protect displaced civilians from attacks by SPDC soldiers, or protecting civilians while they flee such an attack, would be hard to construe as specifically designed to harm government forces and provide an advantage to the KNLA or another non-state opposition group. Such actions would also lack the necessary belligerent nexus to constitute direct participation insofar as they are defensive measures aimed at preventing or mitigating attacks by SPDC forces targeting the displaced civilian population, which are unlawful under the most fundamental provisions of IHL. When *gher der* activities do not meet the

¹⁷⁹ ICRC *Interpretative Guidance on DPH*, ICRC, 2009, p.61.

belligerent nexus element of direct participation, their members' entitlement to protection from direct attack under IHL should be preserved. It is probably unrealistic to expect SPDC forces that already grossly violate IHL by targeting displaced civilian populations to recognise or respect any distinction between *gher der* units that engage in defensive activities to protect civilians and other organised armed groups that undertake offensive operations against SPDC forces. For the purposes of determining the entitlement to protection of civilians who employ armed protection strategies, however, it is important to recognise that when legal obligations alone are insufficient to prevent unlawful attacks against protected persons or populations, IHL does not withdraw protection from civilians who engage in harmful acts to repel such attacks and thereby effectuate the fundamental protections accorded by IHL.

Civilian immunity would of course be forfeited if members of the home guard units were to undertake offensive operations against SPDC forces or directly participate in specific KNLA operations. The possibility that some *gher der* might participate directly in hostilities now or in the future certainly cannot be ruled out, given the varied composition of *gher der* groups and their autonomy, the broad scope for interpreting what activities comprise 'defensive' actions, and the constantly changing situation on the ground in terms of humanitarian conditions and SPDC militarization. Actions designed to pre-empt unlawful SPDC attacks before they could be carried out, for example deploying landmines around an SPDC camp to limit the range of patrols, would be problematic to interpret as purely self-defensive from a legal standpoint, regardless of the motivations of individuals carrying out such operations. It is furthermore conceivable that *gher der* groups might subordinate themselves to KNLA units for specific offensive operations, or in the event that the KNLA became stronger in a particular area. There appears considerable scope for home guards' and their members' activities to evolve and take other forms that may result in temporary or permanent loss of their civilian immunity and exposure to lawful attack for the duration of their participation in hostilities.

In light of the SPDC's established practice of treating all civilians in areas beyond their control as fighters who may be attacked without distinction, the potential for grey areas when interpreting the offensive or defensive nature of *gher der* activities strongly suggests that home guards' security measures could inadvertently precipitate military responses by SPDC forces, and fuel misconceptions that large numbers of civilians are actively participating in hostilities on behalf or in support of the KNLA. Thus while *gher der* groups appear to be valued locally for their capacity to counter threats to physical security and livelihoods posed by SPDC offensive activities, it is worthwhile to consider how their activities might also undermine the security of the displaced civilian population. Clearly, armed protection strategies employed by *gher der* need to be monitored and researched further, in order to draw firmer conclusions about the status of individual civilians who engage in them, to counter inaccurate characterisations of the humanitarian situation and the

KNLA-SPDC conflict in northern Papun, and to reinforce the fundamental IHL obligations of armed actors to protect the large displaced civilian population in non-SPDC controlled spaces.

VII. Conclusions: Increasing protection for civilians in Lu Thaw and beyond

"My hope is that village people have the chance to live in their own villages and [on their] land, with everything in its place, and to have the chance to work smoothly and freely without SPDC disturbance and attacks. We don't want to flee like this anymore."

- Naw Xe--- (female, 56), Ja--- village, Lu Thaw Township (December 2009)

"For the future, if possible, we'd like to go back and stay in our old village. We'd like to go back and farm our flat fields which have been destroyed by the SPDC. I want to go back and reconstruct them. For the time being it's very difficult. If the SPDC moves away in future and we can go back and work, we'll have better livelihood conditions. Our children don't know what to do and they can't travel freely and can't go anywhere. In the future we hope they'll be able travel freely here and there. If the SPDC still remains in our area, we'll stay facing food problems and won't [be able to] work very well."

- Saw O--- (male, 47), A--- village, Lu Thaw Township (February 2009)

A. Direct support

Civilians in conflict areas of eastern Burma will likely continue to use displacement as a protection strategy as long as they face attacks and exploitative abuse by the SPDC Army

Humanitarian conditions for villagers in upland Lu Thaw are not likely to improve in the near future. Though the broader 2005-2008 Offensive appears to have ended, the SPDC Army has not ceased its attempts to bring civilians hiding in upland Papun under control.¹⁸⁰ In non-state spaces, the SPDC's shoot on sight policy remains in place.¹⁸¹ SPDC soldiers continue to shell

¹⁸⁰ Reports published by KHRG since the end of 2008 documenting ongoing abuses in Papun indicative of SPDC Army practices targeting civilians include: "SPDC mortar attack on school in Papun District," KHRG, February 2010; "Starving them out: Food shortages and exploitative abuse in Papun District," KHRG, October 2009; "IDPs, land confiscation and forced recruitment in Papun District," KHRG, July 2009; "IDP conditions and the rape of a young girl in Papun District," KHRG, April 2009; "Attacks, killings and the food crisis in Papun District," KHRG, February 2009.

¹⁸¹ As mentioned in the introduction, direct targeting of civilians continues elsewhere in Karen State; see: "Attacks on cardamom plantations, detention and forced labour in Toungoo District," KHRG, May 2010; "Attacks and displacement in Nyaunglebin District," KHRG, April 2010; "Attacks on displaced villagers in Nyaunglebin District," KHRG, January 2010;

villages and villagers engaged in agricultural activities; patrols destroy villages and farm fields they discover in upland areas; and villagers in hiding flee to avoid meeting patrolling soldiers because they fear being killed or subjected to other abuses such as arbitrary detention or physical abuse. Where the SPDC Army has decreased its direct targeting of villagers in hiding, it has continued to target them with tactics that undermine their attempts to support themselves via cultivation of subsistence and cash crops. SPDC movement restrictions obstruct the basic livelihoods and commercial activities of villagers in hiding as well as their access to health facilities and services; individuals who attempt to circumvent such restrictions risk being shot on sight, injured or killed by landmines, or detained and abused as alleged KNU/KNLA supporters.

Worsening humanitarian conditions, the SPDC Army is also targeting external sources of assistance to civilians in hiding. International humanitarian actors are not permitted by SPDC authorities to operate in northern Lu Thaw; any local organisations that provide support to populations in hiding necessarily do so without SPDC sanction, and their members therefore risk being shot on sight if discovered by SPDC soldiers. Prolonged direct and indirect targeting of civilians in hiding by the SPDC Army have precipitated general physical insecurity, deteriorating food security and health, poverty, and the injury or loss of family and community members. Cumulatively, these SPDC practices continue to gravely undermine humanitarian conditions and long-term prospects for survival in non-state spaces of Lu Thaw Township.

The difficulties described above will likely be compounded if civilians from other areas continue moving to upland Papun in attempts to evade abuses by the SPDC Army. Households like those that fled Pi--- village in Dweh Loh Township in November 2009, described in Section IV: A, will face obstacles to survival upon arrival, as well as create complications for villagers already hiding in upland areas. Villagers interviewed in Sections III and IV of this report explained that there is already insufficient arable land in non-state spaces to support existing displaced populations. Such constraints will worsen food shortages as more families attempt to survive on less land, shortening rotation periods and decreasing soil fertility, and therefore crop yields.

It is also likely, however, that deteriorating humanitarian conditions will not dissuade large numbers of villagers from continuing to hide in upland areas of Lu Thaw rather than risk forced relocation or abuse in state spaces elsewhere. Sections III and IV detailed explanations provided to KHRG by villagers regarding why they have chosen to live in hiding, even in the face of sustained

“Living conditions for displaced villagers and ongoing abuses in Tenasserim Division,” KHRG, October 2009; “Patrols, movement restrictions and forced labour in Toungoo District,” KHRG, September 2009; “Livelihood consequences of SPDC restrictions and patrols in Nyaunglebin District,” KHRG, September 2009; “Military movements, forced labour and extortion in Nyaunglebin District,” KHRG, May 2009; “IDP responses to food shortages in Nyaunglebin District,” KHRG, April 2009.

efforts by the SPDC to make life unliveable beyond state control. Though the scope of research conducted for this report is not sufficient to draw comprehensive conclusions about all the factors that contribute to villagers' decisions, information gathered by KHRG indicates that villagers carefully weigh risks and benefits to survival in particular areas before deciding how and to where they flee. These calculations and, for many villagers, the resulting decision about how and where to become displaced, are a protection strategy employed by those who believe that life hiding in non-state spaces offers more security than life in state-spaces. Such calculations are not made lightly, and displaced villagers interviewed by KHRG in Lu Thaw repeatedly mourned the loss of their land and homes, and expressed an intense desire to return – while also setting forth the circumstances that informed their decisions about where and how to become displaced.

External actors wishing to promote human rights in conflict areas of eastern Burma should seek detailed understandings of villagers' self-protection activities and the concerns and priorities that inform these activities

Villagers hiding in Lu Thaw Township employ a variety of strategies to survive in the face of concerted SPDC Army attacks and other measures undermining humanitarian conditions. These strategies alone are not sufficient to resolve human rights and security concerns for villagers residing beyond SPDC control in Lu Thaw; this is manifest in the worsening humanitarian conditions described in Section IV. The fact that local responses to abuse are effective is also, however, manifest in the fact that 27,228 villagers residing in Lu Thaw have been able to survive in the face of sustained SPDC Army operations designed to kill them or drive them out of hiding.

Because the SPDC continues to target civilian populations hiding in northern Lu Thaw Township, both in military attacks that injure and kill civilians, and by creating conditions that make non-state spaces unliveable for displaced villagers, the most effective protection strategies available to civilians appear to be those related to, and which support, evasion. Indeed, for villagers from other parts of Karen State, the very decision to become displaced to Lu Thaw Township appears to be a protection strategy pursued after evaluating and comparing security and livelihoods risks in other areas. These local concerns and priorities, and the strategies required to address them, should be acknowledged, respected and supported. Outside actors seeking to improve human rights conditions for villagers hiding in Lu Thaw should make their starting point attempting to understand these local dynamics. Local actors are best able to assess the obstacles and threats they face, including protection concerns, and formulate appropriate responses. This fact has been recognised by humanitarian experts and formal humanitarian protection

guidelines, which have repeatedly emphasized the importance of local self-protection activities.¹⁸²

Self-protection strategies employed by villagers in Lu Thaw should be taken as affirmation of the capacity of rural villagers, and their ability to carry out highly complex, coordinated protection activities. Community responses to dire health conditions, such as the use of herbal medicine, speaks to this capacity – capacity that can be harnessed, for example, through village health worker and traditional birth attendant programmes.¹⁸³ Community education activities, particularly the extraordinary efforts made by some communities to ensure that children continue their schooling even in dire circumstances, speak to similar capacity. Even the use of weapons, particularly homemade landmines, speaks to an important capacity that should be factored in to external strategies to support local protection: villagers have demonstrated an incredible ability to survive in a dynamic security situation, an ability that can be harnessed, for instance through mine risk mapping or village demining activities¹⁸⁴ that immediately improve the lives of civilians, even if wider humanitarian demining is not yet possible.

¹⁸² For details on the way local self-protection strategies cohere with international humanitarian protection objectives, see Section IV.

¹⁸³ KHDW operates both types of programmes in limited areas in Lu Thaw. For a positive evaluation of KHDW's village health worker programme in Karen State, see C.I. Lee et al. "Internally displaced human resources for health: villager health worker partnerships to scale up a malaria control programme in active conflict areas of eastern Burma," *Global Public Health*, Vol.4 Issue 3, May 2009, pp.229 – 241.

¹⁸⁴ The potential effectiveness of village demining has been noted by demining experts, though it remains controversial. See, *International Mine Action Standards Mine Risk Education Best Practice Guidebook 6: Community Mine Action Liaison*, UNICEF and the Geneva International Centre for International Demining, November 2005, pp.39-43. The effectiveness of village demining has nonetheless been noted in some contexts, such as Cambodia, though this example differs from Lu Thaw Township in important ways. See, Rupert Leighton. "Developing Alternatives: The Locality Demining Model in Cambodia," *Journal of Mine Action*, Issue 9.2, February 2006. The particular importance of building on skills already developed by villagers that have experiences with high-risk mine related activities has also been remarked upon in the context of Cambodia. See, Ruth Bottomley. "Balancing Risk: Village De-Mining in Cambodia," *Third World Quarterly*, Vol. 24 No. 5, October 2003, pp.834-835: "People... who undertake high-risk activities can become key resource people for mine action interventions because of their knowledge of both the local mine problem and the main people at risk... Village de-miners in Cambodia demonstrate that there exist capabilities that are being utilized by people at the village level to deal with the environment in which they live. These capabilities should not be ignored or castigated because they contradict the dominant justification for mine action in terms of risk elimination. Instead, these activities should serve to inform mine action practitioners of both the capacities and the vulnerabilities existing in mine-contaminated villages."

Locally driven civilian protection measures should be incorporated into humanitarian programming and extreme care should be taken to ensure that no humanitarian activities undermine local self-protection activities

The capacity for self-protection in Lu Thaw presents more than just general lessons. This report provides details on specific activities that should be conducted, supported or further developed to improve protection of civilians that are actively being targeted by the SPDC Army. Tactics like the use of communal fields, described in Section IV: B-1, for instance, could likely be made more effective with the provision of outside support designed to address developing obstacles such as increasing population density and related strains on soil fertility. The importance of trade and communication between state and non-state spaces in upland and lowland areas should also be recognised and supported. Actors in state-spaces adjacent to Lu Thaw, for instance, could provide invaluable support to villagers in hiding by conducting activities that facilitate links between upland and lowland areas, such as helping villagers attempting to trade cash crops or acquire medicine do so without detection or restriction.

Ultimately, humanitarian actors interested in improving civilian protection not just in Lu Thaw Township, but in wider conflict areas in eastern Burma, should acknowledge and learn from the self-protection strategies employed by communities in Lu Thaw and documented in this report. It is highly likely that the utility and success of strategies developed and employed by civilians in Lu Thaw can be replicated elsewhere. The SPDC Army practices described in Section III are not unique to Lu Thaw, and KHRG has documented similar targeting of civilians in other upland hiding areas across Karen State, from central Mergui/Tavoy District¹⁸⁵ to northern Toungoo.¹⁸⁶ Similarly, KHRG researchers outside Lu Thaw Township have documented the widespread use, and effectiveness, of strategies like those described in this report.

No assumptions should be made about the particular tactics used in a given local context. Instead, understanding what works, where – and how such tactics can be supported – should be a prerequisite for developing any humanitarian programming in eastern Burma. For example, civilians contending with direct attacks in upland northern Lu Thaw may view *gher der* or KNLA landmines as serving a potential protection role. Civilians like those that fled Pi--- village in Dweh Loh Township during November 2009 (Section IV: A), however, may view landmines from all sides as a threat to their security. Because of differences between contexts even in relatively proximate geographic locations, humanitarian actors should take care to incorporate locally driven civilian protection into their programming, beginning with

¹⁸⁵ “Living conditions for displaced villagers and ongoing abuses in Tenasserim Division,” KHRG, October 2009.

¹⁸⁶ “Attacks on cardamom plantations, detention and forced labour in Toungoo District,” KHRG, May 2010.

programme development.¹⁸⁷ At minimum, extreme care should be taken to ensure that no activities are conducted that undermine the strategies villagers use to protect themselves from abuse.¹⁸⁸ Human rights impact assessments should be conducted, openly or covertly, and all activities by external actors should be continuously assessed in consultation with members of local communities to determine whether they increase – or limit – villagers’ abilities to protect themselves from abuse.¹⁸⁹

International governments, funding bodies and NGOs should provide funding support as necessary to actors that can consistently provide support for local self-protection efforts in conflict areas of eastern Burma, including actors operating cross-border from Thailand.

The crucial nature of protection strategies developed and initiated by civilians is particularly clear in the context of Lu Thaw Township because of the restrictions imposed by the SPDC on support from external humanitarian actors. Access to certain non-state spaces may be possible for some aboveground local and international organisations operating quietly from ‘inside’ Burma, particularly faith-based ones. However, KHRG researchers have not reported encountering any actors accessing non-state spaces in northern Lu Thaw Township openly via legal channels, and the armed conflict that continues in the area will likely continue to restrict access for organisations based ‘inside’ the country. Any humanitarian actor attempting to covertly provide support in Lu Thaw without government sanction, meanwhile, risks being shot-on-sight by the SPDC Army, like members of civilian populations in the area.

Populations seeking to evade attack by the SPDC Army in Lu Thaw Township are presently able, however, to access humanitarian support from a handful of organisations that provide mobile assistance organised via administrative offices based in Thailand. These organisations chiefly provide health services and support related to food and educational needs. Such assistance directly buttresses the efforts of villagers to survive SPDC attacks and severe humanitarian conditions while in hiding, and thereby remain beyond SPDC

¹⁸⁷ For details on this recommendation in the context of Karen State, see *Village Agency*, KHRG, November 2008 pp158-164. For a manual designed to facilitate such activities, see *Safety with Dignity: A field manual for integrating community-based protection across humanitarian programs*, ActionAid Australia, October 2009.

¹⁸⁸ This recommendation has been echoed in other reports on self-protection, which have invoked the established humanitarian principle of ‘do no harm.’ See, South et al, *Conflict and Survival*, 2010.

¹⁸⁹ See, Malseed, “Networks of Noncompliance,” April 2009, p.28: “*The line between ‘good’ aid and ‘bad’ aid is seldom clear, but one important consideration is whether aid increases people’s options – like food slipped through the back fence – or reduces them, like aid to the relocation site via the military. Both are political, neither is neutral. In this context, any form of action or inaction brings the outside actor into the state-society conflict.*”

control. Because these organisations are currently the only actors that can consistently access populations hiding in Lu Thaw Township, international governments, funding bodies and NGOs should provide funding support as necessary.

Though the KNLA cannot exercise full military control of Lu Thaw Township, it is able to access the area with relative ease; as such, many services in the area must be facilitated by organisations cooperating with, or formally a part of, the KNU. It is important to note, however, that independent observers have remarked upon the highly sophisticated monitoring and evaluation methods devised by groups operating in this context, and concluded that little to no direct material support is diverted towards the KNLA.¹⁹⁰ Supporting local humanitarian actors who are a part of, or in cooperation with, a non-state armed group may nevertheless be unacceptable for some actors, particularly international organisations or UN Agencies, due to concerns related to political neutrality and the risk that such support might become involved in the political economy of the conflict.¹⁹¹ Support from groups operating aboveground via offices based in Rangoon have similarly been criticised as also becoming involved in the conflict, and legitimising – or even directly supporting – the SPDC military government.¹⁹²

Such criticisms should be careful not to focus on national level politico-military issues at the expense of rural peoples that are today in acute need of support.¹⁹³ Similarly, stances on the relative political legitimacy of particular actors should not dictate whether civilians in a given area receive support.

¹⁹⁰ South et al, *Conflict and Survival*, 2010: “[M]ost local agencies have developed impressive monitoring and evaluation capabilities, and there is very little ‘aid leakage’ (i.e. armed groups rarely receive direct material support from cross-border aid agencies).”

¹⁹¹ For more on the potential negative side-effects of the cross-border aid model – and the Thailand-based refugee camp system – see South, *Ethnic Politics in Burma*, pp.89-99.

¹⁹² Such criticisms have, in turn, been credited with obstructing distribution of much needed aid to civilian populations across Burma. See, for example, “Myanmar: New Threats to Humanitarian Aid,” International Crisis Group, Asia Briefing N°58, December 8th 2006, p.16: “Whether the aid community can succeed thus depends not only on itself and the government, but perhaps equally on the critics. Assistance to Myanmar remains highly sensitive; judging from recent developments, critics of aid remain very influential. There is a fear among some humanitarian officials that the lobby groups are gearing up for an attack on the 3D Fund and that they may well, as so often in the past, be given the necessary ammunition by hardliners in the Myanmar government who ultimately would be happy to see the agencies go. If this happens, the people of Myanmar will again pay a high price and the prospects for change will weaken further.”

¹⁹³ In contrast to some of the harsher criticisms of aid via Rangoon, South has been clear to say that cross-border aid also provides crucial support a segment of the population in eastern Burma in dire need of support. See, South et al, *Conflict and Survival*, 2010. “Assistance and the associated protection by local NGOs/CBOs working cross-border from Thailand and those operating in government-controlled and ceasefire areas ‘inside’ the country are vital - and complementary - and should continue to be supported by donors and international agencies.”

Humanitarian actors should decide whether to provide support based upon the needs of the civilian population, and decide with whom to cooperate or how to access the civilian population in question based upon the degree to which a particular actor is an obstacle or an aid to protection activities.

Armed self-protection strategies used by civilians emphasise, rather than obviate, the need for increased practical support that broadens villagers' range of feasible options for responding to abuse and military attack

Calls to support the self-protection strategies employed by civilians in Lu Thaw are also complicated by the fact that, in some cases, villagers interviewed for this report described strategies that are not in line with traditional conceptions of humanitarian protection, for example the formation of *gher der* home guard groups or the use of landmines. When considering whether particular strategies are appropriate to support, it is important to take into account that villagers' uses of particular strategies appear to be the product of calculations that carefully balance competing protection concerns. Villagers describing the formation of, or their participation in, *gher der* groups, for instance, noted the perceived necessity of such activities, and expressed their desire to return to lives as farmers, with weapons used only for hunting. Risks from the use of landmines were acknowledged, with villagers in some cases mourning relatives or neighbours killed or injured by landmines – while at the same time justifying their use and protection value.

This discussion is not meant to take a stance in favour of or against the use of arms by villagers in northern Lu Thaw Township. Rather, this report aims to document as clearly as possible some of the strategies villagers use to protect themselves from abuse, and illustrate the complex decision-making and risk-assessing processes by which these strategies are determined, developed and deployed. Understanding these strategies, and how they are selected, is crucial for any actor hoping to improve the humanitarian situation currently confronted by civilians in Lu Thaw. Outside actors interested in the threat posed by landmines must, for instance, take into account local perspectives which view such devices as serving a protective function. Policies must be adjusted accordingly, such as by adapting mine-risk education curriculum or focusing on support for risk mapping or village-level de-mining.¹⁹⁴ Indeed,

¹⁹⁴ The importance of understanding local decision-making processes that result in potentially high-risk activities has been emphasized by demining experts in other contexts. See, Ruth Bottomley, "Balancing Risk," October 2003, p.824: *"In contrast to their usual depiction as passive victims, communities affected by landmines are in fact active subjects, dealing with their own local situations on their own terms. Their attitude towards the risks... is very much one of balancing the risk of possible injury against other equally pressing problems and risks that they face on a daily basis... Rather than focusing purely on the risk aspects of village de-mining, the challenge for mine action is broader: to better acknowledge existing local-level capabilities and to better understand and address the vulnerabilities that make villagers susceptible to undertaking risky activities such as mine clearance... Once the vulnerabilities*

because villagers appear to carefully make decisions regarding particular protection strategies, actors concerned by their use of armed strategies should seek to understand the reasons for uses of particular strategies, and seek to provide protection alternatives that reduce or eliminate the perceived necessity of weapons and landmines to the realisation of local protection objectives.¹⁹⁵

That some villagers use armed resistance strategies should not disqualify the wider civilian population of northern Lu Thaw from receiving support. That many villagers have explicit or implicit political positions on the legitimacy or illegitimacy of local systems of extraction employed in state spaces, or about the particular legitimacy or illegitimacy of actors like the SPDC and KNLA, should also not disqualify them from receiving support. Civilians in Lu Thaw have a right to humanitarian protection regardless of their political opinions or allegiances, just as they have a right to legal protection from attacks by the SPDC Army under international humanitarian law. Consequently, villagers should not be made to depoliticise themselves to receive support, or employ protection strategies that force them to disclaim or abandon their political positions; no civilians should be denied protection in the name of politics – or neutrality.

B. Indirect support

Advocacy and engagement towards the SPDC should be designed to support civilian self-protection activities, even if only partially successful

That local populations' strategies for protecting themselves from abuse can and should be directly supported does not mean that no efforts should be made to change SPDC policies and practices. However, outside actors able to engage the SPDC should do so with a mind towards materially changing field practices employed by SPDC Army battalions in remote areas like Lu Thaw Township. Because of the SPDC's intransigence regarding outside influence

that make people susceptible to the hazards of mines begin to be addressed, village de-mining and other high-risk activities will decline."

¹⁹⁵ See: Barrs, *Preparedness Support*, 2010. "All too often, at-risk populations feel they no longer have any choice but to seek safety through arms; arming themselves or gaining this protection through payment to or allegiance with an armed group. The decision belongs to them—but... there are many time-tested ways of staying safer amid conflict; ways that largely neither support aggression nor submit to life-threatening demands. As is discussed below, civilians often seek safety through affinity, accommodation, and avoidance. If we support such efforts of theirs, then we might help raise up or restore choices where there appeared to be none other than a gun." See also: Bonwick, "Who really protects civilians?" 2006. "Most agencies (although not every government) would not choose to arm people to defend themselves, nor would they encourage people to submit to the threats that they face. This leaves the option of helping communities to avoid the threats. The right assistance, provided in the right way, can play a vital role."

on military policy, however, attempts should aim to effect changes that will support local protection strategies even if they are only partially implemented. Any actors looking to improve human rights conditions for villagers in rural areas should, then, seek input from rural villagers to better understand the way their policies can or should interact with villagers' concerns and the strategies they use to respond to abuse.¹⁹⁶

In the context of Lu Thaw Township, it is clear that the SPDC Army is in violation of international humanitarian norms to which it has agreed. This is reflected in consistent documentation across Karen State by local and international organisations, and notes by a variety of powerful actors including foreign governments and the UN, that the SPDC Army employs practices that violate these norms (see Section II). In Lu Thaw Township, these practices include, but are not limited to: shooting civilians on sight; the destruction of villages, agricultural operations and food stores; the shelling of villages and civilians engaged in agriculture; and the laying of landmines in abandoned villages and agricultural land. These actions respectively amount to direct attacks against civilians, attacks against civilian objects and objects essential to the survival of civilians, and indiscriminate attacks, all of which are prohibited based on the principle of distinction and customary rules of IHL. As explained in the analysis in Section VI, the IHL obligations of parties to an armed conflict to pursue the protection of the broader civilian population from direct attack and other harmful consequences of war are fundamental, and cannot be relaxed, withdrawn or disregarded because certain individuals forfeit their immunity from attack by directly participating in hostilities. The SPDC Army should thus be encouraged to cease targeting civilians and bring its military practices into accordance with international humanitarian norms.

Attempts to address SPDC Army violations of IHL should focus on villagers' own immediate protection priorities

As this report has emphasised, SPDC Army practices that undermine civilian livelihoods – which are themselves a violation of international humanitarian law – appear to be the most destructive to populations seeking to evade SPDC attacks and remain in hiding. Villagers interviewed by KHRG repeatedly discussed their experiences of abuse by the SPDC Army in terms of the effect of such abuse on their livelihoods, particularly their ability to access and cultivate agricultural projects, and have indicated a desire to conduct livelihoods activities without threats of violence or physical insecurity.¹⁹⁷

¹⁹⁶ KHRG has previously explored ways to include villagers' perspectives in policy-making. See, *Village Agency*, KHRG, November 2008, pp164-168.

¹⁹⁷ KHRG researchers are trained to conduct interviews that are, by design, largely free form and dictated by the local context and by priorities as expressed by villagers. For more information, see Methodology and scope of research (pp.4-6 of this report). Still, interviews are typically closed with a general question to ensure that villagers are able to raise any issues that they might feel to be important but that was not already discussed, e.g. 'Is there anything else

Information presented in Section III, meanwhile, indicates that attacks on livelihoods, even when indirect, are among the most difficult for villagers to resist, and thus one of the most effective methods by which the SPDC Army can make life in hiding unsustainable for villagers in Lu Thaw. Outside actors working to encourage changes in SPDC Army practice should, then, focus first on those military tactics that undermine villagers' ability to support themselves in hiding, including attacks on villagers engaged in farming or attacks on farm fields, destruction of food stores or agricultural equipment and supplies, and restrictions on movement and trade, particularly between upland and lowland areas.

Sweeping changes will be required if the abuses and humanitarian consequences described in Sections III and IV of this report are to be fully and satisfactorily resolved. However, the needs of villagers suffering ongoing abuse, and physical and humanitarian insecurity, should not be marginalised in order to focus on all-or-nothing, national-level political change. Seemingly minor changes, for instance relaxation of restrictions on travel and trade between upland and lowland Papun, could radically improve villagers' ability to protect themselves from abuse. Further, relaxed restrictions on travel and trade between villagers hiding in upland Lu Thaw Township and adjacent lowland areas in Bu Tho and Dweh Loh townships would enable villagers in hiding to trade for vital food and other materials using products from small-plot cash crops,¹⁹⁸ which are less land-intensive and easier to maintain covertly. In either case, opening such space may mean the difference between civilians that can adequately survive in hiding, and civilians no longer able to protect themselves from abuse.

C. Implications for peace building

Addressing the protection concerns of civilian populations in conflict areas of eastern Burma is a crucial prerequisite to long-term and sustainable peace building

Villagers in Lu Thaw appear to choose displacement based upon a variety of calculations, only some of which are analysed in this report. Political positions local or national level political actors or ardent Karen ethno-nationalism, for instance, should not be ignored or discounted, though they were not dealt with

you would like to tell me?' Researchers are also encouraged to ask villagers what kind of changes they would like to see in their lives, sometimes in regards to a particular issue or timeframe, e.g. 'What kind of changes would you like to see in your life during the next year?'

¹⁹⁸ KHRG has also reported on villagers in hiding obtaining vital materials by trading with villagers in lowland areas using durable cash crops elsewhere in northern Karen State. See, *Village Agency*, KHRG, November 2008. For a recent example of this self-protection strategy, and SPDC Army practices designed to counter it, see "Attacks on cardamom plantations, detention and forced labour in Toungoo District," KHRG, May 2010.

in detail here. Research done for this report, however, indicates that whatever factors inform villagers' individual or collective calculations about whether to become displaced, experiences of abuse and perceptions of who may be an obstacle or aid to self-protection are also considered. While many villagers are likely hiding in upland Lu Thaw because of connections or allegiance to the KNLA, an important dimension that must be recognised is the extent to which decisions to live in hiding are influenced by experiences and memories of abuse. Analysing armed self-protection also provides crucial insight on this front, as villagers interviewed in Lu Thaw explicitly and repeatedly defined themselves as distinct from the KNLA, though working in cooperation and sometimes towards the same ends. In the case of some *gher der* groups, certain communities' recourse to armed self-protection appears to be directly related to the KNLA's *lack* of penetration into their areas, and its inability to provide protection for civilians seeking to survive in upland areas.

Understanding these dimensions to conflict in upland Lu Thaw Township is vital, for it complicates approaches that view conflict and abuse in Karen State through the limited prism of KNLA-SPDC conflict, and related assumptions about the driving force of ardent Karen nationalism. This is not to say that nationalism and KNLA-SPDC conflict are not salient issues. It is, however, to point out that, as the experience of the *gher der* in Lu Thaw demonstrate, even when the KNLA is no longer able to provide protection, villagers may continue to seek to evade control in upland areas, including through the use of arms. For actors interested in stability and peace in this area, then, it is clear that the focus needs to be on addressing the protection concerns of civilians in conflict areas of eastern Burma. This alone may not be sufficient – but it is fundamentally necessary for any long-term and sustainable peace building.



Tens of thousands of villagers residing in upland northern Karen State continue to be targeted by the State Peace and Development Council (SPDC) Army. While local responses have enabled villagers to survive and maintain their dignity in spite of attack, sustained pressure has strained these local capacities. These circumstances have prompted some communities to respond with alternative strategies – including uses of arms or landmines. Based upon information from more than 212 interviews and 85 field documents, this report makes clear that uses of weapons by civilians occur amid increasing constraints on alternative self-protection measures. These constraints necessitate increased practical support that broadens civilians' range of feasible options for self-protection.

"Before we left our village, our situation was better... because we had our own land to farm, but now we don't have enough rice... We don't dare to go back."

- Saw G--- (male, 58), Xa--- village, Lu Thaw Township (December 2009)

"We've had to flee more than ten times already... If they came to beat you to death, interrogate you, hit you, ask you to be a porter, would you accept it?"

- Saw E--- (male, 46), O--- village, Lu Thaw Township (December 2009)

The Karen Human Rights Group (KHRG) was founded in 1992 and documents the situation of villagers and townspeople in rural Burma through their direct testimonies, supported by photographic and other evidence. KHRG operates independently and is not affiliated with any political or other organisation. Examples of our work can be seen online at www.khrg.org, or printed copies may be obtained subject to approval and availability by sending a request to khrg@khrg.org.

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