

## STOP LICENCE TO RAPE IN BURMA

POSITION PAPER PREPARED BY

**Shan Women's Action Network (SWAN)**

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Since 1992, the UNCHR has passed resolutions each year on the situation of human rights in Burma. The reports by the UN Special Rapporteurs on Burma submitted to the UN General Assembly since 1992 have contained an abundance of summaries of testimonies of extreme human rights violations committed by the Burmese military regime, including military rape.<sup>1</sup>

In the 1994 report, one recommendation reads, "The Government of Myanmar should take the necessary steps to bring the acts of soldiers, including privates and officers, in line with accepted international human rights and humanitarian standards so that they will not commit arbitrary killings, rapes and confiscations of property, or force persons into acts of labour, portering, relocation or otherwise treat persons without respect for their dignity as human beings." [Emphasis added]<sup>2</sup> The Special Rapporteur on Burma's 2003 report contains similar recommendations.<sup>3</sup>

The UN Special Rapporteur on violence against women, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture, has sent letters of allegation to the regime on sexual violence committed by military personnel in Burma.

Since the United Nations human rights bodies began their examination of the situation in Burma, there has been no concrete redress provided to victims of rapes and no positive development in the lives of women in Burma especially in ethnic states.

It is evident that the military regime in Burma has taken no serious measures to improve the situation. Nearly all military rapists go unpunished. This culture of impunity has meant that women and girls in Burma are in greater danger as, until today, they are continuing to be raped by the regime's soldiers.

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<sup>1</sup><http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Myanmar%20En?OpenDocument&Start=1&Count=15&Expand=2>;  
<http://www.unhchr.ch/html/menu2/7/a/mmya.htm>

<sup>2</sup> E/CN.4/1994/57

<sup>3</sup> There appear to be serious problems with the way the army and armed groups treat civilians in ethnic counter-insurgency areas. These problems will not disappear by denying them and they should be recognized and addressed properly if they are to be resolved. Allegations will continue to be made as long as violations continue to occur. (<http://www.unhchr.ch/pdf/chr59/41AV.pdf>)

In June 2002, the Shan Women's Action Network (SWAN) jointly released a report "**Licence to Rape**," which documents 173 incidents of rape and other forms of sexual violence, involving 625 girls and women, committed by Burmese troops in Shan State, mostly from 1996-2001. 83% of the rapes were committed by officers, in most cases in front of their troops. The rapes involved extreme brutality and often torture, such as beating, mutilation and suffocation. 25% of the rapes resulted in death. 61% were gang-rapes, and in some cases, women were detained and raped repeatedly for periods of up to four months. Out of the total 173 documented incidents, in only one case was a perpetrator punished. More commonly, the complainants were fined, detained, tortured or even killed by the military. The majority of rape incidents were committed in the areas of Central Shan State where over 300,000 villagers have been forcibly relocated from their homes since 1996 as part of an anti-insurgency campaign.

These acts are forms of violence against women which has been recognized as "a serious form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men" (CEDAW General Recommendation No.19). Such violence is a violation of the following rights and freedom: right to life; right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; right to equal protection according to humanitarian norms in time of international or internal armed conflict; right to liberty and security of person; and right to the highest standard attainable of physical and mental health.

**Licence to Rape** gives clear evidence that:

- rape is officially condoned as a 'weapon of war' against the women in Shan State.
- the Burmese military regime has committed war crimes and crimes against humanity in the form of sexual violence, against Shan women.

Although "**Licence to Rape**" only documents incidents of sexual violence committed by the regime's military in Shan State, other reports indicate that such sexual violence has been happening in all of Burma's ethnic areas, and is continuing until today. The systematic use of sexual violence by the regime is clearly an integral part of its strategy to subjugate Burma's peoples, and to control and exploit the resource-rich ethnic states.

Over the past decade, the regime has increased the size of its army from 180,000 to over 400,000 troops. In Shan State alone, there are now at least 150 battalions<sup>4</sup>, with well over 100,000 troops. The military exercises absolute power, and all abuses, including sexual violence, are licenced in the interests of controlling local populations. "**Licence to Rape**" thus **affirms** that **the system of military dictatorship in Burma** is the **root cause** of the widespread sexual violence against ethnic Shan women.

### ***Increased climate of insecurity for rape survivors and their communities***

Since the publication of **Licence to Rape**, the Burmese military has repeatedly refuted its complicity in acts of rape by military personnel. They have sought to discredit the authors of the report. In August and September 2002, they conducted their own "investigation" into the report, which involved forcing local Shan communities to deny that their troops had committed any sexual violence. In October 2002, prior to the visit of the UN Special Rapporteur for Burma, Professor Pinheiro, the regime threatened Shan villagers in various

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<sup>4</sup> This number includes artillery, tank and armoured battalions.

areas not to testify against their troops. They also sent out military intelligence officers to track down and interrogate rape survivors. Before the visit of the International Committee of the Red Cross to Central Shan State in December 2002, and the visit of Amnesty International to Burma in January 2003, local Shan populations were warned not to speak ill of the military. Most recently, in early February, local military officers threatened to cut out the tongues and slit the throats of villagers who had dared speak out to the ICRC during their recent visit to Shan State in January 2003.

SWAN is deeply concerned at the increased climate of insecurity for rape survivors and their communities in Shan State, as under the current military regime there is no protection mechanism provided for survivors and/or witnesses who dare to testify against the military.

The much publicized incident of the regime's bugging of an interview between Professor Pinheiro and a political prisoner in Rangoon's Insein Prison on March 22, 2003, is clear evidence of the regime's insincerity towards international investigators. Prior to this, on February 16, 2003, the Burmese authorities had also organised a training in Mon State for over 100 members of the state-run Union Solidarity and Development Association on how to answer and deceive international investigating teams.

Even though SWAN has been greatly heartened by the response of the international community in calling for international investigations into the systematic sexual violence committed by the Burmese military, the safety of the rape survivors must be the foremost priority in this process.

To this end, prior to any investigations, the UN and other bodies must set up safe and secure mechanisms for conducting investigations inside Burma, which will not expose the women to further risk or trauma. This will necessarily involve political concessions by the regime, beginning with a nationwide ceasefire.

In the meantime, only investigations conducted outside of Burma, where women can testify in safer conditions, with less fear of repercussion, are viable at this stage. These should be conducted in conjunction with ethnic women's organisations, who can provide ongoing support systems for the survivors.

### ***No relief or redress for the women survivors***

There is nowhere for the rape survivors to turn to inside Shan state for any medical or social support, let alone for legal recourse. A large number of survivors and witnesses have fled to the Thai-Burma border. These survivors are still suffering the mental and physical effects of sexual violence. However, Shan refugees, unlike ethnic Karen and Karenni refugees from Burma, are not recognized in Thailand and there are no refugee camps provided for Shan people even though they are "outside the country owing to well-founded fear of being persecuted in Burma".<sup>5</sup> Survivors therefore have very limited access to basic healthcare, let alone mental healthcare or counseling services. They are forced to exist as undocumented persons, constantly in fear of being arrested and deported to Burma. They end up working illegally for their survival, doing the "3D" jobs: dirty, difficult and dangerous, and are usually exploited.

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<sup>5</sup> Article 1. 2 of Refugee Convention

The urgent and immediate needs for the survivors and their communities are:

- Temporary shelter in neighbouring countries where they can access protection, basic humanitarian assistance, services and community-based support systems;
- Protection for local groups, which are working closely with and assisting the survivors; and
- Capacity-building of women's groups from Burma to address and prevent VAW through community-based strategies and actions.

### ***Women survivors call for peace***

The overwhelming desire of women survivors interviewed has been to be able to return to their homes inside Shan State, where their families have lived for generations, and to live in peace. They want the Burmese military to withdraw from Shan State and let them live without fear.

### ***Recommendations***

We call on States to urge the Royal Thai government in co-operation with UNHCR and the international community to:

- Provide international protection as defined in the Refugee Convention to Shan civilians seeking asylum in Thailand
- Provide temporary refugee camps and humanitarian relief for Shan refugees in Thailand
- Provide rape survivors access to services provided by international humanitarian organizations, particularly psychosocial and medical services in Thailand
- Suspend the forced return of rape survivors seeking asylum until such time that an independent body determines the safety and security of the refugees;
- Ensure the safety and security of the people involved in the documentation and publication of "**Licence to Rape**".

We also urge States to:

- Raise concerns with the Burmese military regime about the systematic use of rape as a weapon of war against ethnic women in Burma;
- Request the UN Special Rapporteur on Violence Against Women to organise a fact-finding mission by experts in sexual and gender based violence to the Thai Burma border. This should be done in close coordination and cooperation with local women's organisations to try and minimize trauma and fear among the survivors and their communities. There should also be measures taken to ensure that those assisting with the fact-finding mission are provided with protection.
- Pressure the regime to immediately and fully implement a nationwide ceasefire and begin tripartite dialogue with the representatives of the Burman and non-Burman democratic opposition ( A/C/3/57/L.48: the 57th Session of UNGA Resolution 2002 on the situation of human rights in Burma, No. 4. g and 5 a, b & g ), and to withdraw their troops from ethnic states;
- Suspend the giving of aid to Burma through the regime,
- Suspend all investment in Burma until there is irreversible democratic reform.

**For further information contact SWAN at [kenneri@loxinfo.co.th](mailto:kenneri@loxinfo.co.th) or [www.shanwomen.org](http://www.shanwomen.org)**