



The Critical State of Civil and Political Rights in Myanmar: Briefing Report



Equality Myanmar Consolidated the Data and Presented in this Briefing Report
Regarding Human Rights Violation, Critical State of Civil and Political Rights in Myanmar

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Introduction

Evidences are mounting of the gross violations of international human rights and humanitarian law perpetrated by the Myanmar military (or the Tatmadaw) since it grabbed power in an illegal coup on 1 February 2021. This paper highlights among others violations of civil and political rights as enshrined in the International Covenant on Civil and Political Rights (ICCPR) based on publicly available information, media reports and information shared by our partners.

1. State of Emergency (ICCPR article 4)

After overthrowing Myanmar's democratically elected civilian government over allegations of fraud in the 2020 general election, the Myanmar military established State Administration Council (SAC) and declared a year-long state of emergency, stating it was in accordance with Article 417 of the Myanmar Constitution.¹ This enabled them to grab the legislative, executive, and judicial powers, under the cover of Article 418 (a) of the Constitution. However, the junta's declaration of a state of emergency is unconstitutional as it failed to meet the procedural requirements set by Article 417 of the Constitution.² Moreover the SAC completely lacks legality and legitimacy³ to act as such in the first place as the emergency situation was solely created by its illegal act.

In February 2022 and then in August 2022, the Myanmar military proceeded to two six-month extensions of the state of emergency, pretexting the need to stabilize the country and prepare for the elections.⁴ On 1 February 2023, which marked the second anniversary of the coup, the Myanmar military announced the extension of the state of emergency for another six months,⁵ despite the Constitution permitting only two six-month extensions.⁶ The junta used the excuse of resistance attacks across the country to extraordinarily extend the state of emergency a third time,⁷ postponing the elections it had promised to hold and prolonging its illegal and illegitimate rule. Furthermore, as listed below, gross violations are committed by the Tatmadaw of the rights protected by the ICCPR from which no derogation is permitted even in a legitimate state of emergency.⁸

¹ Reuters, "Statement from Myanmar military on state of emergency," (1 Feb. 2021), <https://www.reuters.com/article/us-myanmar-politics-military-text-idUSKBN2A11A2>; See also Article 417 of the Constitution of the Republic of the Union of Myanmar, (2008), <https://constitutions.unwomen.org/en/countries/asia/myanmar/> ("Myanmar's Constitution").

² OHCHR, "Myanmar in crisis: human rights situation, February 2021," (11 Feb. 2021), <https://bangkok.ohchr.org/5902-2/>; See also, Conference room paper of the Special Rapporteur on the situation of human rights in Myanmar, "Illegal and illegitimate: Examining the Myanmar military's claim as the Government of Myanmar and the international response," (A/HRC/52/CRP.2, 31 Jan. 2023), <https://www.ohchr.org/sites/default/files/documents/countries/mm/2023-01-27/crp-sr-myanmar-2023-01-31.pdf>.

³ See also "Myanmar: UN expert's report highlights junta's fraudulent claim to legitimacy, urges States to denounce 2023, 'sham' elections," (31 Jan. 2023), <https://www.ohchr.org/en/press-releases/2023/01/myanmar-un-experts-report-highlights-juntas-fraudulent-claim-legitimacy>.

⁴ RFA, "Myanmar junta extends state of emergency, citing need for 'election prep'" (1 Aug. 2022), <https://www.rfa.org/english/news/myanmar/extension-08012022184115.html>; The Irrawaddy, "Myanmar junta extends state of emergency," (1 Aug. 2022), <https://www.irrawaddy.com/news/burma/myanmar-junta-extends-state-of-emergency.html>.

⁵ The Guardian, "Myanmar junta extends state of emergency, delaying promised elections," (2 Feb. 2023), <https://www.theguardian.com/world/2023/feb/02/myanmar-junta-extends-state-of-emergency-delaying-promised-elections>.

⁶ Article 425 of Myanmar's Constitution.

⁷ The Irrawaddy, "Myanmar junta reshuffles governing body," (3 Feb. 2023), <https://www.irrawaddy.com/news/burma/myanmar-junta-reshuffles-governing-body.html>.

⁸ See also Chapter 2 "Required procedure and conditions for legitimate derogation from the ICCPR" and Chapter 3 "Non-derogable rights under the ICCPR" in Centre for Civil and Political Rights "Guidelines for stakeholders to monitor violations of the International Covenant on Civil and Political Rights (ICCPR) by States' measures taken in the context of COVID-19 pandemic" (15 Mar. 2021) https://ccprcentre.org/files/media/Covid_Guidelines_EN.pdf

2. Extra-judicial killings of civilians (ICCPR article 6)

The military junta has been regularly conducting attacks on villages and targeted people seen as allies of the junta opposition or indiscriminate killings of civilians, including women and children. The latest data from the Assistance Association for Political Prisoners (AAPP) show that as of 16 February 2023, 2,998 civilians have been killed by the junta since the coup, of which 375 were women and one was an LGBTIQ individuals⁹ (see Section 12 for more details). Of all the civilians murdered by the military, 366 were under 19 years old. Another local source recorded the extra-judicial killing of 191 civilians by the junta forces from October to December 2022, including 83 men, 38 women, 24 children, and 70 unidentifiable people according to the third quarter human rights report.

In its fourth report to the Human Rights Council issued in July 2022,¹⁰ the Independent Mechanism for Myanmar (IIMM) reported having collected evidence of war crimes committed by the junta, including intentional attacks against the civilian population or against civilians not taking part in hostilities. The IIMM also reported having collected substantial evidence of the widespread burning of villages and towns and of targeted or indiscriminate killing of civilians, including of civilians not taking part in hostilities. Killings of civilians by the military have occurred in many forms, such as shootings of unarmed civilians,¹¹ mass killings,¹² use of landmines,¹³ and bombings.¹⁴ In its latest report released in October 2022, the Special Rapporteur on the situation of human rights in Myanmar (SR Myanmar) highlighted the intensification of the junta's attacks on civilians through airstrikes and shelling of villages and camps for internally displaced persons by fighter jets, helicopters, and heavy artillery.¹⁵ For example, on 18 January 2023, two Myanmar military jets bombed a village of 1,800 households, killing seven civilians and injuring dozens in Katha Township, upper Sagaing Region.¹⁶ There have also been reports of killings by pro-junta

⁹ Website of the Assistance Association for Political Prisoners (AAPP), accessed on 16 Feb. 2023, <https://aappb.org/>.

¹⁰ Independent Investigative Mechanism for Myanmar, *Fourth report to the Human Rights Council*, (12 July 2022), §10, <https://iimm.un.org/wp-content/uploads/2022/08/A-HRC-51-4-E.pdf> ("IIMM's Fourth Report 2022").

¹¹ See for example, Radio Free Asia (RFA), "Junta troops kill 9 unarmed civilians, including 4 teens, in war-torn Sagaing region," (1 July 2022), <https://www.rfa.org/english/news/myanmar/teens-07012022175710.html>.

¹² BBC, "Tortured to death: Myanmar mass killings revealed," (20 Dec. 2021), <https://www.bbc.com/news/world-asia-59699556>.

¹³ The Irrawaddy, "Myanmar junta accused of targeting civilians with landmines," (29 Sept. 2021), <https://www.irrawaddy.com/news/burma/myanmar-junta-accused-of-targeting-civilians-with-landmines.html>.

¹⁴ The Guardian, " 'Monsters from the sky': two years on from coup, Myanmar junta increases airstrikes on civilians," (31 Jan. 2023), <https://www.theguardian.com/world/2023/jan/31/monster-from-the-sky-two-years-on-from-coup-myanmar-junta-increases-airstrikes-on-civilians>.

¹⁵ A/77/2955, "Report of the Special Rapporteur on the situation of human rights in Myanmar," (12 Oct. 2022), §3, 28, 32, <https://reliefweb.int/report/myanmar/report-special-rapporteur-situation-human-rights-myanmar-thomas-h-andrews-a772955-advanced-unedited-version> ("SR's 2022 Report").

¹⁶ The Irrawaddy, "Myanmar regime bombs village of 7,000 people, killing 7 civilians," (19 Jan. 2023), <https://www.irrawaddy.com/news/burma/myanmar-regime-bombs-village-of-7000-people-killing-7-civilians.html>

militias and vigilante groups besides the junta soldiers.¹⁷ These attacks have contributed to the forced displacement of the population (See Section 6 for more details).

3. Death penalty (ICCPR articles 6 and 14)

On 24 July 2022, Myanmar's military executed four individuals, including a former member of the NLD and a prominent democracy activist, who were tried in military courts and convicted in closed sham trials without any due process under the anti-terrorist law.¹⁸ The executions were internationally condemned, including by the UN High Commissioner for Human Rights,¹⁹ UN Special Rapporteurs,²⁰ and the UN Security Council,²¹ who had called on the junta not to carry out death sentences. They were carried out in a secretive manner²² and have sparked the fear that the junta will continue to implement death sentences and use capital punishment as a tool to eliminate those who oppose the military's rule.²³ According to the UN High Commissioner for Human Rights, the Myanmar military has convicted over 130 opponents of their regime since the coup,²⁴ including several student protesters in early December 2022.²⁵ According to AAPP, there were 103 prisoners convicted to death out of the 15,883 detained persons since the coup as of 16 February 2023.²⁶ In addition, the junta also sentenced 41 people to death in absentia, leading to a total of 144 people sentenced to death in Myanmar. The majority of the death sentences were pronounced under Sections 50 (a) and 54 of the Anti-Terrorism Law as well as Sections 34 and 302 of the Penal Code.²⁷

¹⁷ SR Myanmar's 2022 Report, §31.

¹⁸ The Irrawaddy, "Myanmar junta hangs two leading democracy activists," (25 July 2022), <https://www.irrawaddy.com/news/burma/myanmar-junta-hangs-two-leading-democracy-activists.html>.

¹⁹ OHCHR, "Myanmar: Bachelet condemns executions, calls for release of all political prisoners," (25 July 2022), <https://www.ohchr.org/en/press-releases/2022/07/myanmar-bachelet-condemns-executions-calls-release-all-political-prisoners>.

²⁰ OHCHR, "UN Special Rapporteurs appeal for strong international response in the wake of 'devastating' executions by Myanmar junta," (25 July 2022), <https://www.ohchr.org/en/press-releases/2022/07/un-special-rapporteurs-appeal-strong-international-response-wake-devastating>.

²¹ UN, "Security council press statement on situation in Myanmar," (27 July 2022) <https://press.un.org/en/2022/sc14986.doc.htm>.

²² Athan, "Death Penalty in Myanmar: how the junta misused the name of jurisdictions to murder oppositions," (Research Report 2023), p.8-9, https://www.athanmyanmar.org/wp-content/uploads/2023/01/Athan_DP-Eng-Ver@23.pdf ("Athan's Death Penalty Research Report 2023").

²³ ABC, "Fears for more than 100 dissidents sentenced to death in Myanmar after executions spark condemnation," (28 July 2022), <https://www.abc.net.au/news/2022-07-28/fears-for-more-than-100-on-death-row-in-myanmar-after-executions/101273958>.

²⁴ OHCHR, "Myanmar: UN Human Rights Chief alarmed at death sentences by secretive military courts," (2 Dec. 2022), <https://www.ohchr.org/en/press-releases/2022/12/myanmar-un-human-rights-chief-alarmed-death-sentences-secretive-military>.

²⁵ The Irrawaddy, "Myanmar junta sentences seven students to death," (1 Dec. 2022), <https://www.irrawaddy.com/news/burma/myanmar-junta-sentences-seven-students-to-death.html>.

²⁶ AAPP, Daily Briefing in relation to the Military Coup, (16 February 2023), <https://aappb.org/?p=24204>.

²⁷ AAPP, Database on Death Penalty in Detention, <https://airtable.com/shrPPvZXq2UpbS92e/tblK67XEI5cBulfCj>; See also Athan's 2023 Death Penalty Research Report, p. 5-6.

Death sentences are handed down by military-controlled courts in closed-door hearings and with complete disregard for due process (See Section 7 for more details). Both the SR Myanmar and the IIMM have stated that the executions of political prisoners carried out by the junta without judgment by a regular court constituted the crime against humanity.²⁸

4. Torture and ill-treatment (ICCPR articles 6, 7 and 10)

The Tatmadaw has systemically used psychological and physical torture in interrogation centers and prisons against arbitrarily arrested anti-coup protesters, including women and LGBTQIA+ individuals,²⁹ and people suspected of having ties with resistance movements³⁰ (See Section 5 for more details).

Research carried out by Amnesty International in March 2022³¹ shows the extent of the torture and ill-treatment perpetrated by the Tatmadaw upon arrest, during interrogation, and in prison. Interviewed torture survivors, their families, or detainee lawyers reported beatings of arrested individuals and sometimes of their relatives, kicking, handcuffing, blindfolding, verbal assaults, as well as sexual harassment of women by security forces upon arrest. Family members have also purportedly been taken hostages by soldiers to force wanted individuals to turn themselves in. In interrogation centers, interviewed survivors reported that interrogators physically tortured them using items available in their environment, such as their hands, fists, boots, sticks, wires, tasers, etc. Interviewed female and LGBTQIA+ survivors also recounted having been subjected to sexual humiliation, harassment, and/or violence. Psychological torture perpetrated against arrested individuals by the junta forces notably included keeping them blindfolded during interrogations and not telling them where they had been taken to, as well as death threats and humiliation (e.g., arrested individuals forced to sign revolutionary songs and to hold up the anti-military three-finger salute). Inhuman treatment at interrogation and detention centers included deprivation of sleep, food, and water for several days, undrinkable or inedible food, prohibition from going to the bathroom, deprivation of medical treatment, communication, etc. Cases of enforced disappearances were also reported by detainees' lawyers. Information from the ground indicates

²⁸ SR Myanmar's 2022 Report, § 55; IIMM's Fourth Report 2022, §10.

²⁹ Athan, "A glance into Myanmar's suffering: where is our right to freedom of assembly?," (Oct. 2022), p. 11-12, https://www.athanmyanmar.org/wp-content/uploads/2022/10/Peaceful-Assembly-anal-reprot-Eng_athan2022.pdf?fbclid=IwAR2w7rNAXEmXOv-NISJFQP34koZFik1R866hxe60HQ_hjQrXfRYEONncn7Y ("Athan's 2022 Freedom of Assembly Report").

³⁰ Athan, "Internet access amid darkness and lives amid threats: analysis of internet blackouts," (May 2022), p. 20-21, <https://progressivevoicemyanmar.org/wp-content/uploads/2022/06/Internet-Shutdown-Athan-May-2022-Eng.pdf> ("Athan's 2022 Internet Blackout Report").

³¹ Amnesty International, "15 days felt like 15 years: torture in detention since the Myanmar coup," (Aug. 2022), <https://www.amnesty.org/en/documents/asa16/5884/2022/en/>.

similar methods of torture and ill-treatment: beatings during interrogation, lack of access to medical treatment, lack of clean water and food, and prohibition of communication with family and lawyers.

Torture and ill-treatment inflicted on political prisoners in custody have at times resulted in their death.³² According to AAPP, 34.4% (1,009) of the 2,940 individuals killed by the junta between 1 February 2021 and 31 January 2023 died in detention,³³ either in prison, interrogation centers, military barracks, or other detention places. In its latest report released in July 2022, the IIMM recalled that there were indications of crimes against humanity committed since the military took over, including crimes of torture, with an expansion of the geographic scope of the commission of those crimes since its last report.³⁴ Among the evidence of specific war crimes committed under the illegitimate military regime collected by the IIMM are cruel treatment and torture, including of people in detention.³⁵ It also reported having collected information indicating that children have been tortured.³⁶

5. Arbitrary arrest and detention (ICCPR article 9)

The February 2021 coup started with the arbitrary arrest and detention of leaders of the then-ruling NLD, including President Win Myint and State Counsellor Aung San Suu Kyi. Since then, arbitrary arrest and detention of protesters, human rights defenders, journalists, members of the government or parliament, members of resistance groups, and other individuals seen as supporting anti-junta movements or critical of the junta regime has continued unabated. As of 16 February 2023, there was an estimated 19,728 political prisoners since the coup, of whom 15,883 were still detained, including 4,337 serving a sentence. Among the total arrested persons, 3,994 were women and 531 were children.³⁷ As an illustration, in June 2022, the junta arrested and detained over 40 anti-coup protesters and their relatives in Yangon.³⁸

The IIMM reported having collected evidence of indiscriminate arrests and prolonged detention without appropriate due process.³⁹ Lawyers representing political prisoners arbitrarily arrested have themselves faced arrest, threats, and harassment by the military – including sexual

³² See Human Rights Watch, “Myanmar: Death of activists in custody,” (13 Sept. 2022, <https://www.hrw.org/news/2022/09/13/myanmar-death-activists-custody>).

³³ AAPP, “Graph of arrest and detain data as of 31 January 2023 collected and compiled since the 1 February 2021 military coup,” (1 February 2023), <https://aappb.org/?p=24075>.

³⁴ IIMM’s Fourth Report 2022, §7.

³⁵ Ibid., §10.

³⁶ Ibid., § 14.

³⁷ AAPP, “Daily briefing in relation to the military coup,” (16 February 2023), <https://aappb.org/?p=24204>.

³⁸ The Irrawaddy, “Myanmar junta detains over 40 protesters in Yangon,” (15 June 2022), <https://www.irrawaddy.com/news/burma/myanmar-junta-detains-over-40-protesters-in-yangon.html>.

³⁹ IIMM’s Fourth Report 2022, §11.

harassment⁴⁰ - without legal justification for their arrests.⁴¹ AAPP's latest data show that 51 lawyers are among the arrested and detained political prisoners by the junta since they seized power.⁴² In January 2023, the Office of the High Commissioner for Human Rights (OHCHR) called for the release of all those detained for exercising their rights,⁴³ many of whom have also been subjected to torture and ill-treatment (See Section 4 for more details).

6. Forced displacement (ICCPR article 12)

Raids on villages and the destruction of civilians' houses by the junta forces in efforts to instill fear in the population and find resistance groups⁴⁴ have led to the massive displacement of civilians, both internally and abroad. According to the independent research group Data for Myanmar, as of 31 December 2022, the Myanmar junta is believed to have burned down over 48,000 civilian houses across the country, with the largest number of house destructions having occurred in the Sagaing Region.⁴⁵ On 9 January 2023, junta forces reportedly looted and burned around 150 houses in Sagaing Region's Myaung Township.⁴⁶ There has also been an intensification of airstrikes by the military in recent months in efforts to suppress resistance groups, destroying villages and killing civilians in their wake.⁴⁷ Our monitoring findings revealed that in the last quarter of 2022, about 5,000 houses were burned down by the junta in Tanintharyi, the Sagaing, Magway, and Kachin regions, causing the forced displacement of 135,000 people. The Myanmar military has been forcibly evicting people living in informal settlements and demolishing houses without resettlement options.⁴⁸ Consequently, according to the UN, there were 1,215,000 newly displaced people within Myanmar since the coup as of 9 January 2023, out of the overall estimated

⁴⁰ Athan's 2022 Freedom of Assembly Report, p. 23.

⁴¹ SR Myanmar's 2022 Report, §48.

⁴² AAPP, Database of Arrested Persons, accessed on 17 Feb. 2023, <https://airtable.com/shr9w3z7dyloqdUv4/tbl8hVtSci8Vifb09>.

⁴³ OHCHR, "Myanmar: Political detainees," (6 Jan. 2023), <https://www.ohchr.org/en/press-briefing-notes/2023/01/myanmar-political-detainees>.

⁴⁴ The Irrawaddy, "Myanmar junta troops raid pro-NLD villages in Sagaing," (5 Oct. 2022), <https://www.irrawaddy.com/news/burma/myanmar-junta-troops-raid-pro-nld-villages-in-sagaing.html>; "Myanmar junta's village militias committing atrocities in resistance strongholds," (24 Oct. 2022), <https://www.irrawaddy.com/news/war-against-the-junta/myanmar-juntas-village-militias-committing-atrocities-in-resistance-strongholds.html>.

⁴⁵ Democratic Voices of Burma, "Over 48,000 civilian homes burned down in Burma since coup, the NUG reiterates its calls for air defense systems," (16 January 2023), <https://english.dvb.no/over-48000-civilian-homes-burned-down-in-burma-since-coup-the-nug-reiterates-its-calls-for-air-defense-measures/#:~:text=As%20of%20Dec.%2031%2C%202022.statistics%20from%20Data%20for%20Myanmar>.

⁴⁶ The Irrawaddy, "Myanmar junta troops burn nearly 150 villages in Sagaing," (10 Jan. 2023), <https://www.irrawaddy.com/news/burma/myanmar-junta-troops-burn-nearly-150-villages-in-sagaing.html#:~:text=Around%20150%20houses%20were%20looted.Monday%2C%20according%20to%20resistance%20forces>.

⁴⁷ SR Myanmar's 2022 Report, §3; The Guardian, "'Monster from the sky': two years on from coup, Myanmar junta increases airstrikes on civilians," (31 Jan. 2023), <https://www.theguardian.com/world/2023/jan/31/monster-from-the-sky-two-years-on-from-coup-myanmar-junta-increases-airstrikes-on-civilians>.

⁴⁸ OHCHR, "Myanmar: Over 50,000 exposed to forced evictions and housing destruction, say UN experts," (2 Dec. 2022), <https://www.ohchr.org/en/press-releases/2022/12/myanmar-over-50000-exposed-forced-evictions-and-housing-destruction-say-un>.

1,545,000 internally displaced people within Myanmar.⁴⁹ In addition, as of 30 June 2022, there were an estimated 1,086,000 Myanmar refugees and asylum-seekers in neighboring countries, with an estimated 72,000 people seeking refuge in neighboring countries since 1 February 2021.⁵⁰

The Myanmar military has also infringed on people's fundamental freedom to leave one's country guaranteed by Article 12 (2) of the ICCPR by imposing restrictions on foreign travel. In May 2021, the Myanmar military issued an order directing airlines that all flight bookings departing from Myanmar must be made at least 10 days prior to the departure date and shared with the Ministry of Foreign Affairs.⁵¹ There have also been reports of the junta requiring people seeking to work abroad to apply for an Overseas Workers Identification Card (OWIC) with the regime's authorities and preventing those who did not have the OWIC from flying out of the country,⁵² as well as cancelling or refusing to issue passports to political opponents, pro-democracy activists, and other dissenters,⁵³ stripping them of their citizenship at times,⁵⁴ as a way to silence them and prevent them to travel abroad to rally support. More recently, in January 2023, the junta suspended the issuing and renewal of passports to citizens at passport offices across the country in order to upgrade the computer system according to the authorities, without however specifying when the offices would reopen.⁵⁵ As of the beginning of February 2023, the passport issuing had not resumed. This has notably prevented job seekers planning to go work abroad from leaving the country.⁵⁶ Labor rights activists believe that the junta's decision to close passport offices is politically motivated and aims at preventing Burmese citizens living abroad from sending money

⁴⁹ UNHCR Regional Bureau for Asia and the Pacific (RBAP), "Myanmar emergency update as of 9 January 2023" (16 Jan. 2023), <https://reporting.unhcr.org/document/3993>.

⁵⁰ *Ibid.*

⁵¹ US Department of State, "2021 Country Reports on Human Rights Practices: Burma," p.25, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/burma/>.

⁵² Coconuts Yangon, "Myanmar stopping people from flying out of Yangon: reports," (20 Oct. 2021), <https://coconuts.co/yangon/news/myanmar-stopping-people-from-flying-out-of-yangon/>; Myanmar Now, "Workers trying to leave Myanmar turned away at airports after junta tightens rules," (21 Oct. 2021), <https://myanmar-now.org/en/news/workers-trying-to-leave-myanmar-turned-away-at-airports-after-junta-tightens-rules>.

⁵³ ABC, "Myanmar junta cancels passports of high-profile opponents and shadow government figures, documents show," (3 Dec. 2021), <https://www.abc.net.au/news/2021-12-03/myanmar-junta-cancels-passports-of-high-profile-opponents/100669294>; The Irrawaddy, "Striking Myanmar civil servants denied passports," (18 May 2022), <https://www.irrawaddy.com/news/burma/striking-myanmar-civil-servants-denied-passports.html>.

⁵⁴ The Diplomat, "Myanmar junta revokes citizenship of opposition figures, NUG ministers," (7 March 2022), <https://thediplomat.com/2022/03/myanmar-junta-revokes-citizenship-of-opposition-figures-nug-ministers/>; Aljazeera, "'Using citizenship as a weapon' Myanmar military targets critics," (20 Apr. 2022), <https://www.aljazeera.com/news/2022/4/20/citizenship-as-a-weapon-myanmar-military-targets-critics>.

⁵⁵ The Irrawaddy, "Myanmar junta stops issuing passports," (23 Jan. 2023), <https://www.irrawaddy.com/news/burma/myanmar-junta-stops-issuing-passports.html>; Burma News International (BNI), "Halting passport services adversely affecting young people's future," (6 Jan. 2023), <https://www.bnionline.net/en/news/halting-passport-services-adversely-affecting-young-peoples-future>.

⁵⁶ The Irrawaddy, "Myanmar junta's closure of passport offices disrupts people's lives," (3 Feb. 2023), <https://www.irrawaddy.com/news/burma/myanmar-juntas-closure-of-passport-offices-disrupts-peoples-lives.html>.

to resistance groups. Others have said that this tactic was also to prevent anti-junta activists from leaving the country.⁵⁷

7. Independence of the judiciary and due process (ICCPR article 14)

Currently, all courts in Myanmar are completely subservient to the Tatmadaw. The junta is trying civilians in military courts and without legal representation⁵⁸ or in special courts set up inside prisons⁵⁹ away from public scrutiny. These courts adjudicate cases in closed-door hearings with complete disregard for fair trial rights and keep sentencing anti-junta activists and other individuals perceived as opposing the Tatmadaw, including political leaders⁶⁰ to death or lengthy prison sentences, mainly under the Counter-Terrorism Law. For instance, former NLD parliamentarian U Win Myint Hlaing was sentenced to a total of 173 years in prison, resistance group member Auung Khant OO was sentenced to a total of 203 years in prison and Kyaw Thet, a member of the anti-junta People's Defense Force paramilitary group was sentenced to 225 years in prison with hard labor as well as to death, the harshest sentence handed down by the judiciary since the coup.⁶¹

When legal representation is permitted, lawyers are often intimidated and harassed, especially in politically motivated cases (See Section 5 for more details). Corruption is reported within the justice sector, such as bribery of detained persons and their families by police and court officials to ensure that trials occur in ordinary courts rather than the special courts in prisons, as ordinary courts are seemingly less restrictive than the special courts.

In December 2022, the UN High Commissioner for Human Rights raised the alarm at the death sentence verdicts handed down by military courts behind closed doors against over 130 people since 1 February 2021.⁶² (See Section 2 for more details). The lack of independence of the judiciary

⁵⁷ The Irrawaddy, "Myanmar junta stops issuing passports," (23 Jan. 2023).

⁵⁸ RFA, "More than 90 sentenced to death by military courts in Myanmar," (20 Dec. 2021), <https://www.rfa.org/english/news/myanmar/courts-12202021182046.html>; International Commission of Jurists (ICJ), "Myanmar: a year after military takeover, no rule of law or judicial independence," (10 Feb. 2022), <https://www.ici.org/myanmar-a-year-after-military-takeover-no-rule-of-law-or-judicial-independence/>.

⁵⁹ The Irrawaddy, "Myanmar junta using prison courts to try political prisoners," (9 Apr. 2021), <https://www.irrawaddy.com/news/burma/myanmar-junta-using-prison-courts-try-political-prisoners.html>; Frontier Myanmar, "No justice behind bars: the coup and the judiciary," (17 Mar. 2022), <https://www.frontiermyanmar.net/en/no-justice-behind-bars-the-coup-and-the-judiciary/>.

⁶⁰ UN, "Myanmar: secretive military courts sentence scores of people to death," (2 Dec. 2022), <https://news.un.org/en/story/2022/12/1131292#:~:text=Since%20last%20year's%20military%20coup,latest%20convictions%20announced%20this%20week>.

⁶¹ Myanmar Now, "Myanmar junta hands 100-year prison terms to men convicted of joining armed resistance," <https://myanmar-now.net/en/news/myanmar-junta-hands-100-year-prison-terms-to-men-convicted-of-joining-armed-resistance?page=3>; RFA, "Myanmar's junta slams opponents with prison sentences of up to 225 years," (13 Nov. 2022), <https://www.rfa.org/english/news/myanmar/myanmar-prison-terms-11132022230653.html>.

⁶² OHCHR, "Myanmar: UN Human Rights Chief alarmed at death sentences by secretive military courts," (2 Dec. 2022), <https://www.ohchr.org/en/press-releases/2022/12/myanmar-un-human-rights-chief-alarmed-death-sentences-secretive-military>.

and separation of powers has led Myanmar to the bottom of the World Justice Project's 2022 Rule of Law Index, which ranked 132 out of the 140 assessed countries with a score of 0.36/1, indicating its weak adherence to the rule of law.⁶³

8. Right to privacy (ICCPR article 17)

On 13 February 2021, barely two weeks after the coup, the military's SAC amended the Law Protecting the Privacy and Security of Citizens passed by the NLD in 2017.⁶⁴ Three sections (5, 7, and 8) protective of citizens' privacy were suspended, allowing the military to arbitrarily enter homes without warrants to arrest people, detain people for more than 24 hours without permission from a court, surveil citizens, interfere with their communications, obtain person telephonic or electronic communication data from telecommunication operators, open, seize, or destroy citizens' private correspondence, and interfere with their personal or family matters.⁶⁵ The Myanmar junta stated that the suspension was in accordance with Article 420 of the Constitution, which allows the Commander-in-Chief of the Defense Services to restrict or suspend one or more fundamental rights during a state of emergency. Since the amendments, the military has trespassed arbitrarily on homes to arrest political activists, protesters, and other junta opponents, as well as engaged in citizens' surveillance through stalking, eavesdropping on communication devices, opening correspondence, etc.⁶⁶ On the same day, the SAC also amended the Ward and Village-Tract Administration Law,⁶⁷ requiring citizens to register overnight guests from other wards or village tracts with local authorities, with penalties – including imprisonment – for those who fail to comply. This move has been seen as an attempt by the junta to prevent people from moving from one ward or village to another, notably for protesters to take sanctuary.⁶⁸

The Telecommunications sector is increasingly controlled by the Tatmadaw, raising further concerns about increased surveillance and violations of the right to privacy. In March 2022, Norwegian telecommunications operator Telenor sold its Myanmar business to a military-linked

⁶³ World Justice Project, "2022 Rule of Law Index," <https://worldjusticeproject.org/rule-of-law-index/country/2022/Myanmar>.

⁶⁴ *Law Protecting the Privacy and Security of Citizens*, as amended by the State Administration Council Law 4/2021 of 13 Feb. 2021, https://www.myanmar-responsiblebusiness.org/pdf/Law-Protecting-Privacy-and-Security-of-Citizens_en_unofficial.pdf.

⁶⁵ *Ibid.*, Sections 5, 7, and 8; See also Bangkok Post, "Myanmar junta amends law for more power on detentions, spying," (14 Feb. 2021), <https://www.bangkokpost.com/world/2068047/myanmar-junta-amends-law-for-more-power-on-detentions-spying>.

⁶⁶ Athan's 2022 Freedom of Assembly Report, p.14.

⁶⁷ SAC, *Law No (3/2021) Fourth Amendment of the Ward of Village-Tract Administration Law*, (13 Feb. 2021), <https://www.gnlm.com.mm/fourth-amendment-of-the-ward-or-village-tract-administration-law/>.

⁶⁸ Athan's 2022 Freedom of Assembly Report, p.14.

company.⁶⁹ In September 2022, the last foreign-owned telecommunications provider Ooredoo, announced the selling of its operation in Myanmar to a foreign investor with ties to the military, allowing the junta to control telecommunications and access private data.⁷⁰ In May 2022, the junta also announced its plans to require the registration of mobile phones' International Mobile Equipment Identity (IMEI) – a unique device identification number - or otherwise see the phones blocked from using the internet.⁷¹ Similarly, in September 2022, the SAC announced that it would check the citizen scrutiny card numbers and phone SIM card registered name against the information recorded in the Immigration Department and deactivate any SIM card with incorrect personal information.⁷²

Privacy concerns have been raised due to the lack of personal data protection laws in Myanmar and the fact that this will allow the military to collect and control users' personal data and ease surveillance by the authorities, especially those participating in anti-junta initiatives. The Myanmar military has also shown its intention to move forward with the establishment of an electronic ID system with biometric data for all people over ten years old.⁷³ This, combined with the need to register sim cards with ID and the lack of personal data protection laws in Myanmar, represents a further threat to the right to privacy.

9. Freedom of expression (Article 19 ICCPR)

The Myanmar military has continuously cracked down on freedom of expression and its corollaries, press freedom and access to information. On 15 February 2021, the junta amended the Electronic Transactions Law,⁷⁴ adding vague provisions on the protection of personal information giving the authorities broad interception powers without safeguards, thus threatening civic space. The amended law also includes new criminal provisions, one of which criminalizes the spread of false information, which broadness and disproportionate prison terms undermine

⁶⁹ SR Myanmar's 2022 Report, §60; Reuters, "Telenor says sale of Myanmar unit gets final approval from junta," (18 Mar. 2022), <https://www.reuters.com/world/asia-pacific/myanmars-junta-gives-final-approval-sale-telenors-myanmar-unit-sources-2022-03-18/>.

⁷⁰ SR Myanmar's 2022 Report, §60; Bangkok Post, "Last foreign-owned telco to quit Myanmar," (8 Sept. 2022), <https://www.bangkokpost.com/business/2387348/last-foreign-owned-telco-to-quit-myanmar>.

⁷¹ SR Myanmar's 2022 Report, §61; Myanmar Business Today, "IMEI number of mobile phones required to be registered," (21 May 2022), <https://mmbiztoday.com/imei-number-of-mobile-phones-required-to-be-registered/>; Access Now, "Myanmar IMEI FAQ: how the junta could disconnect the resistance," (7 July 2022), <https://www.accessnow.org/myanmar-imei/>.

⁷² The Global New Lights of Myanmar, "SIM card registered name, CSC number to be checked with immigration information," (21 Sept. 2022), <https://www.gnlm.com.mm/sim-card-registered-name-csc-number-to-be-checked-with-immigration-information/>.

⁷³ SR Myanmar's 2022 Report, §61.

⁷⁴ SAC, Law No. (7/2021) Amending the Electronic Transactions Law, (15 Feb. 2022), <https://data.opendevelopmentmyanmar.net/my/dataset/687f4759-8c9c-416c-9aa5-62bdc74090ae/resource/020b2363-8968-4273-a2a8-600b8d767e0c/download/electronic-transaction-law-amendment-2021-en-mm.pdf>.

freedom of expression and digital rights.⁷⁵ The Myanmar military regime also amended Section 505 of the Penal Code, adding a new section that notably criminalizes the spread of fake news,⁷⁶ with the aim of intimidating and prosecuting people for their legitimate exercise of freedom of expression.⁷⁷ The junta also drafted a controversial Cyber Security Law that would notably grant the authorities unlimited power to access user data, arbitrarily ban any content and punish anyone using virtual private networks (VPNs) to access banned websites and social media, restrict internet providers, intercept data, among others, thus raising further concerns over its use as a tool to further crackdown on the junta's critics.⁷⁸

The Myanmar military junta has also relentlessly targeted the press, shutting down independent media outlets⁷⁹ and persecuting journalists and other media workers. The local media outlet The Irrawaddy, which regularly reported on the junta's repression, was the latest victim of the regime's repeated attacks on press freedom, its media license having been revoked in October 2022 for damaging "state security, the rule of law, and public tranquility."⁸⁰ Furthermore, according to AAPP, as of 16 February 2023, 173 of the total arrested persons since the junta took over were media staff (e.g., journalists, editors, citizen journalists), of whom 75 were still detained, including 34 sentenced.⁸¹ On September 2022, former director of the The Irrawaddy Thauing Win was arrested at his home in Yangon and taken to an interrogation center. He was later charged with violating the Publishing and Distribution Act for reporting news that "negatively affected national security, the rule of law, and public peace," according to the junta.⁸² Similarly, in October 2022, journalist Sithy Aung Myint was handed down the same sentence over accusations of incitement and defamation of the armed forces and state. He was reportedly arrested in August 2021 after posting articles on social media that were critical of the junta.⁸³

⁷⁵ Free Expression Myanmar, "Myanmar's new Electronic Transactions Law amendment," (18 Feb. 2022), <https://freeexpressionmyanmar.org/myanmars-new-electronic-transactions-law-amendment/>; Myanmar Now, "Amended law throws Myanmar back into media dark age," (19 Feb. 2021), <https://myanmar-now.org/en/news/amended-law-throws-myanmar-back-into-media-dark-age>.

⁷⁶ SAC, Law No. (5/2021) Amending the Penal Code, (14 Feb. 2021), https://myanmar-law-library.org/IMG/pdf/law_no_5-6_2021_sac_-2.pdf.

⁷⁷ Athan's 2022 Freedom of Assembly Report, p. 15.

⁷⁸ The Irrawaddy, "Myanmar junta's new cyberlaw to jail anyone using VPN," (24 Jan. 2022), <https://www.irrawaddy.com/news/burma/myanmar-juntas-new-cyber-law-to-jail-anyone-using-vpn.html>; Voice of America (VOA), "Myanmar cybersecurity law 'days' away as coup anniversary nears," (30 Jan. 2022), <https://www.voanews.com/a/myanmar-cybersecurity-law-days-away-as-coup-anniversary-nears/6418629.html>.

⁷⁹ RSF, "Five media outlets shut down in Myanmar, one raided," (9 Mar. 2021), <https://rsf.org/en/five-media-outlets-shut-down-myanmar-one-raided>; RFA, "Myanmar junta bans Irrawaddy news agency after months of harassment," (31 Oct. 2022), <https://www.rfa.org/english/news/myanmar/irrawaddy-10312022181138.html>.

⁸⁰ The Irrawaddy, "After repeated crackdowns, Myanmar junta officially bans The Irrawaddy," (31 Oct. 2022), <https://www.irrawaddy.com/news/burma/after-repeated-crackdowns-myanmar-junta-officially-bans-the-irrawaddy.html>.

⁸¹ AAPP, *Databases of Arrested, Still Detained, and Sentenced People*, accessed on 16 February 2022, <https://aappb.org/?p=24204>.

⁸² RFA, "Myanmar junta bans Irrawaddy news agency after months of harassment," (30 Oct. 2022), <https://www.rfa.org/english/news/myanmar/irrawaddy-10312022181138.html>.

⁸³ VOA, "VOA contributor sentenced to 3 years' prison in Myanmar," (7 Oct. 2022), <https://www.voanews.com/a/voa-contributor-sentenced-to-3-years-prison-in-myanmar-/6780925.html>.

The Myanmar military has also increasingly restricted access to the internet, imposing internet shutdowns and speed restrictions on many occasions across the country, blocked access to websites, and increased the price of internet data packages, thus severely crippling the population's online freedom and access to information. Increased abuses (e.g., killings of civilians, burning of houses, unlawful arrests) by junta soldiers during internet blackouts have also been reported, which are indicative of their attempts to use internet blackouts to conceal their crimes.⁸⁴ In June 2022, a group of UN Special Rapporteurs denounced the Myanmar military's "digital dictatorship."⁸⁵ Furthermore, Reporters Without Borders (RSF)'s World Press Freedom Index 2022 ranked Myanmar at 176 out of the 180 assessed countries,⁸⁶ while Freedom House's Freedom on the Net Report 2022 scored Myanmar's internet freedom as low as 12/100, classifying the country as "not free."⁸⁷

10. Freedom of assembly (ICCPR article 21)

The military's illegal coup sparked a wave of peaceful protests across the country, which the junta soldiers quickly cracked down on through the use of violence as well as the arrest and detention of peaceful protesters. The junta has notably used the amended Section 505 of the Penal Code, the existing Law on Peaceful Assembly, and the Counter-Terrorism Law to intimidate and prosecute people exercising their freedom of assembly.⁸⁸ Furthermore, between 1 February 2021 and 30 September 2022, an estimated 661 people were killed by the military during peaceful anti-coup protests.⁸⁹ On 14 March 2021, junta soldiers and police opened fire on anti-coup protests with military assault rifles in Yangon's Hlaing Tharya township, killing over 65 protesters.⁹⁰ On 27 March 2021, marking the country's Armed Forces Day, over 100 people, including children, were reportedly killed by the junta troops during one of the bloodiest crackdowns on peaceful protests across the country.⁹¹ The Myanmar military has also reportedly increased digital surveillance and notably used CCTV cameras and other digital intelligence technology to monitor public movement, record cars and motorbikes used in protests, and surveil communications to track down protesters and arrest them.⁹²

⁸⁴ Athan's 2022 Internet Blackout Report, p. 19 to 22; SR's 2022 Report, §59.

⁸⁵ OHCHR, "Myanmar: UN experts condemn military's 'digital dictatorship'" (7 June 2022), <https://www.ohchr.org/en/press-releases/2022/06/myanmar-un-experts-condemn-militarys-digital-dictatorship>.

⁸⁶ Reporters without Borders (RFS), "2022 World Press Freedom Index," <https://rsf.org/en/index>.

⁸⁷ Freedom house, "Freedom on the Net 2022: Myanmar," <https://freedomhouse.org/country/myanmar/freedom-net/2022>.

⁸⁸ Athan's 2022 Freedom of Assembly Report, p. 15-16.

⁸⁹ *Ibid.*, p. 16.

⁹⁰ Human Rights Watch, "Myanmar: Protesters targeted in March massacre," (2 Dec. 2021), <https://www.hrw.org/news/2021/12/02/myanmar-protesters-targeted-march-massacre>.

⁹¹ Myanmar Now, "Cities terrorized as junta escalates lethal violence against public on Armed Forces Day," (27 Mar. 2021), <https://myanmar-now.org/en/news/cities-terrorised-as-junta-escalates-lethal-violence-against-public-on-armed-forces-day>.

⁹² Athan's 2022 Freedom of Assembly Report, p. 21; DW, "How Myanmar's junta uses Chinese surveillance technology," (27 Jul. 2022), <https://www.dw.com/en/how-myanmars-junta-is-using-chinese-facial-recognition-technology/a-62624413>;

11. Freedom of association (Article 22 ICCPR)

On 28 October 2022, the SAC enacted the new Registration of Associations Law,⁹³ repealing the 2014 Association Registration Law. The new law makes registration of national and international non-governmental organizations (NGOs) and associations mandatory and criminal sentences, including imprisonment, can be imposed on those who do not comply. Concerns were raised over the severe negative impact of the law on civic space and human rights, on the functioning and access to funding of many NGOs and notably on humanitarian aid to displaced populations provided by NGOs.⁹⁴ The Myanmar junta has also been surveilling CSOs and targeting those reporting on human rights violations, organizing pro-democracy activities, or providing humanitarian assistance.⁹⁵ CSOs have notably seen their offices raided, their staff persecuted and arrested, their financial activities surveilled and their accounts frozen, hampering their crucial operations. In April 2021, the junta accused the AAPP of operating illegally for not being registered as an organization. The group, which is also documenting the human rights violations perpetrated by the military regime since the coup, was threatened with “severe action,” forcing them to close their office in Yangon and their staff into hiding to continue their work.⁹⁶

In January 2023, a new law on the registration of political parties was passed by the SAC.⁹⁷ The law sets strict requirements to be followed by political parties to be able to run in elections, severely reducing the chances for many parties to run in the next elections. Political parties were notably required to re-register within the two months following the enactment of the new law or else be considered dissolved and must attain at least 100,000 members within three months after being registered, to open offices in at least half of the country’s townships within six months, and be able to contest in at least half of all constituencies in order to be allowed to run for national

RFA, “Authorities in Yangon posing as activists online arrest dozens,” (2 Mar. 2022), <https://www.rfa.org/english/news/myanmar/arrests-03022022185117.html>.

⁹³ Myanmar National Portal, “Organization Registration Law,” (1 Nov. 2022), https://myanmar.gov.mm/news-media/news/latest-news/-/asset_publisher/idasset354/content/organization-registration-law. See also Allen & Gledhill, “New Myanmar Registration of Associations Law imposes additional requirements on non-governmental organizations,” (7 Dec. 2022), <https://www.allenandgledhill.com/publication/articles/22818/new-registration-of-associations-law-imposes-additional-requirements-on-non-governmental-organisations>.

⁹⁴ OHCHR South-East Asia Regional Office, “Myanmar: UN Human Rights Office deeply concerned by new NGO law,” (28 November 2022), <https://bangkok.ohchr.org/ngo-law-myanmar/>; Frontier Myanmar, “We are facing a crisis: New law puts Myanmar NGOs in ‘impossible’ position,” (14 Dec. 2022), <https://www.frontiermyanmar.net/en/we-are-facing-a-crisis-new-law-puts-myanmar-ngos-in-impossible-position/>;

⁹⁵ SR Myanmar’s 2022 Report, §23-24.

⁹⁶ Human Rights Watch, “Myanmar: end threats against rights group,” (30 Apr. 2021), <https://www.hrw.org/news/2021/04/30/myanmar-end-threats-against-rights-group>.

⁹⁷ AP News, “Myanmar’s military government enacts new political party law,” (28 Jan. 2023), <https://apnews.com/article/politics-myanmar-government-enacts-new-political-party-law-13b3874fe362af29e9cb346dae5cdd48>.

elections.⁹⁸ Before that, in August 2022, the junta had issued a notice forbidding political parties from meeting with foreign organizations and individuals without their prior permission.⁹⁹

12. Sexual and gender-based violence (ICCPR articles 3, 6, 7 and 24)

Sexual and gender-based violence (SGBV) has worsened in the country since the coup, with increased accounts of rape, gang rape, and murder of women and girls perpetrated by junta soldiers to demoralize, intimidate, scare, and silence them.¹⁰⁰ The findings of research conducted by women human rights defenders (WHRDs) have shown that since the coup, SGBV has become more frequent and occurred in more diverse geographic regions.¹⁰¹ The research also found that SGBV was mainly perpetrated by the Myanmar military, Border Guard Forces, and other junta-aligned groups. Forms of SGBV recorded by WHRDs include gang rapes committed by soldiers, rape or sexual assault before killings in villages, rape used as a form of punishment against women involved in anti-junta peaceful activities, rape of women walking alone or in small groups or of women during searches of private residences, sexual violence against women and LGBTIQ persons during interrogations, as well as torture and mistreatment and SGBV in detention¹⁰² (See Section 4 for more details). Similarly, the IIMM outlined that based on reports and evidence collected, rape and other forms of sexual violence perpetrated against women, children, and LGBTIQ persons are among the crimes against humanity that are believed to have been committed since the military coup, including by members of the security forces.¹⁰³ On 28 August 2022, junta soldiers reportedly raped at least seven women during raids on two villages in Sagaing Region's Kani Township. Ko Kyaw Kyaw, a university student arrested during a peaceful flash-mob protest, reported that he was raped by soldiers and criminals during interrogation in May 2021 after they discovered that he was homosexual and forced to stay in the same cell as his rapists before being transferred to another interrogation center the next day.¹⁰⁴

UN mechanisms have highlighted the lack of reporting by the victims and of investigation and prosecution of crimes committed against women and children, enabling perpetrators to enjoy full impunity.¹⁰⁵ The SR Myanmar outlined that shame and social stigma, and fear of retaliation by perpetrators are the main reasons why survivors do not report GBV, notably citing threats made

⁹⁸ Ibid.; RFA, "New law raised bar for Myanmar's political parties ahead of general election," (30 Jan. 2023), <https://www.rfa.org/english/news/myanmar/law-01302023131751.html>.

⁹⁹ The Irrawaddy, "Myanmar junta imposes new restrictions on political parties," (30 August 2022), <https://www.irrawaddy.com/news/burma/myanmar-junta-imposes-new-restrictions-on-political-parties.html>.

¹⁰⁰ Athan's 2022 Internet Blackout Report, p.21-22. And SR Myanmar's 2022 Report, §64.

¹⁰¹ Ibid., §64-65.

¹⁰² Ibid., §65-66; BBC, "Myanmar coup: The women abused and tortured in detention," (9 Dec. 2021), <https://www.bbc.com/news/world-asia-59462503>.

¹⁰³ IIMM's Fourth Report 2022, §7 and 14.

¹⁰⁴ The Irrawaddy, "Myanmar rights groups call on junta rape victims to report violations," (10 Nov. 2022), <https://www.irrawaddy.com/news/burma/myanmar-rights-groups-call-on-junta-rape-victims-to-report-violations.html>.

¹⁰⁵ SR Myanmar's 2022 Report, §67; IIMM's Fourth Report 2022, §15.

by soldiers against survivors and their families and villages if they spoke out. The SR Myanmar also pointed out that the long-term impunity enjoyed by the Myanmar military as well as the erosion of the justice system since the coup hindered victims from achieving justice through the courts.¹⁰⁶ (See Section 7 for more details).

As of 16 February 2023, 375 of the estimated 2,998 people killed by the Myanmar army since the 2021 coup were women and one was an LGBTIQ person.¹⁰⁷ They died from the junta's heavy artillery blasts, airstrikes, shootings, or torture in interrogation centers or in prison, many having been raped before being killed.¹⁰⁸ In April 2022, in two separate instances, four women, of whom three were underaged, were raped before being murdered in Htal Hlaw village and Sagaing region's Min Kin township.¹⁰⁹

13. Rights of minorities (ICCPR article 27)

The rights of minorities remain severely curtailed in Myanmar, with increased risks of persecution since the coup. August 2022 marked five years since the military started a genocide against the Rohingya ethnic group, resulting in thousands of deaths. In addition, over half a million Rohingyas have fled the country due to the Myanmar military's ongoing brutal oppression and live confined in squalid refugee camps in neighboring countries, mainly in Bangladesh. Several thousands of Rohingyas continue to live in Myanmar's Rakhine State, either in villages or in camps with little freedom of movement and no access to essential services. They also continue to be denied access to citizenship, leaving them stateless and marginalized,¹¹⁰ and therefore all the more vulnerable to human rights abuses. There have been reports of rising movement restrictions and significant increase in arrests and detentions of Rohingyas in Rakhine State since the military's power grab.¹¹¹ According to the Women's Peace Network, at least 2,714 Rohingyas, including over 853 women and 145 children, have been arrested by the junta since February 2021.¹¹² Their dire situation, both in Myanmar and in Bangladesh, has seen an increase in Rohingya's attempts to flee to other destinations by land or sea in the past year, many having died during these perilous journeys or

¹⁰⁶ SR Myanmar's 2022 Report, §67.

¹⁰⁷ AAPP, *Database of killed people*, accessed on 16 Feb. 2022, <https://airtable.com/shrYUbzQe1hKXQ68x/tblswChRjGSzJWr7k>.

¹⁰⁸ AAPP's Database of killed people; RFA, "Blood toll: at least 363 women killed in Myanmar by junta troops since coup," (2 Feb. 2022), <https://www.rfa.org/english/news/myanmar/women-02022023174527.html>.

¹⁰⁹ Athan's 2022 Internet Blackout Report, p.21-22.

¹¹⁰ UNHCR, "Stateless Rohingya continue to struggle for survival in Myanmar," (25 Aug. 2022), <https://www.unhcr.org/news/stories/2022/8/630780aa4/stateless-rohingya-continue-struggle-survival-myanmar.html>; SR's 2022 Report, §77.

¹¹¹ IIMM's Fourth Report 2022, §21; Women's Peace Network, "The arbitrary arrest and detention of Rohingyq since the attempted coup," (2 Mar. 2022), <https://mcusercontent.com/6819ae24e30bd9a9db0322d69/files/2a79f5e9-4d82-bf0a-7c7e-702bc869a5c2/Briefer on Arbitrary Arrest Detention.pdf>.

¹¹² Women's Peace Network, "Submission to the UN Special Rapporteur on the situation of human rights in Myanmar: the situation of Rohingya IDPs and refugees in South and Southeast Asia," (27 Jan. 2023), p.2, https://mcusercontent.com/6819ae24e30bd9a9db0322d69/files/758a744d-4579-e4ae-ce2d-2dfa550fa4d8/1_27_WPN_Submission_to_SR_Myanmar.pdf.

fallen victim to human trafficking or exploitation.¹¹³ Other religious minorities have also been persecuted by the junta troops, with reports of increased attacks and hate speech against and restrictions on the freedom of religion of Muslim, Hindu, and Christian communities following the coup.¹¹⁴

Conclusion and recommendations

Two years since the Tatmadaw staged the illegal coup on 1 February 2021, the situation in the country has been deteriorating in every aspect. Mounting evidence shows that the Tatmadaw has been committing gross violations of human rights, crimes against humanity and war crimes. However, due to the lack of decisive action, the international community is still letting them enjoy almost a total impunity. Stronger, targeted and decisive actions are required and coordination and cooperation among States and all relevant stakeholders must be strengthened in order to stop the atrocities of the Tatmadaw and hold them accountable. Moreover, as the situation deteriorates and the rule of law in the country is collapsing, efforts must be taken to prevent violations of international human rights and humanitarian law by any party involved. Such efforts should include not only monitoring but also assistance and capacity building provided to all parties fighting against the military rule including the National Unity Government of Myanmar to abide by the international human rights law. Concerning the severity of the violation of civil and political rights in Myanmar as highlighted above and the importance of building national capacity to effectively protect them, ratification of the ICCPR and the Convention against Torture (CAT) by NUG can be the very first step to be taken. More concretely following actions are recommended.

National Unity Government

- ◆ Take all necessary measures to swiftly ratify the ICCPR and CAT.
- ◆ Cooperate with all relevant UN Human Rights Mechanisms and constructively engage in the process to realise accountability.
- ◆ Develop and strengthen its capacity to effectively implement international human rights law including the ICCPR and CAT within the territory under its control, including ensuring the accountability.
- ◆ Identify areas where it needs external assistance to build its capacity for the implementation.

¹¹³ UNHCR, “UNHCR seeks comprehensive regional response to address rise in deadly South-East Asia sea journeys,” (17 Jan. 2023), <https://www.unhcr.org/news/briefing/2023/1/63c66c3c4/unhcr-seeks-comprehensive-regional-response-address-rise-deadly-south-east.html>; SR’s 2022 Report, §79.

¹¹⁴ VOA, “Myanmar religious groups say they face persecution,” (4 Nov 2021), <https://www.voanews.com/a/myanmar-religious-groups-say-they-face-persecution-6299508.html>; Burma Human Rights Network, “Violation of freedom of religion and belief in Myanmar during anti-coup revolution,” (6 July 2022), <https://www.bhrn.org.uk/en/burma-briefing/1198-violation-of-freedom-of-religion-and-belief-in-myanmar-during-anti-coup-revolution.html/>.

International community and the UN as a whole

- ❖ Expand sanctions against the illegal military junta and its associates, including direct bans on imports of arms, munitions, dual-purpose technology, aviation fuel and other equipment used by the junta to locally manufacture materials.
- ❖ Take measures to strip the junta of cash revenues through strengthened economic measures against its business enterprises, including oil and gas interests.
- ❖ Take concrete measures that gives effect to the UN Security Council's resolution
- ❖ Give support to ASEAN in particular.
- ❖ To put priority on the urgent delivery of cross-border humanitarian assistance to all communities in need, including through ERO and civil society channels.
- ❖ To strengthen measures to protect civilians, including IDPs, and to prevent the further atrocities of the Myanmar Junta.
- ❖ To provide better protection and assistance to the Myanmar asylum seekers and refugees in neighboring countries including facilitation of safe relocation to third countries.
- ❖ To strengthen the ASEAN Five Point Consensus including through effective engagement with the NUG, EROs and civil society to prioritise the delivery of humanitarian assistance and the protection of civilians, to prevent Myanmar junta's atrocities and to address its failure to implement the Consensus.
- ❖ Publicly engage with the NUG, block the Tatmadaw's attempts to hold sham elections, reject any moves that might give any legitimacy to the Tatmadaw and ban all Tatmadaw members and representatives from attending or participating in meetings, conferences and other events that might have the purpose or consequences of giving legitimacy to the junta.

UN Security Council

- ❖ Consider and actively take all measures at its disposal including those under the Chapter VII of the UN Charter.

UN Human Rights Council

- ❖ Adopt strongest possible resolutions that reflect ground realities, support democratic institutions including the NUG, and condemn the junta atrocities.
- ❖ Request the UN Secretary-General to explore the possibility of establishing an ad hoc tribunal to prosecute perpetrators of the violation of international human rights and humanitarian law and to provide victims with the access to effective remedies.
- ❖ Request the IIMM to actively identify national jurisdictions under the exercise of the universal jurisdiction and to expedite the preparation of case files.
- ❖ Call on all UN Member States to protect the Rohingya and all Myanmar nationals within their territory and prevent the violation of the non-refoulment principle.
- ❖ Call on all UN Member States to divest from economic dealings with the Myanmar junta and its associates.

- ◆ Request the UN Secretary-General to explore the possibility of establishing a Group of Friends on Myanmar as a consultative forum.
- ◆ Request the UN Secretary-General to report to the Human Rights Council on concrete actions taken by the UN on Myanmar.

ICC

- ◆ Expand its current investigation into the situation in Bangladesh/Myanmar to cover all Myanmar territory taking into account of the National Unity Government's Article 12(3) Declaration under the Rome Statute, which accepted the Court's jurisdiction with respect to international crimes committed in Myanmar since 1 July 2002.

ICJ

- ◆ Accept the National Unity Government's appointed Agent in *The Gambia v. Myanmar* case under the Genocide Convention.

About Equality Myanmar

Equality Myanmar (EQMM) is a leading nongovernmental organization that organises a wide range of human rights education and advocacy programs, the documentation human rights violations, and provides emergency support for activists, human rights defenders, and their families. We work with a range of local civil society organizations, educators, activists, various local actors, and our programs and activities reach all states and regions in Myanmar.

Equality Myanmar, formerly known as the Human Rights Education Institute of Burma (HREIB), was founded, by U Aung Myo Min, in 2000 in Chiang Mai, Thailand. In 2013, HREIB's headquarters and operations transitioned to working exclusively inside Myanmar under its new name: Equality Myanmar. Since the 2021 Military coup in Myanmar, EQMM relocated its headquarters back to Chiang Mai, Thailand.

Equality Myanmar stands strong for professional commitment, despite the organization having faced a critical situation in 2021 due to the political crisis. Our fundamental vision is to build a peaceful, tolerant, and federal democratic society that is embedded in respect for the dignity and human rights of all the languages, religions, and ethnic groups in Myanmar.

We promote, support and fortify a culture of human rights compliance, human rights, FORB Rights and Education and Accountability where Myanmar people are empowered to access their rights, justice, sociopolitical and democratic space as well as engage in a process of social and political transformation of Myanmar.