

CRACKS IN THE SILENCE:

SEXUAL VIOLENCE AGAINST CHILDREN AND CHALLENGES TO ACCESSING JUSTICE IN
MON STATE AND MON AREAS OF SOUTHEAST BURMA

A Report by
Women and Child Rights Project (WCRP)



Human Rights Foundation of Monland (HURFOM)

March 2017



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THE HUMAN RIGHTS FOUNDATION OF MONLAND (HURFOM)

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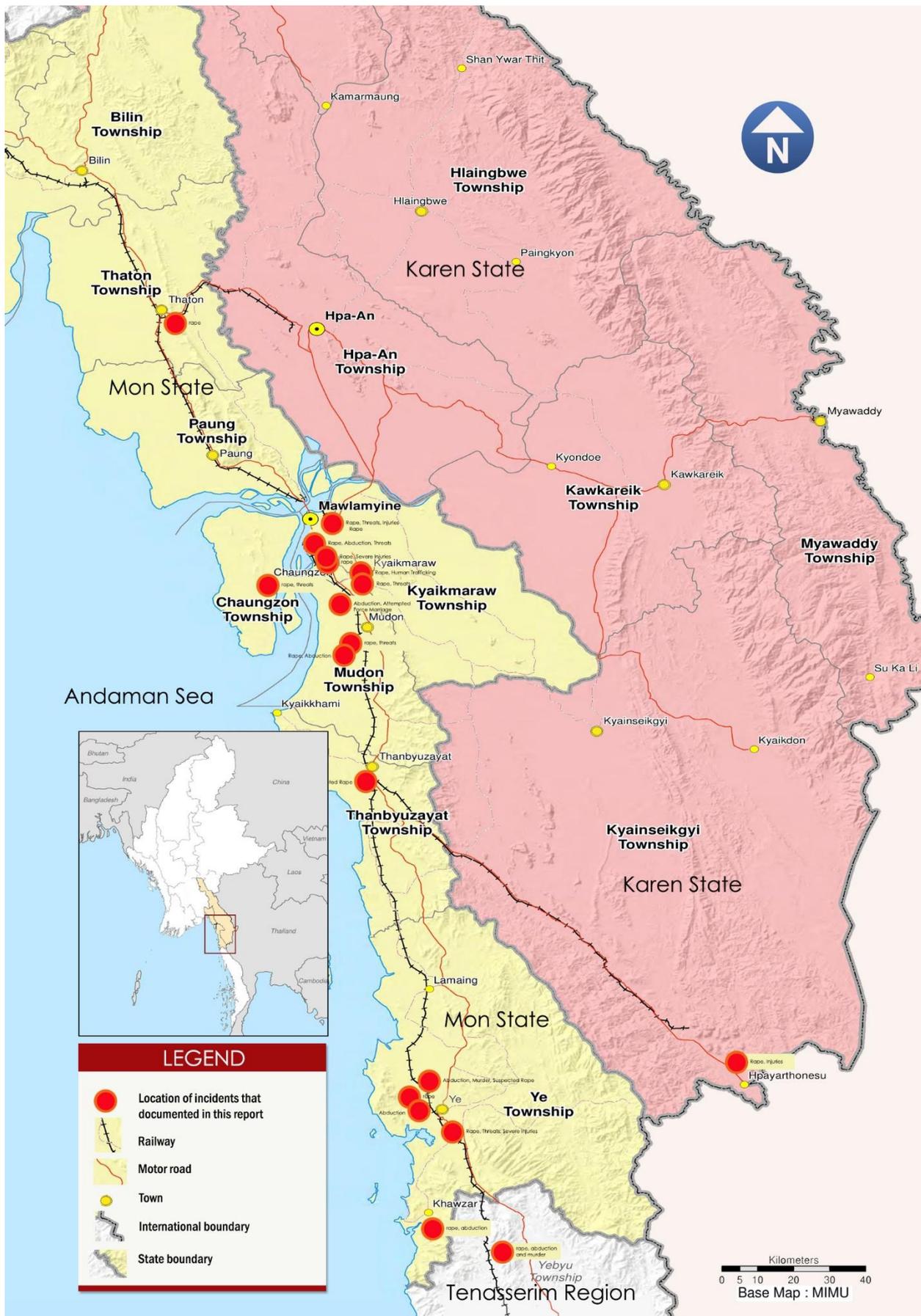
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ACRONYMS AND ABBREVIATIONS

CBO	Community-based organization
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
GAD	General Administration Department
HURFOM	Human Rights Foundation of Monland
IB	Infantry Battalion
LIB	Light Infantry Battalion
MNEC	Mon National Education Committee
MNLA	Mon National Liberation Army
MoHA	Ministry of Home Affairs
MWCUC	Mon State Women and Children Upgrade Committee
MWN	Mon Women's Network
MWO	Mon Women's Organization
NMSP	New Mon State Party
WCRP	Women and Child Rights Project



Chapter 1: Introduction

“Even if a [child rape] case is brought to the courts, the punishment [perpetrators receive] is not just, so they [villagers] do not want to fight for justice. People do not trust in the rule of law, so they just give up on the truth.”

Interview with Mi Cherry Soe, Mon Women's Network

Since 2013, the number of reported cases of violence, particularly sexual violence, toward children in Burma has increased dramatically. So too is this the case in Mon State and Mon areas of Burma. HURFOM itself has seen a significant increase in the number of cases of violence toward children received between 2013 and 2016. However, due to the shame and stigma associated with sexual violence, as well as the challenges faced when accessing justice in Burma’s complex, pluralistic legal system, it is likely that the number is much higher than actually documented.

This report by HURFOM’s Women and Child Rights Project (WCRP) analyzes 20 cases of violence toward children received from Mon State and Mon areas of southeast Burma between December 2013 and January 2017. The types of violence ranged from rape to human trafficking; however, in the majority of cases sexual violence was identified as the primary motive. While HURFOM acknowledges the small size of the dataset, this report aims to provide a platform for community perspectives on issues that they have identified as important to them, rather than to make general conclusions regarding the phenomenon.

While analyzing the cases, interesting patterns in how families navigated the pluralistic legal system in Burma emerged, as well as a number of challenges they face when accessing justice while reporting a crime involving sexual violence. Thus, this report looks not only at individual cases, but also at the challenges villagers face when pursuing justice and the forms of agency, both individual and collective, they use to overcome these obstacles.

This report is divided into six main sections. After the Introduction (Chapter 1) and Methodology (Chapter 2), this report provides a basic overview of the legal and administrative structures that deal with crime of a sexual nature. Furthermore, it provides

a brief examination of Burma's international and domestic obligations to protect children. Next, Trends in Violence toward Children (Chapter 4) are provided including types of violence, perpetrators, and reporting chains, after which Voices of Villagers (Chapter 5) are presented, including individual and collective forms of agency, and perspectives on the increase in reports of sexual violence and challenges to accessing justice. Finally, Recommendations (Chapter 6) for the Burma government, including local government and administrative departments, the New Mon State Party (NMSP), as well as community-based organizations (CBOs) are provided.



Chapter 2: Methodology

Since 1995 HURFOM has been documenting the voices of Mon populations in Burma using a methodology developed over 22 years of experience. In 2000, HURFOM implemented the Women and Child Rights Project (WCRP), committed to promoting and protecting the rights of all women and children in Mon State and Mon parts of southeast Burma in accordance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). The following report draws on WCRP's 17 years of experience in documenting and reporting on issues affecting the rights of women and children.

Field Research

Information in this report is based primarily on field research conducted between April and December, 2016. WCRP employed three community-based field researchers to gather information and conduct interviews regarding violence against children. Two permanent WCRP staff also conducted interviews in addition to organizing, translating, and analyzing the data collected from the field.

The three community-based field reporters and two permanent staff conducted semi-structured interviews and documented incidents of violence against children primarily in two townships in Mon State: Ye and Moulmein. However, target areas included Yebyu Township, Tenasserim Division, and parts of Dooplaya District,



in Karen State. Incidents documented by HURFOM were not restricted to these locations, rather these locations were logistically convenient due to the high number of CBOs based in these areas providing greater access to information regarding violence toward children. Information collected was supplemented by interviews with a variety of community experts, as well as by the HURFOM office. Focus group discussions were also held in communities where violence toward children had previously occurred. These were conducted as trust-building exercises and topics remained general discussions on the prevention and solutions to violence toward children in their communities.

This report also includes information drawn from HURFOM's extensive database developed over 22 years of human rights documentation in Mon areas of Burma. In some cases, information in the following report has already been published, either online in incident reports or in monthly print issues of the *Mon Forum*. Where possible, HURFOM asked field reporters to follow-up on incidents catalogued in HURFOM's database, however geography and time, among other constraints, did not always make this possible. HURFOM will publish a follow-up report on cases identified in this report in the near future.

Analysis

This report analyzes incidents of violence against children in Mon State and Mon areas of Burma between December 2013 and January 2017. Drawing from 40 documents submitted by researchers, HURFOM was able to catalogue incidents of violence, particularly sexual violence, against children, as well as community perspectives and expert opinions regarding the increasingly visible trend. This report analyzes 20 incidents of violence against children documented by field researchers, 11 of which were already present in HURFOM's database. Furthermore, this report also draws on 16 interviews with local CBOs and community workers, including nine individuals from CBOs working with woman and children in Mon areas; two legal experts; three trainers providing legal and rights education for Mon villagers; and two village administrators. In addition, three incidents of sexual violence against women were also documented by HURFOM's field researchers during this period, some of which involved the past sexual abuse of minors, although they fell outside of the reporting period for this report and were used only to provide a broader context for sexual violence in Mon areas of Burma and therefore were not included in the formal analysis.

HURFOM acknowledges the small size of the dataset used in this report and its limitations in drawing general conclusions regarding the phenomenon of violence against children in Mon State and Mon areas of southeast Burma. Rather it seeks to provide a platform for community perspectives on issues that they identified as important to them, as well as to highlight forms of agency villagers and community members use when navigating a complex, pluralistic legal system.

Definitions

For the purposes of this report, HURFOM has defined the following terms:

ABDUCTION

FORCIBLY REMOVING AN INDIVIDUAL FROM A LOCATION AGAINST THEIR WILL FOR AN EXTENDED PERIOD OF TIME.

CHILD

ANY INDIVIDUAL UNDER THE AGE OF 18, REGARDLESS OF NATIONAL LAWS THAT STATE OTHERWISE.

RAPE

SEXUAL VIOLENCE INVOLVING SEXUAL INTERCOURSE OR SEXUAL PENETRATION IN ANY FORM COMMITTED AGAINST SOMEONE'S WILL AND WITHOUT THEIR CONSENT.

SEXUAL VIOLENCE

ANY SEXUAL ACT, ATTEMPT TO OBTAIN A SEXUAL ACT, UNWANTED SEXUAL COMMENTS OR ADVANCES, OR ACTS TO TRAFFIC, OR OTHERWISE DIRECTED, AGAINST A PERSON'S SEXUALITY USING COERCION, BY ANY PERSON REGARDLESS OF THEIR RELATIONSHIP TO THE VICTIM, IN ANY SETTING, INCLUDING BUT NOT LIMITED TO HOME AND WORK.¹

¹ World Health Organization., World report on violence and health (Geneva: World Health Organization, 2002), Chapter 6, pp. 149.

Research Areas

Geographically, this report documents incidents of violence against children in Mon State, as well as Mon areas in Burma. This includes the Burma government defined area of Mon State, including its two districts, and ten townships (See Map). HURFOM's research areas also extend beyond government demarcated boundaries to include areas with significant Mon populations, such as New Mon State Party (NMSP) controlled areas and villages in Karen State, or contested areas of control, such as Yebyu Township in Tenasserim Division.

While this report focuses on Mon State and Mon areas, it is not limited to reporting on incidents and issues affecting only those of Mon ethnicity. Instead this report encompasses all incidents of violence against children received by HURFOM regardless of ethnicity or religion, which occurred within these areas.

Challenges

During the field research phase of this report, HURFOM field researchers faced many challenges in obtaining thorough information regarding violence towards children in Mon State and Mon areas of Burma.

Limitations

The sensitive nature of the subject matter, as well as the stigma and shame associated with sexual violence in general, presented many obstacles and challenges for field reporters in collecting data for this report. Many individuals HURFOM interviewed during the field research portion of this project felt that the lack of reporting on crimes of a sexual nature was a primary challenge resulting in many of our researchers to conclude that incidents of child rape and sexual violence occurs on a larger scale than the dataset presented by HURFOM. In addition, although sexual violence toward children is an unambiguous violation of a child's rights, other forms of violence in Burma, in particular corporal punishment and domestic abuse, may not be considered as such, thus leaving hidden other types of violence experienced by children.

Security

HURFOM is an unregistered human rights organization, and as such, it creates many security issues for our field reporters in Burma. HURFOM must work illegally, underground, with no security for its field reporters who work in Burma. This creates challenges in creating safe spaces for individuals to speak openly about issues affecting their communities, especially when being critical about past and current administrations at all levels of government.

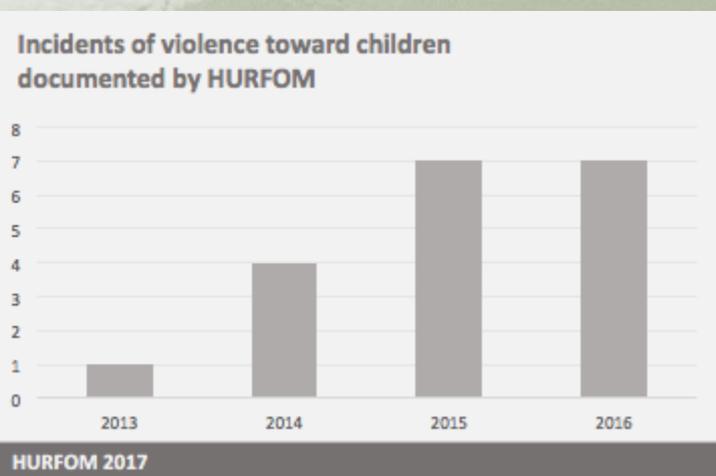
Beyond the issue of security for HURFOM's field reporters, there exists security issues for those who report abuses or share information with HURFOM. Unless given express permission to publish the name and organization of interviewees, HURFOM censors the name of those who provide information to us. For most incident reports involving violence against children, HURFOM has censored the names of individuals mentioned, as well as the name of the village to protect the identity of the victim. This is done not only to protect informants and individuals from retribution, but also to maintain confidentiality for those who have suffered abuses.

Trauma

HURFOM is conscious of the trauma victims of violence live with resulting from abuses endured. This is compounded by the young age of the victims and the sexual nature of the majority of incidents in this report. HURFOM field researchers did not interview children, instead information was gained from the family of children who experienced violence. As much as possible, field reporters refrained from exacerbating existing trauma when revisiting painful memories with family members of children who have experienced abuse. Generally, when speaking with a victim's family, a series of interviews were conducted in order to build trust and remain sensitive to the informer's level of comfort at any given time. Interviewees were encouraged to provide as much or as little detail as they felt comfortable with and were not pushed to provide any details which may cause them discomfort.

Chapter 3: Background

Over the last several years, violence and sexual abuse toward children in Burma has become an increasingly visible and controversial issue. Official police statistics show that reports of sexual abuse of children, especially young girls, has increased significantly over the last three years, rising from 43% of all reported rapes in 2013 to 61% in 2016.¹ However, the number is likely to be much higher, as traditional beliefs and the accompanying stigma surrounding sexual violence lead many to remain silent.² This is further compounded by a lack of faith in formal legal systems sustained in part by challenges to accessing justice when navigating Burma’s overlapping jurisdictions and plural legal system in its politically complex and ethnically diverse states and regions. For many, these challenges alone create sufficient disincentives to reporting crime of a sexual nature.



Concern over the widespread nature of violence towards children is becoming increasingly vocal in Mon State and Mon areas of southeast Burma. In Mon State alone, between 2014 and 2016, the Mon State Women and Children Upgrade Committee (MWCUC) — a local organization in Mon State which focuses on the protection and promotion of woman and child rights — recorded over 98 incidents of sexual violence toward

¹ See, “[More than half of rape cases involve children](#),” Myanmar Times, 20 August 2015; “[Deputy minister notes ‘worrisome’ rise in child rape cases](#),” Myanmar Times, 15 December 2016; and “[Lifting the lid on child rape](#),” *Democratic Voice of Burma*, 15 December 2016.

² For more information on the stigma surrounding sexual violence in Burma, see: *Long Way to Go: Continuing violations of human rights and discrimination against ethnic women in Burma*, CEDAW Shadow Report, Women’s League of Burma, July 2016; and, *Behind the Silence: Violence against women and their resilience*, Gender Equality Network Myanmar, October 2014.

children under the age of 18.³ Amid protests at the national level over the rising rates of violence toward children, activists in Mon State have begun to put pressure on the state government in Moulmein, calling for an end to sexual violence against children in Mon State and harsher penalties for offenders.⁴

Legal Context

At the international level, Burma has legally binding obligations to protect children from violence. Burma has been signatory to the United Nations Convention on the Rights of the Child (CRC) since 1991. In the last five years, Burma has taken steps to expand these obligations under international law by signing both Optional Protocols on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution, and Child Pornography.⁵ Article 19(1) of the CRC states:

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”⁶

In addition, Article 34 of the CRC indicates a state’s obligations to protect children from sexual abuse and exploitation:

³ Interview with Daw Khin Than Htwe, Mon State Women and Children Upgrade Committee (MWCUC).

⁴ See, “[Mon activists condemn child rape](#),” *Eleven Myanmar*, 10 December 2016; “[Activists urge stricter penalties for child rape](#),” *Myanmar Times*, 28 November 2016; and “[Civil society looks to tackle child sex abuse](#),” *Myanmar Times*, 16 November 2016.

⁵ Although, Burma has signed both Optional Protocols, it has yet to ratify the Optional Protocol on the Involvement of Children in Armed Conflict.

⁶ UN General Assembly, [Convention on the Rights of the Child](#), 20 November 1989, United Nations, Treaty Series, vol. 1577.

“States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent.”⁷

Yet, many of these obligations have yet to be legislated into domestic law. Instead Burma relies on a disparate and often antiquated set of legal instruments to protect children, while lacking a formal, modern national child protection policy.⁸ The oldest of these instruments dates back to the British colonial period and the 1861 Penal Code. While the document does contain provisions for the offence of rape — up to ten years in prison, as well as the possibility of a fine — there are no sections that pertain specifically to the violent or sexual abuse of children.⁹ Furthermore, in some cases sexual violence against minors is legitimized, as marital rape in cases where the wife is above the age of 12 is legally codified within the penal code.¹⁰ In addition to the penal code, the 1993 Child Law outlines the basic rights of the child in relation to the CRC; however, except for prostitution, the subject of violent or sexual abuse of children is entirely absent from the document.¹¹ The 1993 Child Law is, however, set to be revised, partially due to widespread public outrage and protest at the growing phenomenon of reported child sexual abuse; however, no drafts have been released to civil society yet.¹²

⁷ *Ibid.*

⁸ During Burma’s last reporting cycle to the Committee on the Rights of the Child (the monitoring body on Burma’s implementation of the CRC) in 2012, the committee expressed concern over the lack of adequate provisions in the 1993 Child Law pertaining to the prevention of sexual abuse, as well as reports of sexual abuse of both boys and girls within homes, communities and institutions in Burma, see United Nations Committee on the Rights of the Child, [Consideration of reports submitted by States parties under article 44 of the Convention](#), CRC/C/MMR/CO/3-4, 16 January – 3 February 2012. Burma’s next reporting cycle is 2017, with Burma’s state report due February 13, 2017.

⁹ The exception to this is kidnapping, see Myanmar Penal Code, 1861, Section “Of Kidnapping, Abduction, Slavery and Forced Labour.”

¹⁰ Myanmar Penal Code, 1861, Section #375.

¹¹ The Child Law (Law No. 9/93), Myanmar.

¹² See, [“Child law revised to increase punishment for offenders,”](#) *The Irrawaddy*, 29 November 2016.

Administrative Context

While the legal context is fragmented and superannuated, the administration of law in Burma is also problematic. The majority of Mon State is under government jurisdiction, as opposed to the NMSP; therefore, courts and police in these areas adhere to the Burmese Penal Code. One of the main criticisms of the current legal response to violence against children is the light sentences perpetrators receive after being convicted in court, which often fall far short of the maximum ten years in prison stipulated by the Penal Code.¹³ As previously noted, protests have sprung up throughout Moulmein and Rangoon pushing for harsher punishments for offenders.¹⁴ Rape cases in Mon State are often settled at the township level, where judges are constrained by the law as outlined in the Penal Code; however, district level judges may use their discretion and propose higher punishments. Recently, in February 2017, the Supreme Court of Burma ordered district courts to administer more child rape cases in order to publicly assuage this growing outrage over the increasing number of reported cases of sexual abuse.¹⁵

In addition to light punishments, critics and activists also point to other challenges when accessing justice through formal, government systems.¹⁶ Often, survivors of sexual violence and their families are unable or hesitant to access government police or court services, instead going first to a local administrator to report an incident. This occurs for a variety of reasons. First, geographically remote villages may lack a continuous police presence, if at all, thus making local administration the only choice when reporting a crime.

¹³ For more information on community perspectives on punishment of perpetrators of sexual violence toward children, see Chapter 5: Voices of Villagers.

¹⁴ In some cases, activists and law makers have urged for the death penalty to be included as a sentencing option, with a recent proposal being voted down in Burma's Lower House of Parliament. See, "[Proposal to assign death penalty for child rape hits setback](#)," *The Irrawaddy*, 2 February 2017.

¹⁵ See, "[District courts ordered to try more child rape cases](#)," *The Irrawaddy*, 1 February 2017.

¹⁶ For a more in-depth discussion on challenges to accessing justice, see, Chapter 5: Voices of Villagers; Justice Base, [Voices from the Intersection: Women's access to justice in the plural legal system in Myanmar](#), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), 2016; and McCartan, Brian, and Kim Jolliffe. [Ethnic Armed Actors and Justice Provision in Myanmar](#), The Asia Foundation, October 2016.

Furthermore, time and costs associated with travelling to a more urban location may also preclude villagers from accessing state-level justice systems. This is exacerbated by the extended length of most trials, necessitating dozens of trips over the trial proceedings. Secondly, language barriers pose a significant problem for non-Burmese speaking villagers when navigating the government legal system, both when reporting to the police and when following court proceedings.¹⁷ Finally, corruption, as well as a lack of trust in state- and union-level administrative bodies, creates disincentives for villagers to seek justice from government bodies.

Burma’s administrative structure itself poses problems for those seeking legal recourse in Mon State. The management of Burma’s public administrative structures is the primary responsibility of the General Administration Department (GAD).¹⁸ The GAD falls under the Ministry of Home Affairs (MoHA), which under the 2008 Constitution must be led by a high-ranking military official and appointed by Burma’s Commander-in-Chief of the Armed Forces.¹⁹ The GAD is ubiquitous throughout Burma, where its reach extends from the district to village-tract level with varying degrees of direct or indirect authority, creating a system of hierarchical control at the union level over Burma’s regions and states. Also falling under the MoHA is Burma’s police force, who are known to operate closely with Burma’s Prisons Department



¹⁷ While ‘improving ease of access to court services’ is stated as a primary objective in Burma’s judiciary strategic plan for 2015-2017, nowhere is access to court services in an individual’s mother tongue mentioned throughout its initiatives. See, [Advancing Justice Together: Judiciary strategic plan \(2015-2017\)](#), The Supreme Court of the Union, The Republic of the Union of Myanmar, 2014.

¹⁸ For more information on the GAD, see, [Administering the State in Myanmar: An overview of the General Administration Department](#), Discussion Paper No. 6, Subnational Governance in Myanmar Discussion Paper Series, The Asia Foundation & Myanmar Development Resource Institute’s Centre for Economic and Social Development, October 2014.

¹⁹ Constitution of the Republic of the Union of Myanmar (2008), Section #232.

and military as an extension of the national security apparatus.²⁰ For Mon civilians, administrative and police departments that are ultimately controlled by the military creates a strong deterrent for ethnic populations who have lived through decades of civil war.

Because of a lack of trust in the slow judicial process, high costs associated with trials, and a general distrust of police, many individuals who do choose to report sexual violence in Mon State despite the associated stigma, seek justice at the village level. While village administrators have no formal, legal authority to settle criminal cases of a sexual nature, they can use customary law to negotiate and arbitrate between the perpetrator and the victim and their family, usually settling a case with monetary compensation.

Just as with village administrators under Burmese jurisdiction, village administrators in NMSP controlled territory are given no legal authority to administer cases of sexual violence. Instead they are required to alert township level NMSP authorities, who in turn alert the district-level authorities, after which perpetrators are detained by the Mon National Liberation Army (MNLA), as the NMSP does not have a police force.²¹ Perpetrators are then tried at the district- or township-level judiciaries.

²⁰ See, McCartan, Brian, and Kim Jolliffe. [*Ethnic Armed Actors and Justice Provision in Myanmar*](#), The Asia Foundation, October 2016.

²¹ Information in this section was gained from interviews with NMSP village administrators and members of NMSP township judiciaries. For further information on justice provision in Burma, see McCartan, Brian, and Kim Jolliffe. [*Ethnic Armed Actors and Justice Provision in Myanmar*](#), The Asia Foundation, October 2016.

Chapter 4: Trends in Violence Against Children

This chapter looks at incidents of violence against children documented by HURFOM. First it looks at the types of violence exhibited, including sexual violence, killings, and abduction. Next it looks at trends in perpetrators of violence toward children, including community members, family members, and soldiers. Afterwards, it examines the patterns of disclosure of incidents of violence and who families turn to when reporting crimes against children in Burma's complex, pluralistic legal system. Finally, this chapter looks at access to justice for the cases catalogued in this chapter.

HURFOM received reports concerning 20 incidents of violence against children, including multiple and concurrent types of abuses, occurring between December 2013 and January 2017. *In all cases received by HURFOM, the victims were female.* Those experiencing violence ranged in age from as young as three to 17 years of age; however, there was a slight majority of cases involving children between the ages of 13 and 17.²² In all, HURFOM documented 16 incidents of rape; one attempted rape; seven incidents of abduction, including one case of human trafficking; six incidents of explicit threats toward life; and two killings, for a total of 20 unique cases.

The vast majority of reports received occurred in Mon State, mainly in Moulmein District's six townships, including: five in Ye Township; five in Moulmein; three in Mudon; two in Kyaikmayaw; and one in Thanbyuzayat; and one in Chaungzone. HURFOM also received one report from Thaton Township, Mon State; one report from Mon areas in Karen State; and one report from Yebyu Township in Tenasserim Division.

In the majority of cases documented by HURFOM, violence against children was more likely to occur in the victim's own home or nearby. In nine out of the 20 incidents documented, children were attacked in or abducted from their own homes. In three cases, children were raped or kidnapped while in close proximity to their homes, outside either playing or doing errands and chores. Often the incidents occurred while the child was living or staying with their grandparents while their parents were working in the fields or abroad in Thailand.

²² For more detailed information on each case, disaggregated by date, age, ethnicity, location, and abuse type, see, Appendix 1.

Types of Violence

1. SEXUAL VIOLENCE

By far, the vast majority — 85% — of violent abuse toward girls in Mon State and Mon areas documented by HURFOM involved sexual violence. Out of the 20 incidents HURFOM received, 16 of those involved rape as the primary type of abuse, while one case involved the attempted rape of a minor.

HURFOM saw a significant rise in the number of incidents reported involving the sexual abuse of children during the reporting period, with the majority of incidents occurring between March 2015 and January 2017, more than four times the total number of incidents received occurring in the two previous years.²³

Generally, the incidents were one-time violations; however, in some cases, victims reported facing multiple incidents of sexual abuse either during the original incident or over an extended period of time by the same perpetrator. For example, in March 2015, a 13-year-old girl from Moulmein, Mon State, was abducted and raped by a 22-year-old male:

“Myint Zaw Oo took the young girl to the view point located on the hill in Moulmein, where he raped her for the first time. He then took her to a palm wine shop in Pain Nel Kone village in Kyaikmayaw. The wine shop was deserted and Myint Zaw Oo raped Ma A--- a second time. The perpetrator then took the girl to an abandoned boat in Pain Nel Kone village’s boat haven, where he raped her on the boat. The victim reported that she was raped three times, consecutively.”

Incident Report submitted by HURFOM Field Reporter²⁴

²³ This can partially be attributed to HURFOM’s field research for this report conducted between April to December, 2016. However, more than half of all incidents received occurring between March 2015 and January 2017 were submitted prior to or after the field research was conducted, which is still more than double the number of incidents received between 2013 and 2014.

²⁴ See, [“14 year-old girl raped in Mawlamyine,”](#) HURFOM, 23 March 2015. NOTE: Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

In all cases of multiple assaults occurring over an extended period of time, the perpetrator was known to the victim, either as a local community member or a family member:

“A 13-year-old girl was raped by her 28-year-old brother in Thaton. Their parents had passed away and only the two of them lived in their house. She told her neighbor that she was being raped by her brother for a long time and she hates it and can’t suffer it anymore. She doesn’t have any [other] guardians and her neighbor took her to the administrator. The police then charged her brother under Burma Penal Code Section #376.”²⁵

Incident Report submitted by HURFOM Field Reporter²⁶

In one case received during the reporting period, HURFOM received information that a victim, now age 23, had been raped three different times, by three different perpetrators, with the first incident occurring at the age of 16:

“In July 2015, a 23-year-old handicapped girl was raped by a 40-year-old man in Jone Lang village, Ye Township. Mi S--- had already been raped twice before. At the age of 16 she was raped by a soldier from [Burma Army Light Infantry] Battalion (LIB) #591 in a nearby forest. In the second case, just last year, the brother of a government worker raped her in her own home. During both previous incidents her parents, who earn a living as daily workers, were away at work.”

Incident Report submitted by HURFOM Field Reporter²⁷

²⁵ Section #376 of the Burma Penal Code pertains to rape. For more information, see, Chapter 3: Background.

²⁶ Unpublished Incident Report submitted by HURFOM Field Reporter.

²⁷ See, [“No justice for handicapped girl raped in Ye Township,”](#) HURFOM, 17 November 2015. NOTE: This case was not included in the formal analysis as the abuse occurred prior to the reporting period, see, Chapter 2: Methodology. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

While rape was the primary type of abuse, in 70% of the incidents, victims reported experiencing two or more types of abuse concurrently. These abuses included abduction, explicit threats to their life and/or their families' lives, and serious injuries sustained during the attack.



For example, in June 2016, a 9-year-old girl was raped by a 24-year-old man in A Baw village, Ye Township, Mon State, after which he threatened that if she told her parents he would come back and kill her:

“She was left unconscious for a few hours, and after she woke up she had to walk three miles back to her village. When her mother saw her injuries, including vaginal bleeding, she took the child to the hospital and there it was then revealed by the doctor in Ye that she had been raped. The young girl is currently in grade three; however, due to her medical condition, she has had to drop out of school for a while.”

Incident Report submitted by HURFOM Field Reporter²⁸

²⁸ See, [“9 year-old girl raped in Ye Township,”](#) HURFOM, 17 June 2016. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

2. KILLINGS

Although the killing of a child after a sexual assault was rare in the dataset, HURFOM documented two cases of the intentional death of a child. It should be noted that in one case, the condition of the body meant that police were unable to determine if the victim was raped or not, thus it was excluded from the above analysis; however, it is strongly believed by the family that she was indeed sexually assaulted prior to her murder.



In June 2014, an 11-year-old girl was raped and murdered in Yebyu Township, Tenasserim Division on her way home from school. According to an administrator from Thar Yar Mon village:

"[The] child was [found] dead in a hole and her stuff, such as a bag, umbrella, and shoes were beside her. Her shirt was lacerated and her head had been hit with a stone. The authorities took her body to the hospital in Kan Bauk [where] the doctor checked her body and found that she was raped before she was killed."

Incident Report submitted by HURFOM Field Reporter²⁹

²⁹ See, "[Grade 5 child raped and killed in Yebyu Township](#)," HURFOM, 30 June 2014. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

In June 2016, a 4-year-old girl from Ye Township, Mon State, was abducted from her grandmother's home by a neighbour and family friend late one night and murdered:

“The perpetrator and the girl's grandmother are very familiar and they are as a family [close family friend]. He removed her pants and carried her off while she was sleeping. The neighbor saw the perpetrator carry the girl while she was up checking on her chicken flock. The neighbor thought that he took the girl back to her parent's house. Later, a local found the child's dead body under a house boat.”

Incident Report submitted by HURFOM Field Reporter³⁰

3. ABDUCTION

During the reporting period HURFOM documented eight incidents of the abduction of girls under the age of 18, including one case of human trafficking. In 75% of these incidents, sexual violence was believed to be a primary motive for the kidnapping. In September 2016, a 16-year-old girl was abducted from her village in Kyaikmayaw Township, Mon State and raped by an unknown male:

“On October 7, 2016, Mi Jalon Htaw [village administrator] received information about the victim from someone unknown. The young girl was found in a restaurant called Yadana Htet KTV in Moulmein. On that day after receiving this information, Mi Jalon Htaw went to Moulmein to bring the victim home: ‘After the anti-trafficking group asked her for details of the incident they opened the case as a human trafficking incident. We would also like to open a rape case as the girl was also raped in the car.’ On October 11, the case was officially opened as a human trafficking incident.”

Incident Report submitted by HURFOM Field Reporter³¹

³⁰ Unpublished Incident Report submitted by HURFOM Field Reporter.

³¹ See, [“Missing Kyaikmayaw Township teen found trafficked and raped,”](#) HURFOM, 19 October 2016.

Perpetrators

A number of trends regarding perpetrators of violence against children in Mon State and Mon areas of southeast Burma emerged from the data. In all cases documented by HURFOM, the perpetrator was male. In addition, the offender was much more likely to be known to the victim, either as a community member or family member, while in only a small number of cases were the perpetrators strangers. This is not surprising, as according to *The World Report on Violence Against Children*, the most commonly reported perpetrators of sexual violence towards girls were male family members and trusted adults.³² Out of the 20 cases of violence against children documented by HURFOM, nine of the perpetrators were community members, six were related to the victim, two were strangers, two were unidentified, and one was a soldier in the Burma Army.

1. COMMUNITY MEMBERS

“We feel they [the perpetrator and his family] don’t care about us. If they apologized to us early on, we would have felt fine and may have forgiven them. We never thought that he would do this to my granddaughter because his parents were working in our rubber plantation and he always visits our house.”

Interview with Grandfather of 9-year-old victim of attempted rape, Thanbyuzayat Township, Mon State³³

In 45% of cases received by HURFOM involving violence against children in Mon State and Mon areas of Burma, the perpetrator was a member of the child’s community. Community members included individuals close to the family, neighbours, and coworkers. The victim’s family often expressed disbelief that someone they knew could be involved.

³² Pinheiro, Paulo Sérgio. Secretary General’s World Report on Violence Against Children. Rep. N.p.: United Nations, 2008. Online.

³³ See, [“Attempted rape of a 9-year-old girl in Thanbyuzayat Township,”](#) HURFOM, 17 January 2017. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

For example, in November 2016, an 18-year-old boy attempted to rape a 9-year-old girl in A--- village, Thanbyuzayat Township, Mon State. As the attack took place in the grandfather's home in the early morning hours, upon hearing the noise the girl's grandfather woke up and scared the perpetrator away.

In some cases, being a recognized community member worked to the advantage of the offender. For example, in a previously noted case, although seen by a neighbour in the process, the perpetrator was able to get away as the neighbour believed the close family friend was bringing the child back to her parent's home for the night. The child was later raped and murdered by the neighbour and close family friend, who happened to be a former police officer.³⁴

In several cases, community members used the promise of snacks or money as a way to gain the victim's trust or lure them to areas where they could carry out their attack. For example, in December 2014, a 16-year-old girl was raped by a 74-year-old man in Chaungzone Township, Mon State. The girl was familiar with the perpetrator as he owned a telephone the girl often used to long-distance call her parents who were working abroad in Thailand:

“Around 1 pm on December 6th, Mi H--- went to buy snacks at the market when she met U Kyaw Myint. The man offered to buy Mi H--- a tonic and the young girl went into his house. Upon entering the house, U Kyaw Myint closed the door and held a knife to the child, threatening that if she shouted he would rape and kill her; he further threatened to kill the girl's parents.”

Incident Report submitted by HURFOM Field Reporter³⁵

³⁴ Unpublished Incident Report submitted by HURFOM Field Reporter.

³⁵ See, “[16 year-old student raped by 74 year-old man in Chaung Zone Township](#),” HURFOM, 2 February 2015. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

2. FAMILY MEMBERS

Being related either by blood or marriage was the second most common type of relationship identified between the perpetrator and victim. HURFOM documented six cases of violence against children perpetrated by a family member of the victim. In only two cases were the perpetrators immediate family members, being either the father or brother of the victim, while in four cases the perpetrator was either the uncle or brother-in-law of the victim. For example, in September 2016, an 8-year-old girl was raped by her brother-in-law in Moulmein, Mon State:

“After I returned from doing my laundry, I heard from one of our neighbors who told me that my daughter was being raped by B--- [victim’s brother-in-law]. I couldn’t believe it because we are very familiar with him.”

Interview with Mother of 8-year-old rape victim,
Moulmein Township, Mon State³⁶

3. SOLDIERS

Contrary to previous reporting periods, HURFOM received only one report of sexual violence committed by a soldier during the current reporting period.³⁷ On December 24, 2013, a soldier from Burma Army Infantry Battalion (IB) #31 abducted a 13-year-old girl from her home and raped her in Ye Township, Mon State:

³⁶Unpublished Incident Report submitted by HURFOM Field Reporter.

³⁷ HURFOM has extensively documented violence against women and children perpetrated by Burma Army soldiers. See, *Laid Waste: Human rights along the Kanbaw to Myaing Kalay gas pipeline*, HURFOM, May 2009; and *From the Catwalks to the Barracks: Conscripted women for sexual slavery and other practices of sexual violence by troops of the Burmese military regime in Mon areas*, HURFOM, July 2005, print.

“[On the] night of the incident, Mi Paroal Mon was making a roof while her parents were [out]. To carry the nypa palm, Than Win and his three men went down to Mi Paroal Mon’s house around 7:00 pm. The incident occurred that night. Than Win intruded into the house and hugged her tightly. Then they brought her to the Mon National School and assaulted her there. The men had rope and tied her up. Only Than Win raped her while three men helped him.”

Incident Report submitted by HURFOM Field Reporter³⁸

Reporting

In only two out of the 18 cases — approximately 11% — where children survived their ordeal did the victim intentionally disclose the incident right away, without first being questioned by a parent or guardian. Children who experienced violence were much more likely to stay silent for a period of time, rather than immediately opening up to someone they trusted. In two cases, victims experienced multiple assaults before reporting and identifying the perpetrator to their neighbour or grandparent. However, accidental disclosure was also common, where children reported the assault to their parents after being questioned about noticeable injuries or being absent for one or more nights.

Many of the victims reported feeling scared due to explicit threats made by the perpetrator during the attack. In one case a 17-year-old was so frightened by threats uttered by her uncle that she did not tell her grandmother, and only opened up to a nurse once she was no longer able to hide her pregnancy. The nurse then informed the parents who were working in Thailand after which they returned and informed the village administrator.³⁹

³⁸ See, “[Rape of local girl at the hands of Infantry Battalion No. 31](#),” HURFOM, 9 January 2014. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original. For more information on this incident, see, Case Study: Threats, Intimidation, and Villager Agency, Chapter 5: Voices of Villagers.

³⁹ See, “[Mudon Township rapist ordered to pay compensation to his 17-year-old niece](#),” HURFOM, 9 September 2015. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

In two cases children between the ages of three and four were too young to understand what had happened to them and were only able to explain to their guardian that they were in pain after a parent noticed they were crying or injured. For example, in April 2015, a 3-year-old girl came home crying from her 70-year-old uncle's house:

"She told her grandmother that her vagina was in pain and her grandmother washed it. Once her grandmother examined her vagina, it was red and bleeding. Her grandmother administered medicine for the girl and asked about her injury. The girl said that the perpetrator took her to the bed and injected her with a hard stick. She is really young and doesn't understand about it."

Interview with Grandfather of 3-year-old victim of rape, Moulmein Township, Mon State⁴⁰

In three of the 18 cases there was a witness to the event, either a grandfather, uncle or neighbour. However, this did not necessarily mean that the incident would be reported right away or that the witness would immediately question the victim. For example, in June 2015, a 10-year-old girl was lured from her home and raped by a 46-year-old man:

"After they passed the girl house and arrived near the street, the perpetrator covered her mouth and raped her. Once the girl's aunt's husband and her son came back from outside and saw the incident, the perpetrator ran away. But they did not know that her uncle saw the event. Her uncle told about it to her [the girl's] aunt but no one believed him and they did not do anything. The next morning, when her aunty woke her up to help for cooking she was crying, she said she felt pain from last night."

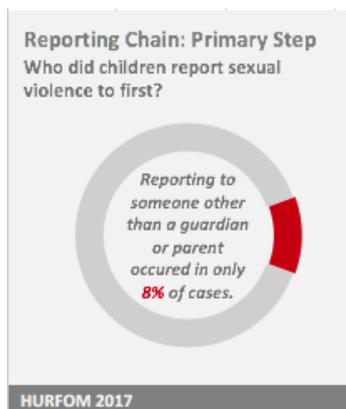
Incident Report submitted by HURFOM Field Reporter⁴¹

⁴⁰ Unpublished Incident Report submitted by HURFOM Field Researcher.

⁴¹ Unpublished Incident Report submitted by HURFOM Field Researcher.

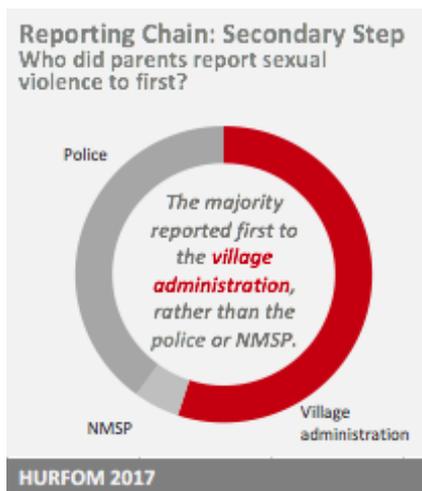
Reporting Chain

In the majority of cases, the victim first told a parent or grandparent about the incident of violent abuse. In only two out of 18 cases where the victim survived the ordeal did the child first go to someone other than their parent or grandparent, telling either a neighbour or a nurse about the incident. Confiding in someone close before determining whether to pursue legal action is a key pattern in Burma, especially when looking at communication channels for women reporting legal issues.⁴² One would expect this pattern to be more prominent for young children and teenagers, who would not likely pursue legal action without consulting an adult. It is at this stage that a family, once informed, either pursues or chooses not to pursue justice through legal or administrative means.



In all of the cases documented by HURFOM, the family chose to pursue justice, either through village-level customary law — primarily negotiation and compensation — or

through formal legal channels either through government or NMSP systems. Although this was not always done without



reservation as shame and stigma were often factors which delayed reporting past the primary point in the chain.

⁴² For more information, see, Justice Base, [Voices from the Intersection: Women's access to justice in the plural legal system in Myanmar](#), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), 2016.

“At first, we thought that we would not report about this to the [village] administrator. We didn’t even want other people to know about us. [After the incident], our granddaughter was looking unhappy and was quiet, but the perpetrator was looking very happy and singing songs [in the village].”

Interview with Grandfather of 9-year-old victim of attempted rape, Thanbyuzayat Township, Mon State⁴³

“After we knew about it [the incident] we didn’t know what we should do and we didn’t report about it to the administrator. The girl was crying all night because of her injuries. The next morning her grandmother went out to sell beans again. After she arrived back from the market, they went to the clinic because the girl had a fever from her injuries. We didn’t dare to tell about it to the clinic because we felt shame.”

Interview with Grandfather of 3-year-old victim of rape, Moulmein Township, Mon State⁴⁴

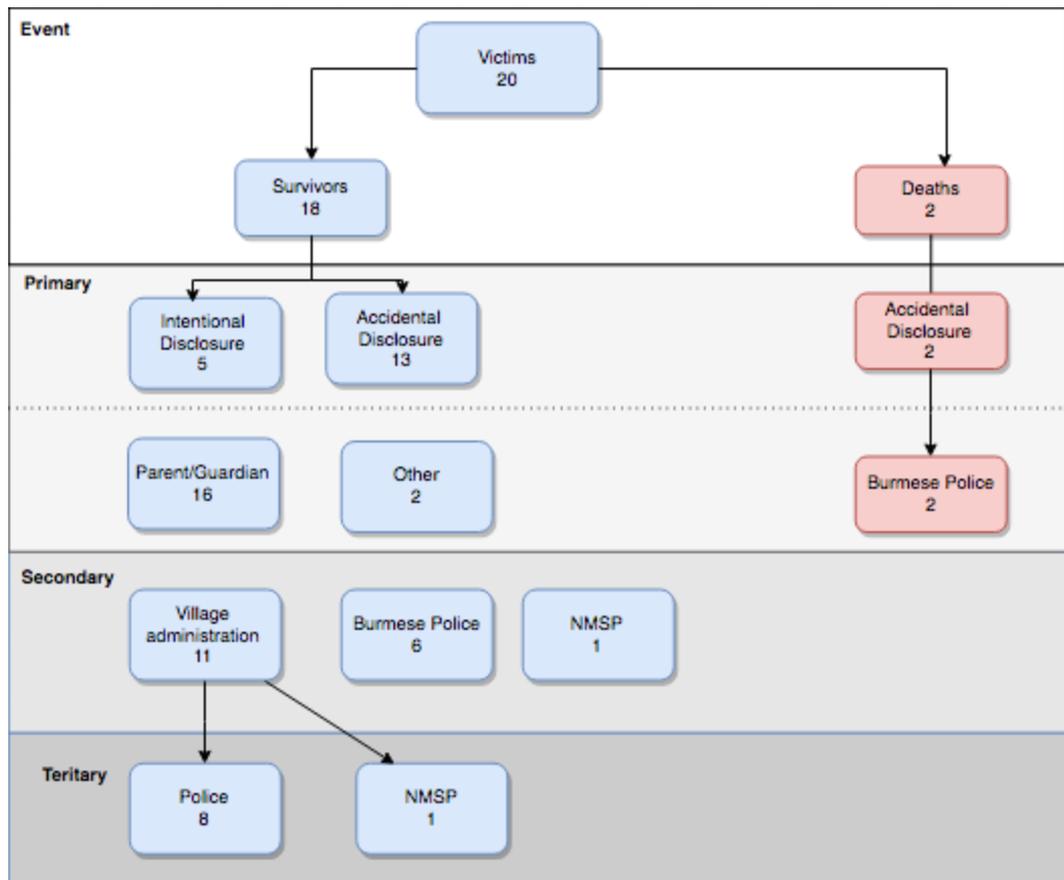
Cases of violence against children in Mon State occurred under several different administrative arrangements, however the vast majority — 85% — of the cases documented by HURFOM occurred in Burmese controlled territory, and therefore under Burmese jurisdiction. The three exceptions to this occurred in a NMSP controlled village in Karen State, and mixed-controlled territories in Ye Township, Mon State and Yebyu Township, Tenasserim Region. In only the NMSP controlled village, did a family go directly to the NMSP to report an incident, after which the case was settled under NMSP law with the victim receiving monetary compensation. HURFOM documented one case where a

⁴³ See, “[Attempted rape of a 9-year-old girl in Thanbyuzayat Township](#),” HURFOM, 17 January 2017. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

⁴⁴ Unpublished Incident Report submitted by HURFOM Field Reporter.

family reported an incident of abduction to both the NMSP and the government police in Ye Township, Mon State.

Flow Chart 1.1 Most common reporting chains documented where child survived



Reporting to a local administrator at the village level was the most common secondary link in the reporting chain, while reporting a case directly to the police by the family or guardian was the second most common. In 11 out of 19 cases in Burmese- or mixed-controlled areas, families or confidants turned to a local administrator to report a violent incident involving their child, rather than the government police. In the remaining eight cases, the family or guardian first reported the incident directly to the government police. It is not uncommon for village-level judicial systems to handle small or minor crimes; however, it is important to note that at the village level, administrators are given no official authority to judge a

sexual assault case.⁴⁵ Yet, customary village law is still commonly used and village administrators may settle cases through negotiation and arbitration, often with the victim receiving monetary compensation.

Despite anecdotal evidence collected by HURFOM suggesting that settling cases of sexual violence through customary law at the village level is widespread,⁴⁶ HURFOM



received only one report of a case being settled by a village administrator without being referred to the police. Instead eight of 11 the cases first reported to village administrators were transferred to the police by the village administration. The remaining two were either transferred to the NMSP or a village administrator negotiated directly with a Burma Army military base. In one case that was first reported to an administrator, a local CBO had to intervene before the village administration transferred the case to the police:

⁴⁵ For more information, see, Chapter 3: Background.

⁴⁶ This information was collected through multiple interviews with CBOs, legal experts, and village administrators. For more information on perspectives related to settling cases of rape using customary law, see, Chapter 5: Voices of Villagers.

In June 2015, a 10-year-old girl was raped by a 46-year-old man in Moulmein, Mon State:

"She said that she was being raped by that man and felt a lot of pain. Even her aunt found it hard to believe about the incident, but the girl confirmed that she was raped and they went to the administrator's house in the early morning. The administrator told them that it was a problem among neighbors and to just keep quiet about it. The girl's aunt was not satisfied about it and told the case to the MWCUC. After the MWCUC threatened the administrator with the law, he then started to take action on the case. We then reported the case to the Myine Thar Yar police station."

Interview with Daw Khin Than Htwe, MWCUC⁴⁷



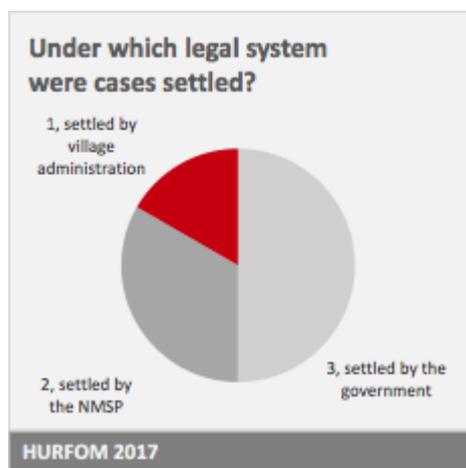
⁴⁷ Unpublished Incident Report submitted by HURFOM Field Reporter.

Outcomes

Only 6 cases — 30% — have been reported settled: one through village-level arbitration; three through the government legal system: and two through the NMSP. For the remaining incidents, in two cases the investigation was reported as on-going without any action by police or legal actors and in 12 cases the investigation was still on-going with police.

In the one case settled by village administration, the perpetrator paid 1,300,000 kyat (US \$945.40)⁴⁸ in compensation to the victim, while remaining free.

For the two cases settled by the NMSP, the first perpetrator is free as they could not prove he raped his victim and only had to pay costs incurred, while the second perpetrator was convicted and sentenced to three years in jail for attempted forced marriage.



For the three cases settled by the government legal system, all three perpetrators were convicted of rape under Burma Penal Code Section #376 and sentences ranged from 1 year and 2 months, 3 years, and 10 years in jail. To date HURFOM has received no updated information on the status of the 13 remaining cases either directly or indirectly reported to the Burmese police, however, in nine of those cases a suspect had been arrested.⁴⁹

⁴⁸ All currency conversations in this report are based on the February 27, 2017 market rate of 1,375.08 to the US \$1 as per www.xe.com.

⁴⁹ HURFOM is currently researching the outcomes of cases presented in this report and will publish a follow-up report in the near future.

Chapter 5: Voices of Villagers

This chapter looks at the individual and collective agency of villagers, as well as community perspectives on the increase in reports of violence against children and challenges to accessing justice. First it looks at the types of agency exhibited by survivors of sexual violence and their families or communities, including reporting incidents, rejecting compensation in lieu of punishment, and providing support, among other types. Next, it looks at perspectives regarding the recent increase in reports of violence against children, including access to education and technology, weak punishments, and lack of rule of law. Finally, this report examines community perspectives on challenges to accessing justice, including traditional beliefs surrounding sex and sexual violence, low socio-economic status, distrust of legal and administrative systems, and lack of rule of law.



Agency



During the reporting period, villagers in Mon State and Mon areas of southeast Burma have addressed the challenges associated with accessing justice in cases of violence toward children in a variety of ways. These include reporting the crime itself, despite widespread shame and stigma associated with sexual violence; continuing to call for justice despite threats or pressure to remain silent from perpetrators and powerful figures; appealing to legal authorities for justice, particularly in the form of punishment for the perpetrator; turning down offers of compensation in lieu of punishment; and protesting decisions by authorities through petitions and turning to alternative legal systems to achieve desired outcomes.

1. REPORTING

In many cases, the disclosure of an incident of sexual violence by a child to a parent or guardian was a courageous act in itself. In Burmese and Mon cultures, sexual violence is often associated with social shame and stigma. This in tandem with explicit threats to their and/or their family's safety by the perpetrator creates strong disincentives to reporting crime of a sexual nature. This is borne out by the evidence collected by HURFOM, where in approximately only 11% of cases did victims immediately disclose the incident without prompting by a family member or guardian. Furthermore, even after disclosing an incident to a parent or guardian, families sometimes felt reluctant to report the incident to authorities, citing the shame they felt regarding the situation.⁵⁰ However, the increasing number of cases being reported in Burma,⁵¹ may be an indication that cultural traditions to remain silent regarding such issues is slowly changing.

In all cases documented by HURFOM the survivors of sexual violence did eventually, either intentionally or accidentally, disclose their ordeal to someone. In some cases, they even continued to demand justice despite repeated attempts to intimidate them, in one case by military officials:

"If she were to refuse this settlement, the military personnel threatened that Mi Paroal Mon and her family would be expelled from living in the village. Mi Paroal Mon refused this settlement, and personally requested that her parents not accept anything the military would offer to settle the case easily. The military threatened the victim and her family to leave the village if they still had tension with the battalion. However, the girl kept saying that Than Win did assault her. The military has also [pressured] village administrators to settle the case."

Incident Report submitted by HURFOM Field Reporter⁵²

⁵⁰ For more information, see, Chapter 4: Trends in Violence Against Children.

⁵¹ For more information, see, Chapter 3: Background.

⁵² See, "[Rape of local girl at the hands of Infantry Battalion No. 31](#)," HURFOM, 9 January 2014. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original. For more

This willingness to speak up about violent crime toward children even extended to traditional cultural practices that violate the rights of women and girls. In some cases, the family or guardian reported the incident to the authorities in order that the perpetrator be punished and used as an example to deter future violators. For example, when a 17-year-old girl was forcibly taken by a 24-year-old man in an attempt to forcibly marry her in Mudon Township, Mon State, the girl's parents reported it to the NMSP in order to set an example and discourage others from participating in such activities:

"In the past, if a guy committed this kind of violation [abduction and forced marriage], the girl would have to get married whether or not she wanted to or the guy would give compensation and the case would be finished without having arrived in the hands of police. These are the kinds of traditional customs they want to break. The victim's family did not want compensation. They want the community to notice that this is violence toward women and if someone commits these kinds of actions they will receive punishment."



information on this incident, see, Case Study: Threats, Intimidation, and Villager Agency, Chapter 5: Voices of Villagers.

Interview with Mi Hongsar Htaw, Women Empowerment
Project (WEP)⁵³

2. REJECTING COMPENSATION IN LIEU OF PUNISHMENT

Another common strategy employed by families when pursuing justice was to reject monetary compensation in favour of jail time for the perpetrator. Some villagers refused monetary settlements and in one case returned compensation to the perpetrator in order to pursue other legal options. Survivors of sexual assault and their families are often pressured to accept compensation by village administrators and the families of perpetrators in order to resolve the situation quickly and quietly.

For example, in December 2016, a 16-year-old girl was raped by a 74-year-old man in Chaungzone Township, Mon State. The perpetrator had a telephone which villagers often used to make long-distance phone calls; Mi H--- used this phone to call her parents who were working in Thailand. Upon entering the house, U Kyaw Myint closed the door and held a knife to the child, threatening that if she shouted he would rape and kill her; he further threatened to kill the girl's parents:

“U Kyaw Myint's daughter and sister offered compensation to the child, but her grandmother refused to accept it. They went to the child's house again to ask how much the family wanted in compensation, demanding once compensation was paid that the family leave the village and migrate to Thailand. The child's grandmother refused once again and on December 16th reported the assault to the village administrator.”

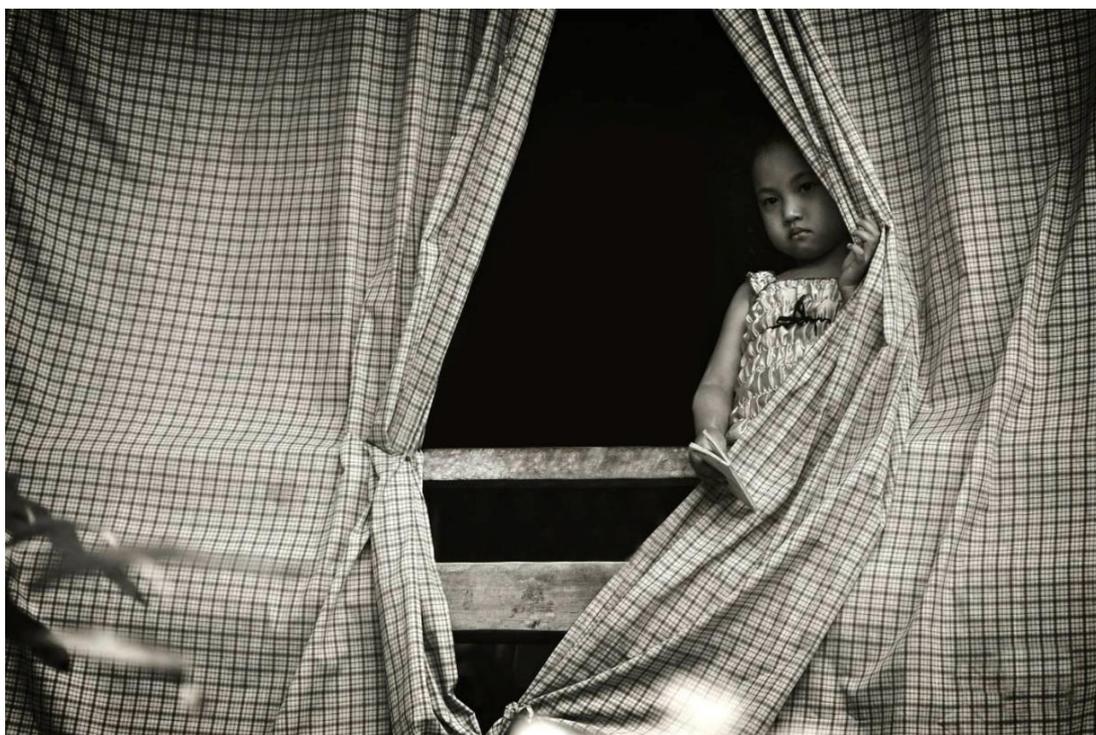
Incident Report submitted by HURFOM Field Reporter⁵⁴

In another example, after an 18-year-old man attempted to rape a 9-year-old girl in Thanbyuzayat Township, Mon State, the local village administrator negotiated a settlement between the victim and the perpetrator, with both sides agreeing to 1,000,000 kyat (US

⁵³ Unpublished Incident Report submitted by HURFOM Field Reporter.

⁵⁴ See, “[16-year-old student raped by 74-year-old man in Chaung Zone Township](#),” HURFOM, 2 February 2015. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

\$727.23) compensation. However, after being advised by a local militia leader that acceptance of compensation may encourage the perpetrator to commit a similar crime again, the family returned the compensation and reported the incident to the Thanbyuzayat Police Station and the perpetrator was arrested and charged with rape.⁵⁵



⁵⁵ See, "[Attempted rape of a 9-year-old girl in Thanbyuzayat Township](#)," HURFOM, 17 January 2017. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

Case Study: Threats, Intimidation, and Villager Agency

In December 2013, a 13-year-old girl, Mi Paroal Mon was raped by a Burmese soldier from Burma Army IB #31 in Ye Township, Mon State. Upon learning of the incident, the village administrator went to the IB #31 base. Mi Paroal Mon was urged not to press charges and offered 500,000 kyat (US \$363.61) as compensation by the captain of the base, contingent on her signing a contract to conceal the case. Mi Paroal Mon refused the settlement and asked her parents not to accept anything the military would offer to settle the case easily. The military threatened the victim and her family to leave the village if they still had tension with the battalion. The military officers forced Mi Paroal Mon's parents to sign the contract. Due to the degree of notoriety Mi Paroal Mon's case has received after her family signed the concealment contract, the IB #31 battalion commander summoned the victim, her parents, the village administrator, and other local villagers to meet again on January 6th 2014. The commander questioned the victim regarding who was spreading the details of the case, and again threatened the family, saying that they should settle the case through compensation if they wanted to live peacefully. The command and general staff officers from Burma Army Southeast Command conducted a follow-up visit to January 7th to again question Mi Paroal Mon, her parents, and other village members.

Afterwards, Mi Paroal Mon's family reported the case to NMSP:

"I want the authorities to investigate the case quickly and get to the truth. My daughter is handicapped, and if the authorities don't do anything, I fear for her security in the future. I just want her to be safe. They should punish the man responsible for his crime. We don't need compensation; we just want security for our daughter. We have to work daily for our food and can't look after her all the time."

Mother of Mi Paroal Mon, Ye Township, Mon State

Upon follow-up with Mi Paroal Mon's family, HURFOM has learned that she and her mother eventually left for Thailand as the pressure and notoriety of her case proved too much.

3. PROTESTING A DECISION OR LACK OF INVESTIGATION

Another form of agency documented by HURFOM was a family's willingness to speak out regarding dissatisfaction with how the case was being handled by authorities. In some cases, families reached out to CBOs, appealed decisions, and even sought justice through other legal systems if left unsatisfied with the outcome.

For example, the family of a 14-year-old girl who had been raped and beaten unconscious by her grandmother's neighbor in May 2015 filed an appeal with high-level NMSP authorities. The complaint involved a decision by the Three Pagoda Pass NMSP authorities to not punish the perpetrator with jail time, only forcing him to pay costs incurred so far, as they could not prove he raped her, despite confessing to village-level NMSP officials when first arrested:

"As the dispute continues, the case's prolonged deliberation continues to inflict an emotional toll on Mi W---'s family. U Koe, uncle of Mi W--- said, 'I want this case to be solved as soon as possible to find out the truth. Even if we are not sure if [he] raped my niece or not, he beat a girl so he should be punished. We don't want any compensation we just want him to be punished.'"

Incident Report submitted by HURFOM Field Reporters⁵⁶

In some cases, families turned to alternative legal systems to pursue desired outcomes, after unsatisfactory action or decisions by legal authorities. For example, unhappy with the inaction by the local village administrators after her 10-year-old niece was raped by a neighbor, the young girl's aunt reported the incident to the police after seeking help from a local CBO.⁵⁷ In another instance of dissatisfaction with local customary law, a family

⁵⁶ See, "[Victim's family appeal against NMSP rape case decision](#)," HURFOM, 22 July 2015. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

⁵⁷ Unpublished Incident Report submitted by a HURFOM Field Researcher.

returned compensation paid by the perpetrator, as negotiated by the village administrator, and pursued justice through the government legal system.⁵⁸

4. COMMUNITY SUPPORT

Not only has HURFOM documented the various ways in which individuals in Mon State and Mon areas of southeast Burma have sought justice for abuses, these attempts also include collective efforts to seek justice on behalf of a victim and a community, as well as to prevent further abuses from occurring. These attempts include petitioning a military base for justice by a village on behalf of a victim raped by a soldier, and local organizations providing victim support services, as well as community education and awareness.

In many instances individual agency to pursue justice was supplemented through collective action at the local level. In one case, this took the form of village-wide protest of a Burma Army military base against inaction over a soldier who raped a 13-year-old girl:

“Village residents sent a letter to the military, urging them to take full responsibility and action for their investigative practices concerning sexual assault. The letter further urges the military to recognize the effect that victim intimidation has, as seen in Mi Paroal Mon’s case, on building the peace process in Myanmar. Additionally, the victim and other villagers warned the military not to commit this kind of crime again, and to handle sexual assault cases properly. According to a local source, State Minister U Aung Min has ordered Khaw Zar police to tackle this case according to the law.”

Incident Report submitted by HURFOM Field Reporter⁵⁹

⁵⁸ See, [“Attempted rape of a 9-year-old girl in Thanbyuzayat Township,”](#) HURFOM, 17 January 2017. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original.

⁵⁹ See, [“Rape of local girl at the hands of Infantry Battalion No. 31,”](#) HURFOM, 9 January 2014. Due to issues of standardization for this report, the above quote may differ slightly in formatting from the original. For more information on this incident, see, Case Study: Threats, Intimidation, and Villager Agency, Chapter 5: Voices of Villagers.

Community support can also take the form of local CBOs providing support to young women and girls who experience sexual violence. In 30% of cases documented by HURFOM, CBOs are explicitly mentioned as aiding families. In some cases, support for families and survivors included attending to health issues, such as medical checks and treatment for injuries; transportation to medical clinics and hospitals; legal and financial support; and counselling.

“We provide a free [support] service for reporting to the police station and for standing trial in a court of law. We also explain what they do not understand. If they cannot afford the travel cost, we also support the cost. We have to support the legal cost, travel cost, food, and even clothes sometimes. Also, they do not need to pay for the lawyer’s fee. Most of the rape victims have been discriminated against in their neighborhood, so we have to do everything to promote their physical and mental health. We also do counseling. We create sustainable job opportunities for those who have been marginalized by their community. For instance, we give them sewing training and support them until they have a regular income.”

Interview Daw Khin Than Htwe, MWCUC⁶⁰

Community support extends beyond victim services, focusing as well on preventative education and rights awareness. Many local CBOs and national rights activists offer community education in the form of sex education, legal workshops, and rights trainings. These trainings target all sectors of the community, including children and parents, as well as authority figures, such as village administrators.

“After child sexual abuse became more and more of an issue, several Mon women’s organizations had a discussion with each other and planned to start educating the communities about child sexual abuse...All students, teachers, and parents have to be involved in the training. But our main target is the students.”

Interview with Mi Non Dree, Mon National Education Committee (MNEC)⁶¹

⁶⁰ Unpublished Interview with Daw Khin Than Htwe, MWCUC.

⁶¹ Unpublished Interview with Mi Non Dree, MNEC.

Perspectives on the increase in reported cases of the sexual abuse of children

A number of trends emerged during the analysis regarding the increasing prevalence of reports of violence against children in Mon State and Mon areas of southeast Burma. While an in-depth study is required to fully understand the phenomenon, HURFOM documented both villager and CBO perspectives on the issue. A number of trends emerged during these discussions, including a greater willingness to report such issues; access to technology; lack of rule of law; and weak penalties for offenders.

“After the education workshop, they understand the legal processes. So if something happens to them, they know how to deal with it. They know the action [to take] and the punishment. They are aware of sexual misconduct and know which manner is criminal and should be brought to court. They can share their experience [what they learned from the workshop] with their children and grand-children.”

Interview with Legal Clinic Myanmar⁶²

1. INCREASING EDUCATION AND ACCESS TO TECHNOLOGY

Some believed the increase in reports of sexual violence against children was an indication that individuals and families were more willing to speak out about the issue, rejecting traditional beliefs that sexual violence is shameful and should be kept silent. This increase in willingness was attributed to efforts by CBOs to educate villagers on sexual abuse and legal rights:

“We have already organized workshops related to under-aged sexual abuse. Now, local people have enough knowledge to speak out about sexual violence.”

Interview with Mi Kon Chan Non, Mon Women’s Organization (MWO)⁶¹



⁶¹ Unpublished Interview with Mi Kon Chan Non, MWO.

Others felt that an increased willingness to talk about these issues was related to the proliferation of technology, especially internet access, smartphones, and social media:

“There were no smartphones and social media in the past, but we have everything now and people have better general knowledge. So they speak out about the abuses and report their problems. There must be education workshops in remote areas [without internet access].”

Interview with Mi Sar Dar, MNEC⁶²

However, technology was not always regarded as a positive force as many felt that increased access to the internet has allowed pornography to have a deleterious effect on communities:

“As we are living in the age of technology, everyone can watch porn movies on their smartphones. It’s very accessible. After watching porn movies, perpetrators want to try [what they see] and innocent children become their targets.”

Interview with Mi Ong Rin, MWO⁶³

⁶² Unpublished Interview with Mi Sar Dar, MNEC.

⁶³ Unpublished Interview with Mi Ong Rin, MWO.

⁶⁴ Unpublished Interview with Mi Cherry Soe, MWN.

2. LACK OF RULE OF LAW/WEAK ENFORCEMENT

Others felt that the increase in reports of sexual violence against minors stemmed from a lack of rule of law and weak enforcement of laws. Much of this perspective derives from the short sentences perpetrators of sexual violence against children receive after being convicted, which often fall far short of the ten-year maximum stipulated in the penal code:

“Due to the lack of justice and strong rule of law, as well as weak punishment for perpetrators, it creates an environment where rape occurs more, especially the raping of young children. I would suggest for stronger laws and punishments...The laws in Myanmar look like rubber bands. They can be loose or strict. In the case of a four-year-old child that was raped, the perpetrator had been sentenced to only four years in prison.”

Interview with Mi Cherry Soe, MWN⁶⁶

Challenges to Accessing Justice

During HURFOM’s discussions of key challenges to accessing justice with villagers and CBOs in Mon State and Mon areas of southeast Burma, two broad themes emerged: lack of reporting of incidents of sexual violence against children and lack of adequate redress when one does pursue justice through formal or informal mechanisms. Lack of reporting could take two primary forms: that of not reporting the incident at all, or reporting only to village-level authorities, without pursuing formal legal outcomes.

The reasons identified for these two obstacles were often interconnected and mutually reinforcing, creating cumulative obstacles to achieving justice. The four main categories believed to lead to the above outcomes were identified as: traditional beliefs surrounding sex and sexual violence; low socio-economic status; lack of trust in both government authorities and the legal process; and unsatisfactory legal outcomes.

Cumulative obstacles to accessing justice



1. TRADITIONAL BELIEFS

Traditional beliefs regarding gender equality, women’s rights, and sexual violence are one of the biggest obstacles for victims when accessing justice for violent abuse. All of these issues combine to create a social system of shame and stigma associated with crime of this nature.⁶⁵ This deep-seated social stigma is a major factor in the under-reporting of crimes of sexual violence.⁶⁶ Furthermore, outdated laws explicitly allow for some types of sexual violence, further adding to a culture of silence and tacit acceptance. For example, marital rape is legal under the Penal Code in Burma, as long as one’s wife is 13 years or older.⁶⁷ In a culture where violence against women and young girls is socially-legitimized, incidents of sexual violence often go underreported.

⁶⁵ For more on gender inequality and women’s rights and sexual violence in Burma, see, [Long Way to Go: Continuing violations of human rights and discrimination against ethnic women in Burma](#), CEDAW Shadow Report, Women’s League of Burma, July 2016; and, [Behind the Silence: Violence against women and their resilience](#), Gender Equality Network Myanmar, October 2014.

⁶⁶ *Ibid.*

⁶⁷ Myanmar Penal Code, 1861, Section #375.

However, even if individuals do disclose to a family member or guardian, the fear of community shame and stigma may induce them to either keep it to themselves or settle at the village level. As village administrators, the majority of whom are men, have no official authority to legally try a rape case, they often pursue customary law consisting of arbitration between the perpetrator and the victim's family, resulting in compensation:

“Everyone including villagers, victims, and village headmen have accepted that being raped is very shameful. So most of the rape cases are secretly solved without reporting [to the police or the authority].”

Interview with Mi Kon Chan Non, MWO⁶⁸

Education was often cited as a way to challenge traditional attitudes towards sexual violence, encouraging more women and young girls to come forward and report their experience to authorities. However, existing cultural biases against sex education served as barriers in some communities:

“It is not okay to finalize a rape case in the hand of the village-level authority. Most of the village-level authorities try to form a mutual agreement of compensation to end a rape case. The village-level authorities have no power to decide a rape case because they have limited knowledge about rape cases. The victims must obtain compensation and the perpetrator must be punished. The village-level authority just tries to arrange a mutual agreement. That is why we have to give sex education to village headmen.”

Interview with Mi Sar Dar, MNEC⁶⁹

⁶⁸ Unpublished Interview with Mi Kon Chan Non, MWO.

⁶⁹ Unpublished Interview with Mi Sar Dar, MNEC.

“Parents are not willing to send their children to those kinds of workshops. They are afraid their children will misuse the knowledge from the workshops. That this kind of mindset will encourage their children to get in trouble. So we should also educate the parents. What we want to change is that parents must educate their children about sex.”

Interview with Daw Khin Than Htwe, MWCUC⁷⁰

However, some educators and trainers have noticed a generational shift in attitudes towards sexual violence:

“When having open discussions during the training, adults say the way a girl dresses plays a large role in rape cases. But youths claim that rape cases happen not because of way the way a girl dresses, but because of personal feelings.”

Interview with Mi Ong Rin, MWO⁷¹

2. LOWER SOCIO-ECONOMIC STATUS

Low socio-economic status is another obstacle to accessing justice. Even if a low-income family does opt to report an incident of sexual violence against their child, compensation may seem like the best course of action in light of the legal fees and transportation costs associated with taking formal legal action in a court of law. Furthermore, length of trials can last years, necessitating even greater costs and days off work for families to attend the trial:

⁷⁰ Unpublished Interview with Daw Khin Than Htwe, MWCUC.

⁷¹ Unpublished Interview with Mi Ong Rin, MWO.



"No villager wants to appear in court. The legal process will take years and it is costly. The rural people realize that going to trial is costly. Most of the perpetrators are rich and the victims are poor. They think they will definitely lose a trial against the rich. They deeply believe that money wins the trial. That's why they accept compensation decided by the village headmen. If they decide to go to trial, [they think] they will lose both trial and [access to] compensation [at the village level]. Some have said, 'We're poor. We will surely lose the trial even if we appear in court. We have no alternative but to accept [village-level] compensation. We can even lose the compensation after appearing in court.'"

Interview with Mi Ong Rin, MWO⁷²

⁷² Ibid.

3. LACK OF TRUST IN LEGAL PROCESS AND AUTHORITIES

Lack of trust in formal legal systems was another primary obstacle to accessing justice. This took two major forms: lack of trust in the government, police, and administration departments and lack of trust in the judicial processes. This distrust of formal legal administrations can be attributed to an unfamiliarity with government departments in urban centres, as well as unease regarding interactions with police in Burmese controlled areas. Long and costly trials, police and jury ineptitude, corruption, and language barriers have all contributed to an inherent distrust of formal legal systems and processes among many villagers.⁷³

“Corruption is still an existing challenge. Regarding a rape case where a 70-year-old man raped a three-and-half-year-old child, the judge received money and changed the outcome of the rape case. He had to receive a forced transfer [to a remote area]. The police station officer also had to move to remote area. That means ‘transfer to remote areas’ is the highest punishment for a corrupted official. They have never been dismissed. Even the length of the punishment of being transferred to remote areas is not too long.”

Interview with Daw Khin Than Htwe, MWCUC⁷⁴

“The reasons for the high number of unreported cases is that there is no rule of law and there is lots of misconduct during investigation. If there is a rape case, the victim is bombed with questions, while the perpetrator has to answer just a few questions. Even in child rape cases with strong evidence, the jury does not put a harsh punishment on the perpetrator.”

Interview with Mi Cherry Soe, MWN⁷⁵

⁷³ For information, see, Chapter 3: Background.

⁷⁴ Unpublished Interview with Daw Khin Than Htwe, MWCUC.

⁷⁵ Unpublished Interview with Mi Cherry Soe, MWN.

“Even though I am a member of the jury, stigma is a challenge for me. Some of the male jury think some women compromise the men first. They think most of the sexual abuse incidents are not rape cases. When there was a report that a step-father abused his step-daughter, the male jury did not want to trust that kind of abuse. As they are fathers, they think it is impossible that a father would abuse his own daughter.”

Interview with Mi Sar Dar, MNEC⁷⁶

4. UNSATISFACTORY LEGAL OUTCOMES AND LACK OF RULE OF LAW

By far some of the most common and reoccurring themes regarding challenges individuals face when accessing justice in Burma, especially regarding sexual violence, were inadequacies within the formal legal and judicial systems. Many felt this was due to outdated laws and the absence of specific laws and policies targeting violence towards women and children.

A primary reason for feeling the laws were currently inadequate was the perceived light punishments perpetrators of sexual violence against children received. Without adequate external inhibitors, such as appropriate social sanctions and harsh punishments, people felt that this would only serve to encourage perpetrators to commit similar crimes again.⁷⁷

⁷⁶ Unpublished Interview with Mi Sar Dar, MNEC.

⁷⁷ The idea of external inhibitors has in fact been identified as one of four preconditions that lead to sexual abuse of children, according to an influential theory proposed by D. Finkelhor (the other three being: motivation; internal inhibitors; and a child's resistance). See, Finkelhor. D. (1984). Child Sexual Abuse: New theory and research. New York: The Free Press.



"The punishments are quite light so after subtracting the time spent in jail while the police investigated and the length of the trial, the perpetrator does not have to stay in prison too much longer. So after being free from prison, the perpetrator commits a similar crime. Moreover, there are too many prisoners who have gone free under the terms of the amnesty. Perpetrator are released under the terms of the amnesty after being imprisoned for only a short time."

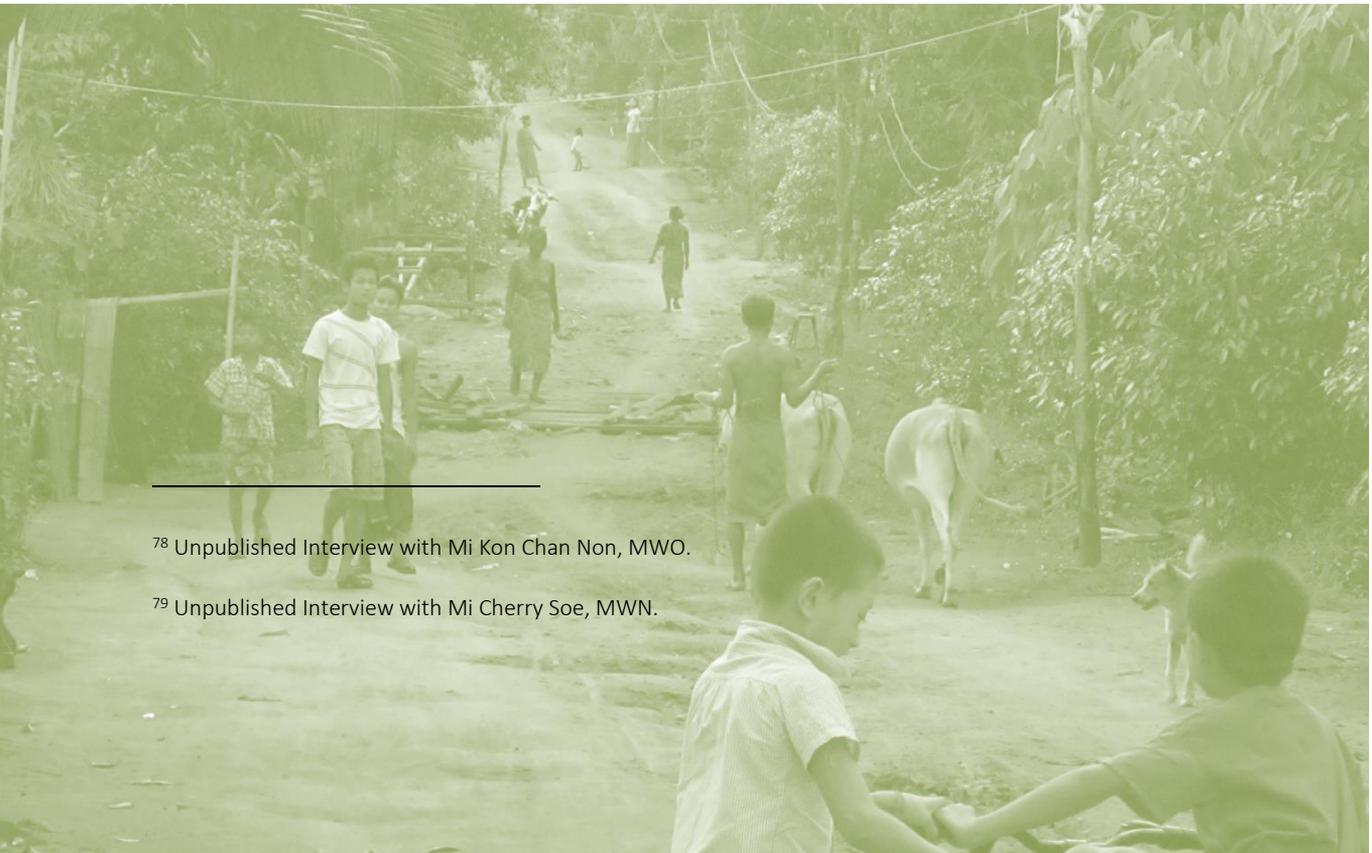
Interview with Mi Kon Chan Non, MWO⁷⁸

"Even if a [child rape] case is brought to the courts, the punishment [perpetrators receive] is not just, so they [villagers] do not want to fight for justice. People do not trust in the rule of law, so they just give up on the truth."

Interview with Mi Cherry Soe, MWN⁷⁹

⁷⁸ Unpublished Interview with Mi Kon Chan Non, MWO.

⁷⁹ Unpublished Interview with Mi Cherry Soe, MWN.



Chapter 6:

Recommendations

HURFOM recommends the Burma government to:

- ❖ Adopt a coherent and modern national child protection policy.
- ❖ Ensure that those accessing the formal legal system in Burma have access to police and court services in their language, as well as access to laws published in their own language.
- ❖ Ensure the participation of more women in judicial systems and processes, including juries.
- ❖ Educate all parties involved in legal and judicial processes, male and female, on sexual violence and gender equality.
- ❖ Eliminate corruption in police and judicial systems, and ensure all reported cases of sexual violence are investigated thoroughly, without victim blaming or collusion with alleged perpetrators.
- ❖ Provide assistance for survivors of sexual violence, including safe houses and temporary shelters.
- ❖ Provide sex and gender equality education in schools and work to eliminate harmful, traditional beliefs surrounding sexual violence.
- ❖ Implement poverty reduction programs for villagers and provide legal assistance for low-income families.

HURFOM recommends the Burma Parliament to:

- ❖ Abolish provisions in the penal code which allow for sexual violence.
- ❖ Amend the penal code to include specific provisions which target perpetrators of violence toward children, ensuring they receive adequate and proportional punishment.

Recommendations

- ❖ Release and consult with civil society on the draft National Policy on the Prevention of Violence Against Women, and pass legislation that promotes and protects the rights of women.
- ❖ Release and consult with civil society on the draft amendment of the 1993 Child Law, and ensure the law includes a section on the prevention of violence and sexual violence toward children.

HURFOM recommends the GAD to:

- ❖ Ensure that GAD authorities at all levels of government report all crimes of a sexual nature to the police.
- ❖ Eliminate the use of customary law and village-level arbitration and compensation as a method of settling cases of sexual violence.

HURFOM recommends the NMSP to:

- ❖ Ensure all cases of sexual violence are reported to the central judiciary committee of the NMSP by village, township, and district-level authorities.
- ❖ Eliminate the use of negotiation and compensation as a method of settling cases at all levels of NMSP administration.
- ❖ Ensure the participation of more women in judicial systems and processes, including juries.
- ❖ Educate all parties involved in legal and judicial processes, male and female, on sexual violence and gender equality.

Recommendations

HURFOM recommends local CBOs to:

- ❖ Continue to campaign and raise awareness on the issue of sexual violence.
- ❖ Continue to educate communities, especially in remote locations, on sexual violence, child rights, and legal rights and procedures when reporting incidents of violence toward children. Training should include all members of society, including village administrators.
- ❖ Continue to provide education which challenges traditional beliefs surrounding the stigma and shame associated with sexual violence.
- ❖ Continue to provide support to survivors of sexual violence and encourage communities to do the same.

HURFOM recommends the International Community to:

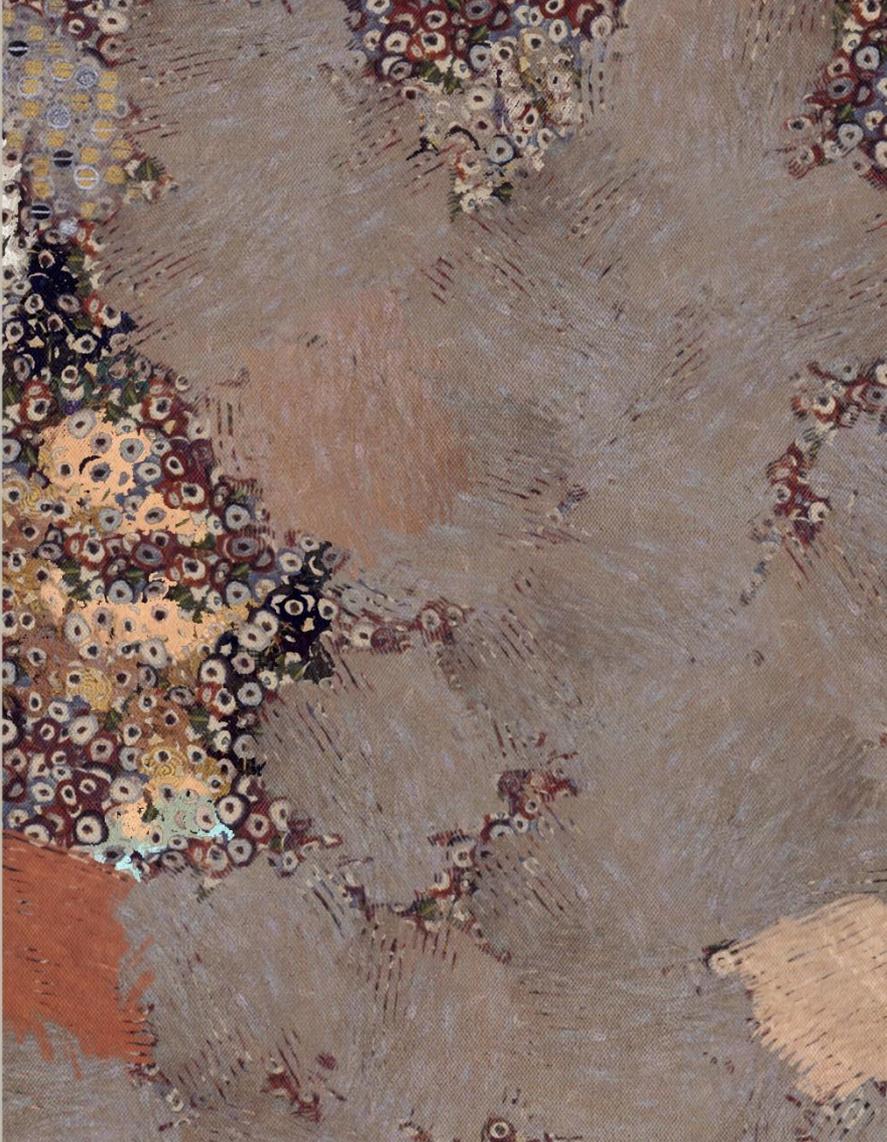
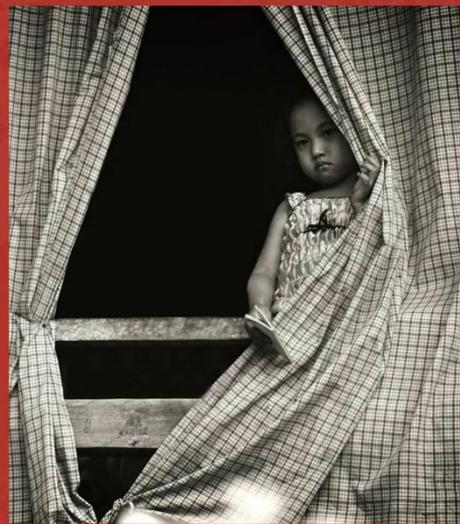
- ❖ Continue to fund and promote education in Burma on sexual violence, child rights, and women's empowerment.
- ❖ Continue to pressure the Burma government to meet its obligations under CEDAW and the CRC.

No	Date	Location	Age	Ethnicity	Abuse	Offender
1	December, 2013	Ye Township, Mon State	13	Mon	Rape, Abduction	Soldier, Burma Army IB #31
2	2014	Thaton Township, Mon State	13	Burmese	Rape	Brother
3	June, 2014	Yebyu Township, Tenasserim Division	11	Mon	Rape, Abduction, Murder	Unknown
4	December, 2014	Chaungzone Township, Mon State	16	Mon	Rape, Threats	Community Member
5	December, 2014	Ye Township, Mon State	4	Mon	Rape	Community Member
6	2015	Mudon Township, Mon State	17	Mon	Rape, Threats	Uncle
7	2015	Mudon Township, Mon State	17	Mon	Abduction, Attempted Force Marriage	Community Member
8	March, 2015	Mudon Township, Mon State	13	Mon	Rape, Abduction	Unknown
9	March, 2015	Moulmein Township, Mon State	14	Burmese	Rape, Abduction, Threats	Community Member
10	April, 2015	Moulmein Township, Mon State	3	Pa'O/Burmese	Rape, Severe Injuries	Uncle
11	May, 2015	Three Pagoda Pass, Karen State	14	Mon	Rape, Injuries	Community Member
12	June, 2015	Moulmein Townships, Mon State	10	Burmese	Rape	Community Member
13	June, 2016	Ye Township, Mon State	9	Mon	Rape, Threats, Severe Injuries	Community Member

14	June, 2016	Ye Township, Mon State	4	Unknown	Abduction, Murder, Suspected Rape	Community Member
15	August, 2016	Ye Township, Mon State	17	Unknown	Abduction	Stranger
16	September, 2016	Kyaikmayaw Township, Mon State	16	Unknown	Rape, Human Trafficking	Stranger
17	September, 2016	Moulmein Township, Mon State	8	Unknown	Rape	Brother-in-law
18	November , 2016	Thanbyuzayat Township, Mon State	9	Unknown	Attempted Rape	Community member
19	November , 2016	Kyaikmayaw Township, Mon State	15	Unknown	Rape, Threats	Father
20	January, 2017	Moulmein Township, Mon State	9	Unknown	Rape, Threats, Injuries	Uncle

“EVEN IF A [CHILD RAPE] CASE IS BROUGHT TO THE COURTS, THE PUNISHMENT [PERPETRATORS RECEIVE] IS NOT JUST, SO THEY [VILLAGERS] DO NOT WANT TO FIGHT FOR JUSTICE. PEOPLE DO NOT TRUST IN THE RULE OF LAW, SO THEY JUST GIVE UP ON THE TRUTH.”

INTERVIEW WITH MI CHERRY SOE, MON WOMEN'S NETWORK



CRACKS IN THE SILENCE:

SEXUAL VIOLENCE AGAINST CHILDREN AND CHALLENGES
TO ACCESSING JUSTICE IN MON STATE AND MON AREAS OF SOUTHEAST BURMA

A Report by
Women and Child Rights Project (WCRP)

Human Rights Foundation of Monland (HURFOM)
March 2017

