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Generation Wave

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# CIVIL AND POLITICAL RIGHTS REPORT

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Arbitrary Arrest, Extrajudicial Killings  
and Violations of the Freedom of  
Movement in Myanmar

*15 December 2019 – 15 March 2020*

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## Acronyms used in the report

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|               |   |   |
|---------------|---|---|
| <b>AA</b>     | - | Arakan Army   |
| <b>AHRDPA</b> | - | Arakan Human Rights Defenders and Promoters Association |
| <b>CSOs</b>   | - | Civil Society Organizations                             |
| <b>EAOs</b>   | - | Ethnic Armed Organizations                              |
| <b>GW</b>     | - | Generation Wave   |
| <b>HRDs</b>   | - | Human Rights Defenders                                  |
| <b>ICCPR</b>  | - | International Covenant on Civil and Political Rights    |
| <b>IDPs</b>   | - | Internally Displaced Persons                            |
| <b>KAAC</b>   | - | Kumi Affairs Coordination Council                       |
| <b>NLD</b>    | - | National League for Democracy                           |
| <b>NRC</b>    | - | National Registration Card                              |
| <b>MNHRC</b>  | - | Myanmar National Human Rights Commission                |
| <b>TNLA</b>   | - | Ta'ang National Liberation Army                         |



## 1. Introduction and Purpose of the Report

Violations of human rights are prevalent in Myanmar until today. More often than not, perpetrators of rights abuses get away with impunity. The judicial system tends to take sides with the powerful and rich, turning laws intended for the protection of people against human rights defenders, activists, journalists and other persons expressing critical views in public and pronouncing draconic and disproportionate sentences.

In particular, Generation Wave (GW) observes ongoing violations of civil and political rights that deny people the most basic rights to actively and freely participate in the transformation process in Myanmar. Among those, extrajudicial killings, arbitrary arrests and violations of the freedom of movement that often result from an undetermined citizenship status, remain under-documented.

By collecting and analyzing data from reliable media sources and complementing them with information collected through investigations and interviews, GW wants to bring attention to persistent human rights violations, urge relevant government authorities to demonstrate accountability and responsibility for human rights protection and promotion and take action against human rights violations.

By providing evidence-based information, the strategies of civil society, the media, state institutions, ethnic political parties and armed organizations, the public and international stakeholders can be enhanced not only to end human rights violations, but also conceive of structures and policies that can prevent them from happening.



## 2. Brief History of the Organization

GW was founded in 2007 after the Saffron Revolution in Yangon, Myanmar, starting out as a nonviolent underground youth movement with the objective to overthrow the military dictatorship. When the political situation changed in 2011, GW began to work openly as a human rights organization, focusing on the promotion and protection of civil and political rights and providing trainings in human rights and awareness raising for the participation in the democratization and peace process. Moreover, GW became a strong advocate for law reform, while maintaining an activist identity and joining protests and public campaigns.

In our current program, we promote democracy, peace and human rights by empowering human rights defenders, civil society organizations and youth to engage in the political and social reform process in Myanmar. We document human rights violations and advocate for law and policy reforms, human rights compliance, accountability of public officer holders and the democratization of state institutions. We take a collaborative approach and work together with like-minded civil society organizations and networks.

GW has documented rights violation and published a report on civil and political rights in 2016 and 2017, respectively, as well as a report on the freedom of religion and belief in 2019. Since October 2019, we regularly publish a quarterly Civil and Political Rights Report on violations of selected rights. The current report is the second edition in this series.



## 3. Background

Myanmar has a long history of denying and restricting human rights. Fundamental rights, such as the right to the freedom of expression, peaceful assembly, association and movement and the right to self-determination and due process of law were denied under the military dictatorship from 1962 to 1988. In the wake of the 8888 Uprising, the political system underwent a slow transition resulting in the 2008 Constitution which includes more guarantees for human rights than before. However, shortcomings in terms of positive guarantees of rights remain and the relatively wide latitude to constrain rights allows restrictions when politically expedient. Many observers have commented that the 2008 Constitution was adopted by the military to protect and maintain their power, while demonstrating the image of a democratic country.

After the 2010 general election, a new nominally-civilian government was formed by the military-affiliated Union Solidarity and Development Party (USDP) and U Thein Sein as president. In order to get international support and popular legitimacy within Myanmar, the government implemented some political, social and economic reforms to reduce tensions and criticism. At least 1235 political prisoners were released under president U Thein Sein, limited political activities were allowed, censorship laws abolished and more freedom given to the media. But despite of democratic reforms, the government used repressive laws, to limit the political freedom and the civil and political rights of the people of Myanmar.

When the National League for Democracy (NLD) was voted into power in 2015, hopes were high that the democratization and peace process would be accelerated and participation of civil society and the public would increase. However, the incumbent government under the de facto leadership of State Counsellor Daw Aung San Suu Kyi did little to reform national laws that do not align with international human rights standards. Therefore, to this day, human rights activists, students, social media users, civil society and the public at large can be easily muzzled, intimidated and prosecuted under numerous laws such as the Telecommunication Law, the Peaceful Assembly and Processions Act, the Unlawful Associations Act, the National Security Act, various articles of the Penal Code and others. While it can be seen as a positive step that the NLD government ratified the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR) in October 2017, progress in regard to the International Covenant on Civil and Political Rights (ICCPR) remains a significant concern. Although the Pyithu Hluttaw



(Myanmar parliament) has in principle approved to strengthen civil and political rights in Myanmar by becoming a signatory of the ICCPR<sup>1</sup>, no action has been taken in this respect.

While the NLD government is not taking decisive steps for law reform, the crucial obstacle for enhanced human rights compliance lies with the prevailing power of the military. Although the 2008 Constitution stipulates that the military is under the control of the government, it in fact remains an independent institution without accountability to the state sovereign. Crucially, the constitution reserves 25 percent of parliamentary seats in all legislative, executive and judiciary bodies to the military. These members of parliament are neither elected nor appointed by civilian government representatives. Amendments of significant sections of the constitution require more than 75 percent of the parliamentarians' votes, so that de facto, the military can veto all constitutional changes. The military power is further strengthened by the right to appoint the ministers of three of the most powerful and important ministries, namely the Ministry of Defense, the Ministry of Home Affairs and the Ministry of Border Security.

In its latest report, the Office of the High Commissioner for Human Rights stated that '...in addition to the institutionalized persecution of the Rohingya in Rakhine State, long-standing armed conflicts have continued to lead to serious violations and abuses of human rights of ethnic minorities in other states, including extrajudicial killings, arbitrary arrest and detention, torture, forced labour and sexual and gender-based violence, and extensive forced displacement.'<sup>2</sup> Given the investigations of genocidal actions and crimes against humanity against Rohingya in 2016 and 2017 at the United Nations International Court of Justice in The Hague and ongoing fighting with ethnic armed groups, particularly in Rakhine State, impunity and lack of accountability of the military's operations need to be addressed from national and international human rights advocates to strengthen civil and political rights in Myanmar.

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- <sup>1</sup> In a parliamentary session on 21 May 2019, the MP of Eain Mae' township Daw Than Dar proposed a motion to ratify the ICCPR. The motion was approved by the Pyithu Hluttaw (Myanmar parliament).
  - <sup>2</sup> Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General: Situation of human rights of Rohingya Muslim minority and other minorities in Myanmar, 27 January 2020



## 4. Definition of Terms and Scope of the Report

*GW follows international human rights standards when defining arbitrary arrest or detention, extrajudicial killings and violations of the freedom of movement in Myanmar.*

### ARBITRARY ARREST OR DETENTION

Arbitrary arrest or detention is considered the arbitrary deprivation of an individual's liberty by a state actor. While a detention and arrest should be appropriate, just, foreseeable and proportionate, arbitrary arrests are defined as not following these standards.

In the context of our analysis, an arrest or detention is considered as arbitrary when...

- it results from exercising one's rights or freedoms guaranteed by the Universal Declaration of Human Rights, such as equality before the law; fair public hearings; free movement; freedom of belief and religion; freedom of opinion and information; the right to participate in the government and free elections. As well, the arrest or detention is arbitrary if a consequence of rights guaranteed by the ICCPR, which Myanmar has agreed to accede, such as freedom of movement; the right to freedom of thought, conscience and religion; the right to hold opinions without interference; the right to peaceful assembly; the right to association; the right to political participation; equality before the law, minority protection etc.
- it constitutes a discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; disability etc.
- international norms of fair trial standards are not observed.
- internally displaced persons, refugees, immigrants and asylum seekers are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy.
- it lacks a legal basis justifying the deprivation of liberty, i.e. if a person is kept in detention after the completion of his/her sentence or despite an amnesty law applicable to him/her.



- national law allows a government to extend sentences after prisoners complete their original sentence.
- arresting authorities do not comply with legal regulations, such as producing an arrest warrant, putting forward charges within the legally prescribed time, allowing access to a lawyer and the family and adhering to the prescribed pre-trial duration.
- not adhering to fair trial rights.
- made by the military and contravening military law and international humanitarian law.

It is generally acknowledged, that persons arrested or detained arbitrarily are highly exposed to other human rights violations such as extrajudicial killings, enforced disappearance, torture and other cruel, inhuman and degrading treatment. This is particularly true in situations of armed conflict.

In Myanmar, a number laws which are contravening international laws are in place that are frequently used to make arbitrary arrests. In particular, activists, human rights defenders and journalists are intimidated, harassed and prosecuted under laws such as the Telecommunication Law (Section 66 d), Penal Code (Section 505 (b), (c) (make, publish or disseminate information, rumors or reports)), the Peaceful Assembly and Peaceful Procession Law (art. (18), (19)), Unlawful Associations Act (Sections 17(1) and (2)) and the Counter Terrorism Law 50 (J), 52 (A) (B) (C).

## EXTRAJUDICIAL KILLING

Extrajudicial Killing is the deprivation of the most fundamental right of all human beings, the right to life, which, in principle, every state has the obligation to promote and protect. Extrajudicial killings are committed outside of the judicial system and usually by state actors, but also by non-state actors that operate unaccounted of international human rights, such as militias and armed groups as well as other powerful institutions.

These killings are considered as death resulting from torture, ill-treatment or excessive force (applied in prisons, police stations, military bases and other), political assassination, executions without proper judicial procedure as well as genocide.



While killings committed pursuant to the law of armed conflict are effectively extrajudicial, they may be considered as lawful. Killings by the military and armed groups must be assessed according to the Myanmar military law and international humanitarian law that regulates the conduct in war. This report does not include killings in armed conflict.

## VIOLATIONS OF THE FREEDOM OF MOVEMENT

Violations of the Freedom of Movement deny a citizen the right to travel, reside and work within the territory of his/her state as well as travel abroad and return to his/her home country. Usually, the authorities denying free movement within or outside of a country are state actors. Restrictions of free movement include the denial of issuing travel documents and permissions, forceful relocations and the denial of internally displaced persons (IDPs) to return to their home villages. Given the challenges of some minority groups, such as Muslims and Rohingya, to claim citizenship rights in Myanmar, restrictions of travel are often the result of the absence of identity documents and have to be viewed in the light of structural discrimination and exclusion from livelihood security, income opportunities, and access to public services.

Also other ethnic and religious minorities as well as people of mixed-blood<sup>3</sup> background face challenges in exercising their right to free movement. According to findings from a GW research, 64 percent of respondents faced difficulties in applying for a National Registration Card (NRC) which is a prerequisite to travel.<sup>4</sup>

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<sup>3</sup> Generation Wave, *The Challenges of Racial and Religious Minorities in Accessing National Registration Cards and Passports*. Yangon, March 2020.

<sup>4</sup> Generation Wave, *The Challenges of Racial and Religious Minorities in Accessing National Registration Cards and Passports*. Yangon, March 2020.

<https://drive.google.com/file/d/1-9ToPsnAQRilw8VntV9nAYtdh4rj7tZu/view?usp=sharing>



## 5. Methodology

GW has collected and analyzed data of extrajudicial killings, arbitrary arrests and violations of the freedom of movement from news reports of ethnic-based media sources such as Chin World Media, Hinthar Media, Kachin News Group, Kantarawaddy Times, Karen Information Center, Khonumthung News, Mon News Agency, Narinjara News, Shan Herald Agency for News, Development Media Group and from nation-wide media such as the British Broadcasting Corporation, Voice of America, Radio Free Asia, Democratic Voice of Burma, Mizzima, Myanmar Now, Irrawaddy News, 7 Day News, Daily Eleven and Frontier Myanmar to compile this report.

We do in-depth investigations and interviews on the ground in selected, particularly affected states and regions, and conduct interviews with victims, families of victims, members of parliaments, human rights activists, leaders of civil society organizations and lawyers.

Note: We refer to incidents as single events that add up to a multi-layered case in which several persons in several incidents may be affected.



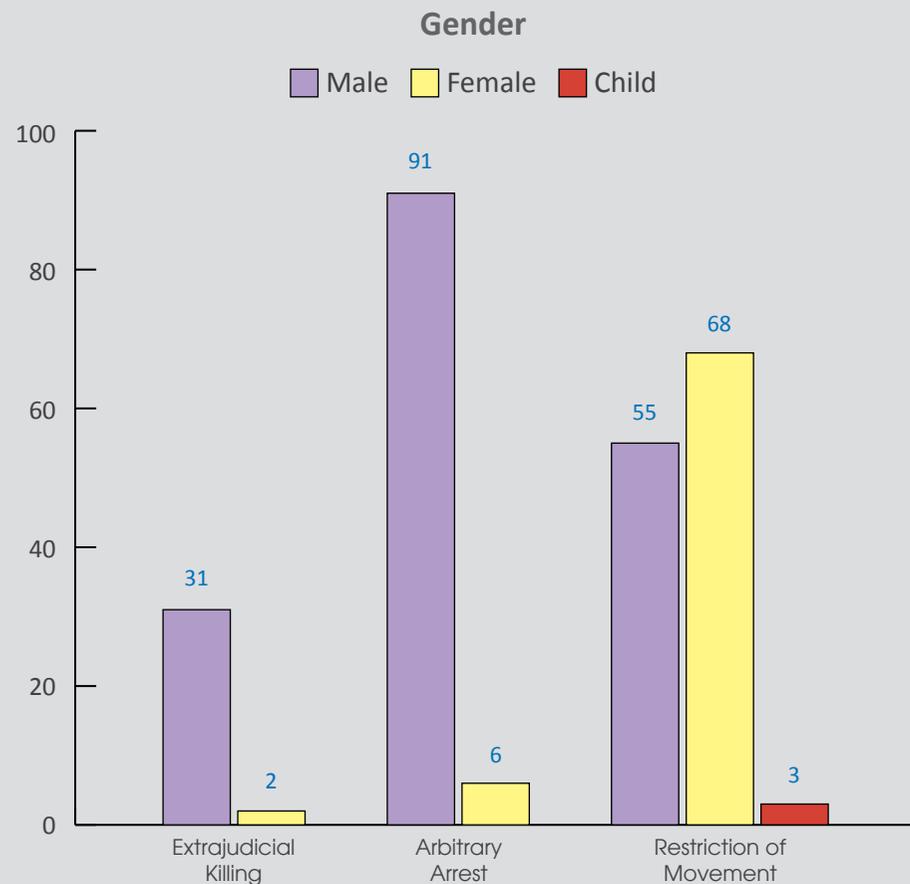
## 6. Limitations

The information compiled in this report has been collected from news reports from 20 media sources as well as from telephone interviews between 15 December 2019 and 15 March 2020. However, since reporting is restricted in some areas, particularly those affected by armed conflict, and contact persons are difficult to reach, not all incidents from all over the country can be covered. Therefore, the number of incidents is likely to be higher than the one recorded.

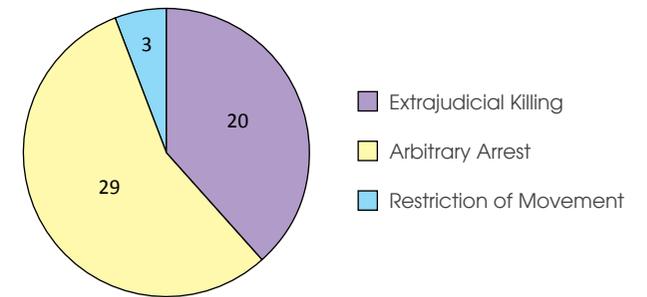
While usually, we do in-depth investigations and interviews on the ground in selected, particularly affected states and regions, and conduct interviews with victims, families of victims, members of parliaments, human rights activists, leaders of civil society organizations and lawyers, the spread of the corona virus in Myanmar and measures taken to contain it, has restricted our abilities for the current report. We have conducted a number of telephone interviews to substantiate the collected data and analysis.

## 7. Findings from the Media and Data Analysis

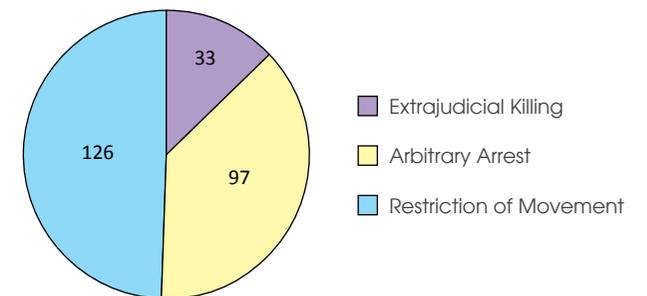
According to information collected from 20 media sources between 15 December 2019 and 15 March 2020, (20) incidents of extrajudicial killing, (29) incidents of arbitrary arrest, a proportion of which resulted in prosecution and imprisonment, and (3) incidents of violation of the freedom of movement occurred. In total, 256 people have been affected by those incidents. *Figure (1), (2).*



**Figure (1)** Incidents of extra judicial killing, arbitrary arrest and restriction of movement



**Figure (2)** Number of people affected



## 7.1 EXTRAJUDICIAL KILLINGS

20 incidents of extrajudicial killing took place during the reporting time – (1) in Chin State, (10) in Rakhine State and (9) in Shan State. They have led to the deaths of (33) persons– (3) in Chin State, (17) in Rakhine State and (13) in Shan State. Among the (13) persons killed in Shan State, (1) was a woman. She is the only female victim of an extrajudicial killing in the investigated cases. *Figure (3)*

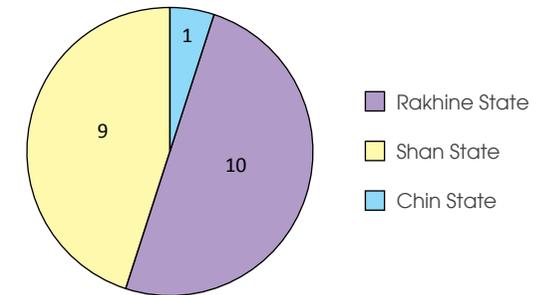
Most perpetrators of extrajudicial killings could not be identified. In the case of (12) incidents, the actor is unknown. The Myanmar military is responsible for (5) incidents, while (2) incidents account for the Ta’ang National Liberation Army (TNLA) and (1) for the Arakan Army (AA). In all incidents, civilians were the victims of extrajudicial killings. *Figure (4)*

According to the analyzed date, there are (12) cases which were committed by unknow actors, (5) cases in Rakhine State and (7) cases in Shan State. No extrajudicial killings happened in other states and regions. Among the (5) cases in Rakhine State, (5) civilians, (2) persons affiliated with armed groups and (1) policeman were killed. Among the (7) cases in Shan State, (3) civilians, (1) person affiliated with armed groups, (1) member of a civilian army and (7) persons who could not be identified were killed.

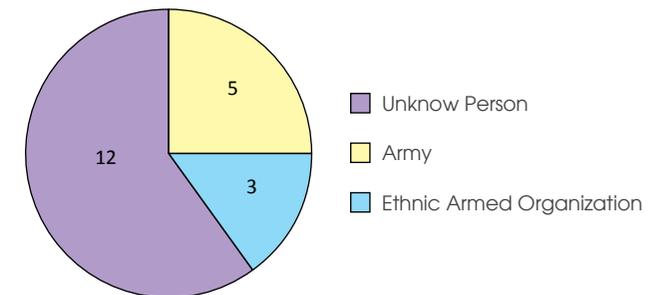
### 7.1.1 The Military as Perpetrator

U San Shwe Than (aka A Than Chay) was arrested in Mrauk U township, Rakhine State at around 8:00 am on 29th Feb by the Myanmar military. He was neither referred to the police nor prosecuted, but disappeared after the arrest. To this day, his family does not know what happened to him. His daughter reported *“My father left home at around 8:00 am. We heard some shooting from the direction into which he had headed. My mother was worried and called him on the phone. He answered the call, but said that he couldn’t talk because he had to hide himself. When my mom called him again, someone speaking in Burmese answered the phone and said that they would contact us again in the evening. My father disappeared on 29th Feb and we have lost contact with him ever since. I think on the 6th of March, 14 out of 15 people were sent to the police station, but my father was not among them. We were so worried and asked for information about him from different institutions, but we didn’t receive any information. What we heard from the other people is that my father was killed during the investigation. They heard voices ordering to kill my father.”*

**Figure (3)** Incidents of extrajudicial killing in ethnic states



**Figure (4)** Perpetrators of extrajudicial Killings





Although the bereaved family reached out to the Rakhine State government and other administrative officials with the help of human rights activists, they did not receive any reply. Since U San Shew Than's disappearance, the family is facing difficulties to meet their daily basic needs. They also fear for their own security.

The military has not taken any responsibility for this incident and nobody from their ranks has been held accountable. Rakhine based journalists, human rights activists and Civil Society Organizations (CSOs) have been criticizing the Union government and Rakhine State government repeatedly for not taking action to stop such incidents.

U Myat Tun from Rakhine-based Arakan Human Rights Defenders and Promoters Association (AHRDPA) who tried to help the family of U San Shew Than to establish what has happened to him, summarized the incident as follows: *"What I heard is that 15 people got arrested in Myaung Bwe village, but only 14 were later sent to the police. U San Shwe Than was not included into this group of people. When the family asked for information about him, they heard that he had been beaten to death during the investigation in a military battalion in Mrauk U. We assume it is a war crime."*

### **7.1.2 Ethnic Armed Organizations as Perpetrator**

Extrajudicial killings have not only been committed by the Tatmadaw (Myanmar military), but also by Ethnic Armed Organizations (EAOs). The Ta'ang National Liberation Army (TNLA) is responsible for (2) incidents in Shan State. The first incident happened on 7th January, when TNLA soldiers stopped two men on a motorbike who came back from the town of Tamoenye to ask them some questions. But the two men did not stop. The soldiers shot at them and one of them died. GW has learned that TNLA admitted the killing and provided the bereaved family with Kyat 1 million as financial compensation as well as ten bags of rice.

The second incident took place on 24th Jan at around 7:00 pm. A TNLA soldier called Mai Phoe Sein shot Lway Mya Hmway Aung, a female primary school teacher of Hway Khote village. The reasons for this crime could not be established. According to the TNLA, he has been sentenced to 20 years in prison.

Human rights observers in Chin State reported that human rights violations have been committed by the Arakan Army (AA) in Chin State. The Kumi Affairs Coordination Council (KACC) released a statement



about a 55-year old male school teacher called U Ah Bay La and two other villagers who were abducted by the AA on 7th Jan. U Khine Thukha, spokesperson of AA, denied the accusation, saying that AA neither abducted nor killed the men. <https://khonumthung.org/?p=8392> However, human rights observers in Chin State insist that the AA is involved in the disappearance and possible killing of the three men. Moreover, Chin human rights defenders said that amid conflicts between the Myanmar military and the AA in Paletwa township of Chin State, the human rights of Chin people have been violated by both, the AA and the military.

*“AA committed human rights violations and so did the military”*, said one of the Chin-ethnic human rights observers who wanted to remain anonymous.

AA have to protect civilians in the conflict areas and effectively stop human rights violations of those who are under their control.

### **Incidents that cannot be unequivocally attributed**

A number of incidents cannot be clearly attributed, but involve arrests that result in killings as well as killings outside the judicial system.

On 10th Dec, U Ye Thein, the chairman of the National League for Democracy (NLD) for Buthitaung township, Rakhine State was abducted by the AA while he was organizing a march in support of the State Counsellor defending Myanmar against genocide charges at the International Court of Justice (ICJ). On the 14th day of the abduction, AA released a statement saying that U Ye Thein was killed in heavy artillery fire at point 428 hill 3.3 km east of Oak Taung Village, Bu Thi Thaug township, where he had been kept.

Brigadier General Zaw Min Tun from the Tatmadaw True News Team (Myanmar military) told The Daily Eleven that U Ye Thein has died after abduction and torture by AA. It can be said that what initially was an arbitrary arrest turned into an extrajudicial killing. <https://news-eleven.com/article/151169> This case demonstrates the risk for persons who are arbitrarily arrested or taken hostage by an armed group to be killed in fighting.

In addition, the figures above include the incidents of extrajudicial killing caused by crossfire between



militia groups. In the town of Muse in Shan State, (1) person was killed and (2) were injured in a crossfire on 23rd Dec. According to 7 Day News, administrative officials remarked that the crossfire occurred between the Kaung Kha militia and Pan Say militia. Thus, incidents of extrajudicial killing are also inflicted by militia groups. <https://7day.news/detail?id=174325>

The incidents mentioned above elucidate that the military, militias and EAOs are all involved in extrajudicial killings. The military and EAOs should follow article 6 (1) of the ICCPR and respect the right to life of every human being that should not be arbitrarily taken and which is to be protected by the law.

As well, they should stop all forms of extrajudicial killings and take effective action against perpetrators.

### **7.1.3 Unknown Actors as Perpetrator**

In addition, there are (12) incidents of extrajudicial killing by unknown perpetrators. Responsibility cannot be clearly established because these killings took place in areas of armed conflict and investigations cannot be conducted. More often than not, conflicting parties, as for instance the Myanmar military and EAOs, will accuse each other of such killings. When perpetrators do not wear uniforms, witnesses cannot identify them.

There is an urgent need for the Union government and the Ministry of Home Affairs to carry out law enforcement effectively and protect the life of civilians.

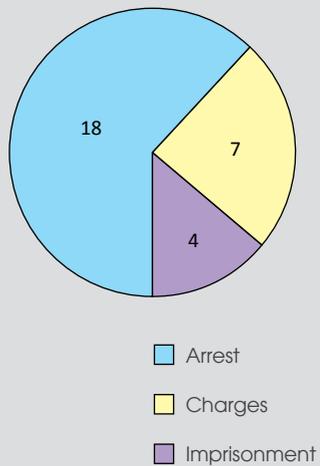
## 7.2 ARBITRARY ARREST, CHARGES AND IMPRISONMENT

In (29) incidents, (97) persons were arbitrarily arrested. Of those, (69) people were arrested, (18) were charged with an offence and (10) sentenced to a prison term. *Figure (5), (6).*

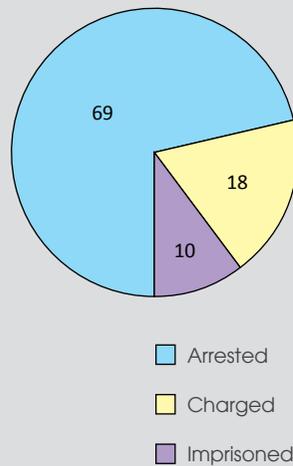
Among (29) incidents of arbitrary arrest, charges and imprisonment, (14) were committed by the military, (4) by the police and (7) by EAOs. In (2) incidents, the perpetrator could not be identified.

Also HRDs and activists are affected by arbitrary arrest. *Figure (7).*

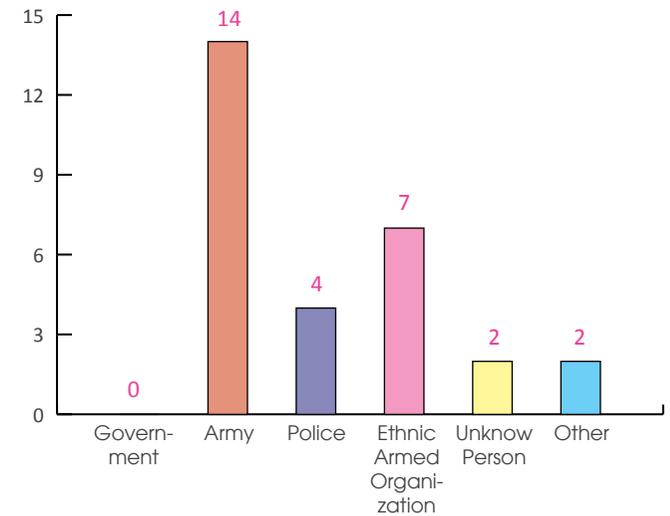
**Figure (5)** Incidents of arbitrary arrest, charges and imprisonment



**Figure (6)** Number of people arbitrarily arrested, charged and imprisoned



**Figure (7)** Perpetrators of arbitrary arrest, charges and imprisonment



## 7.2.1 Military as Perpetrator

- (1) On 24th Dec, Ma Nay Zar Tun, Ma Khin Cho Naing and Ko Zaw Myint were sentenced to an 18 months prison term by Dagon Myo Thit (Seik Kan) township court for supporting child soldier Aung Ko Htwe and protesting against the 2008 Constitution. The charges against them had been filed by Dagon Myo Thi Seik Kan Township Chief U Maung Maung. <https://myanmar-now.org/mm/news/2925>

Also see Generation Wave Civil and Political Rights Report 2019/4, [http://www.mediafire.com/file/75hhresao4tabxq/ICCPR\\_Quarterly\\_Report.pdf/file](http://www.mediafire.com/file/75hhresao4tabxq/ICCPR_Quarterly_Report.pdf/file)

- (2) On 17th Feb, Naw Own Hla, Maung Oo and U Nge (aka) San Hlaing were pronounced guilty under section 19/20 of the Peaceful Assembly and Procession Act by Myawaddy township court and sentenced to one month in prison. They had been found guilty for leading a protest against the land dispute over the Shwe Mya Sanda housing project in Myawaddy township, Karen State. <https://burmese.voanews.com/a/naw-ohn-hla-and-other-activists-to-release-/5309052.html>

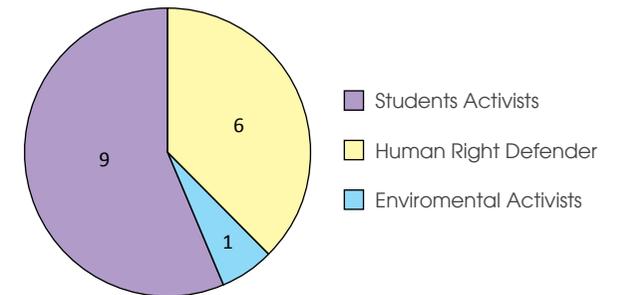
Moreover, arbitrary arrests of land and environmental activists as well as student and political activists, some of whom are facing prosecutions and prison sentences, under the NLD-led civilian government.

- (3) U Saw Thar Poe, an activist from the Karen Rivers Watch Network, has been charged with Article 505 (b) of the Penal Code for his involvement in a protest against the Myaing Kalay cement factory in Hpa-An, Kayin State. The factory, which is owned by the military, has been using coal instead of natural gas for operations since the end of 2018. Local residents fear that the coal is contaminating freshwater sources in the area and demand the termination of its use.

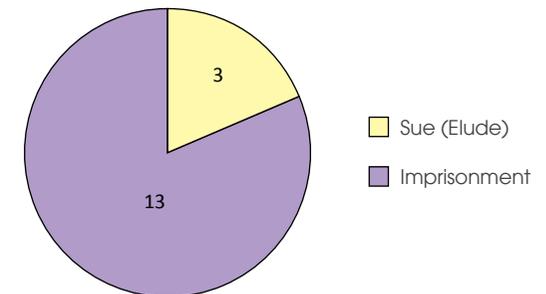
On 17th Jan, around 800 local people from 27 villages gathered at a worship site of one of the nats (Buddhist spirits) in Nat Kone village, Hpa An township and prayed for the factory to cease its operations. Saw Thar Poe, who organized and led the mass gathering on that day, was charged with defamation. But when police came to his house on 06th March to arrest him, he had fled. <https://myanmar-now.org/mm/news/3281>

Likewise, (7) students out of a group of (9) were arrested on 23rd Feb for their participation in a protest

**Figure (8) Various sectors of arrested activists and human rights defenders**



**Figure (9) Incidents of human rights defenders and activists; Arrest, prosecution and imprisonment**





to lift the internet shutdown in Chin and Rakhine States. They were sentenced to hard labour and a one-month prison term under Article 19 of the Peaceful Assembly and Procession Act by the Kamayut township court.

Ko Myat Tun Hein, General Secretary of the Rakhine Students Union in Yangon who participated in the protest and escaped arrest, expressed his views about the charge of the government against him as following: *“The internet shutdown is indeed a violation of human rights. It’s the government that carried out the internet shutdown - the government that people voted into power. We have been charged because we spoke out the truth.”*

Human rights activists have voiced their criticism that although they reported incidents of arbitrary arrest and charges by the military to the government and the Myanmar National Human Rights Commission (MNHRC), they did not receive any protection.

U Myat Tun from AHRDPA criticized that *“people in the areas of armed conflict say and do whatever they want. Those from the higher ranks approve that. This is not good to do. If they proceed like that, people at large will be in trouble. There have been more and more incidents of human rights violations year by year. Of course we have reported the incidents to the MNHRC. However they are not able to investigate or take action against perpetrators since in fact it’s the military which is ruling the country, although we have a civilian government.”*

Also in states and regions without armed conflict, the military has filed charges against civilians and activists. One of them is the activist U Kyi Myint who has been sued by the military under article 505 (b) of the Penal Code. He remarked that *“Article 505 (a) and (b) of the Penal Code, the Law Protecting the Privacy and Security of Citizens, Article 66 (d) of the Telecommunication Law and the Peaceful Assembly and Procession Law are used as needed or when expedient. The police represents the military, not the government.”*

According to our analysis of the incidents mentioned above, (6) HRDs have been sentenced to prison terms under laws that are not in compliance with international human rights standards. An arrest warrant has been issued and a lawsuit filed against one of the environmental activists. (7) youths from a student union have been sentenced to prison terms and (2) avoided arrest by going into hiding.

## 7.2.2 EAOs as Perpetrator

Also EAOs conduct arbitrary arrests. (7) incidents were reported, (6) in Rakhine State and (1) in Shan State. EAOs must stop such arrests affecting civilians and take effective action against perpetrators from their own ranks. All institution, including the government, the Myanmar military and the EAOs, have to respect and follow Article 9 (a) of the ICCPR which states that

*‘Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.’*

There is an urgent need to stop arbitrary arrests, court charges and imprisonment of civilians including human rights defenders, environmental activists, students, youths and political activists that are not in line with international human rights standards.

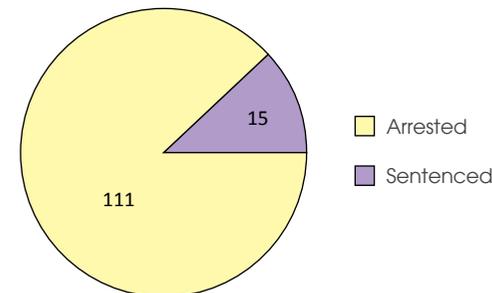
## 7.3 INCIDENTS OF VIOLATIONS OF THE FREEDOM OF MOVEMENT AND JUDICIAL ACTIONS TAKEN

In (3) incidents, the free movement of (126) persons was violated and judicial action was taken against them: (111) persons were arrested and (15) sentenced to prison terms. *Figure (10)*.

The incidents are as follows -

- (1) On 13th and 14th Feb, (7) Muslim women and (8) Muslim men were arrested in Min Hla township, Magway Region for travelling without documents. On 6th March, they were sentenced to two years in prison by the court which is the highest penalty under the Registration Act of Myanmar, 1947 (article 6, paragraph 3). <https://www.rfa.org/burmese/news/16-rohingyas-sentenced-two-years-in-prison-03062020015507.html>
- (2) On 20th and 21st Feb, 33 Muslim women and 27 Muslim men were arrested in Hlegu township, Yangon Region for travelling without documents. They have been sued at Hlegu township court under the Registration Act of Myanmar, 1947 (article 6, paragraph 3) <https://www.rfa.org/burmese/news/rohingya-in-myanmar-02272020172825.html>,

**Figure (10)** Number of people whose freedom of movement was violated and against whom judicial actions were taken





[https://www.rfa.org/burmese/news/rohingya-in-yangon-022120\\_20113416.html](https://www.rfa.org/burmese/news/rohingya-in-yangon-022120_20113416.html)

- (3) On 20th Feb, 20 Muslim men and 28 Muslim women who were trying to leave the country were arrested at Shwe Thaug Yan beach, Pathein township, Irrawaddy Region. Ref : <http://burmese.dvb.no/archives/371600>

A group of 170 Muslims who had been arrested at Kawthaung territorial waters on 15 Dec, imprisoned and put on trial, were released at the beginning of January 2020 and sent back to Rakhine State. They had to return to their original villages or were put in IDP camp.

Similarly, prison terms of other groups of Muslims who had been arrested when caught traveling without permission and who were charged and imprisoned had their sentences revoked. The lawsuits against Muslims sentenced to prison terms in Minhla township as well as the lawsuits against 140 Muslims who were arrested in November 2019 and February 2020 in Pathein township and the lawsuits against Muslims arrested in Hlegu township on 9th April were closed on 7th April, 8th April and 9th April, respectively. Reportedly, they were going to be sent back to their home villages by the authorities.

Daw Thazin Myint Myat Win, a lawyer and rights advocate, remarked “If they are Myanmar citizens, they should be accepted as citizens according to the law. They said they are Rohingya, but the other side denied it. It will be fine if they are sent back to their origin after verification. If they can enjoy equal rights, it will work for them as well as for the state.”

Moreover, some incidents of violations of the freedom of movement occurred in Rakhine State which GW was unable to include into this report. The military forced the Sa Hnyin Internally Displaced Person (IDP) camp in Myay Pon township, Rakhine State to be abandoned four times. On 24th Feb afternoon, around 100 soldiers of the military came and forced the camp that hosted 400 IDPs to relocate. They had threatened to relocate the camp already on 25th, 27th and 29th Jan. IDPs are facing severe difficulties to meet their daily basic needs including a place to live. The Rakhine State government has not been able to protect them adequately.

By threatening and forcing IDPs to relocate, the Myanmar military is denying these vulnerable groups to move freely and safely. The Union and Rakhine State governments have failed to protect their lives and wellbeing. The governments on all levels should refrain from violating the freedom of movement,



prevent the arrest and prosecution of people who rightfully live in Myanmar and adhere to Article 12 of the ICCPR which states that:

*'Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.'*

Moreover, those who ignore the rights of Rohingya, IDPs and other groups or individuals should be held accountable.

## 8. Conclusion

Incidents of extrajudicial killing continue in Chin, Rakhine and Shan States where armed conflicts are ongoing. The military and EAOs are involved in them. The highest number of incidents of extrajudicial killing are committed by unknown perpetrators. Any armed institutions including the military urgently need to stop killing civilians extrajudicially.

We have seen that arbitrary arrest, prosecution and imprisonment are continuing in Myanmar, and the military, police, government and EAOs are involved in them. Arrests, lawsuits, torture during detention and the denial of the rights of detainees/prisoners, such as visits of the family, legal protection, proper legal defense, equal rights and the protection of the life of detainees/prisoners are ongoing. National laws which are not in line with international human rights standards are applied. Most of the cases that happened affected civilians, including human rights defenders.

GW also learnt from incidents of violations of the freedom of movement that those arrested without travel permission faced charges and imprisonment. However, authorities later sent them back to their places of origin. In addition, IDPs camps were repeatedly forced to relocate in Rakhine State.

These are the consequences of denying citizenship to Rohingya. If the 1982 Citizenship Law is not amended, such violations of the freedom of movement will continue to happen in the future.



## 9. Recommendations

### Government

1. End arrest and imprisonment under the laws that are not in line with international human rights standards and respect the freedom of expression.
2. Abolish the laws which are violating civil and political rights, specifically the freedom of expression, and adopt relevant laws in accordance with international human rights standards.
3. Take action against perpetrators of extrajudicial killings, promote the rule of law and protect the life and well-being of people in armed conflict areas.
4. Give persons under arrest or investigation access to a lawyer and to legal protection as well as to their family, since they are entitled to this right.
5. The Union government, the state military and the state governments urgently need to stop limitations to the freedom of movement of people, avoid arrests and charges and provide people with civil rights they are entitled to. In order to guarantee freedom of movement to vulnerable groups such as Rohingya, the 1982 Citizenship Law should be amended. Unless Rohingya receive a secure citizenship status, they will have to risk their lives and freedom to find ways to make a living.
6. Sign the ICCPR, incorporate it into national law and implement it in order to demonstrate responsibility and transparency.

### Military

7. Stop torturing and killing people in areas of armed conflict during detention and investigations.
8. Avoid attacks that target villages and put civilians at risk of harm.
9. Give access to legal protection such as access to a lawyer as well as to the family for those who are under arrest and investigation in compliance with international human rights standards.



## **Civil Society**

10. Advocate to the Union government to ratify the ICCPR.
11. Advocate to the Union, state and regional governments to amend national laws which violate human rights.
12. Monitor the situation of human rights violations in the country and put pressure to the authorities to ensure accountability of perpetrators, refrain from violations and develop protection mechanisms so that Myanmar citizens can exercise their rights..
13. Support civilians and counter hate speech against them.

## **International Stakeholders**

14. Urge the government and military to stop human rights violations and encourage them to promote human rights, peace and reconciliation in Myanmar.

## **EAOs**

15. Stop arbitrary arrests and hostage-taking of civilians in areas of armed conflict.
16. Ensure the wellbeing of persons captured in fighting, refrain from torture and killings of people held prisoners.
17. Avoid attacks that targeted villages and put civilians at risk of harm.

## **MNHRC**

18. Take the initiative to seek out and act upon information about human rights abuses, rather than wait for a complaint to be filed to the Commission.
19. Actively encourage the Pyidaungsu Hluttaw (Assembly of the Union) to sign and ratify international



conventions, especially the core international human rights treaties which Myanmar is still not party to and cooperate with international mechanisms and treaty bodies.

20. Accompany human rights investigations and recommendations with public pressure to ensure that they are respected and implemented by relevant parties, especially government ministries.



## 10. References

We monitored and referenced the news from the media sources below and did in-depth interviews with different stakeholders in specific areas for more information.

| Ethnic Based Media  | Nationwide Media  |
|---|---|
| Chin World Media<br><a href="https://www.chinworld.org/">https://www.chinworld.org/</a>                   | BBC<br><a href="https://www.bbc.com/burmese">https://www.bbc.com/burmese</a>                |
| Hinthar Media<br><a href="https://www.hintharmedia.com/">https://www.hintharmedia.com/</a>                | VOA<br><a href="https://burmese.voanews.com/">https://burmese.voanews.com/</a>              |
| Kachin News Group<br><a href="https://kachinnews.com/">https://kachinnews.com/</a>                        | RFA<br><a href="https://www.rfa.org/burmese/">https://www.rfa.org/burmese/</a>              |
| Kantarawaddy Times<br><a href="https://www.kantarawaddytimes.org/">https://www.kantarawaddytimes.org/</a> | DVB<br><a href="http://burmese.dvb.no/">http://burmese.dvb.no/</a>                          |
| Karen Information Center<br><a href="http://karennews.org/">http://karennews.org/</a>                     | Mizzima<br><a href="http://www.mizzimaburmese.com/">http://www.mizzimaburmese.com/</a>      |
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