

Legal Perspective Information Sheet

Permanent Mission of Myanmar, New York

Volume 1, Issue 5

20 May 2022

Preface

The purpose of publishing this information sheet is to increase awareness about the Crimes Against Humanity and War Crimes committed by the military junta terrorists on a daily basis and to keep a record of their brutal acts for future reference and proceedings. Due to space limitations, only a selection of committed crimes are stated in this information sheet.

More than 15 months following the attempted illegal coup, the inhumane Myanmar military, under the name of the so-called State Administration Council, has been continuously conducting enormous numbers of crimes against civilians, seriously violating domestic and international laws. Throughout this period, it has been continuously intensifying efforts in various forms to suppress the anti-military movements.

(1) Violations of International Humanitarian Law in Times of Armed Conflict

In order to determine an armed conflict, it must reach a minimum level of intensity, and the parties involved must have a sufficient organizational structure, leading to obligations of International Humanitarian Law. The report by the UN High Commissioner of Human Rights to the Human Rights Council assessed that the current conflicts meet the intensity threshold and that in many parts of the country, where there have been pre-existing conflicts between the Myanmar military terrorists and ethnic revolutionary organizations or where the People's Defense Forces (PDF) are operating under the chain of command of those ethnic revolutionary organizations, there is sufficient organizational structure among the relevant parties to determine that in those geographic locations a non-international conflict is taking place and the parties face obligations under International Humanitarian Law. International Human Rights Law is also applicable.

(a) Collective Punishment

The military terrorists torched Nyaung Hla Village in Tabayin Township, Sagaing Region, as a form of collective punishment, on April 20. When local Nay Myo Oo returned to the area after leaving his family to seek sanctuary in another village, he was arrested by junta forces. Then, they tortured and executed him with his wrists bound behind his back.

Myanmar military terrorists burnt down Kan Thit Village in Budalin Township, Sagaing Region, on May 6 at about 4 a.m. A 78-years-old lady was killed in the fire.

Collective punishment of prisoners of war or other protected people during an armed conflict is prohibited under international humanitarian law. Moreover, according to Article 50 of the 1949 Geneva Convention I, Article 51 of the 1949 Geneva Convention II and Article 147 of the 1949 Geneva Convention IV, “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly” can be regarded as grave breaches of International Humanitarian law.

(b) Indiscriminate Attacks against Civilians

The military convoy of approximately 100 troops commanded by Light Infantry Division 33 stormed Ywar Nan Village in Wetlet Township, Shwe Bo District, Sagaing Region, at about 5 a.m. on April 7, firing heavy artillery rounds and killing three elderly women and two men.

The military forces raided Nyaung Yin Village in Pauk Township, Magway Region, on April 23 and fired heavy artillery munitions. Win Oo and Kyaw Min Lwin, two local villagers, were shot and killed at close range.

On May 4 at approximately 8:30 p.m., in Sa Kaw Hlan Ward, Tedim Township, Chin State, junta troops stationed inside High School (1) shot and killed Kap Som Kham, a local youngster from Tedim.

(c) Extrajudicial Killings

The military terrorist and their paramilitary wing, Pyu Saw Htee, soldiers raided Hnan Khar Village in Gangaw Township, Magway Region, at approximately 8:30 a.m. on April 18. San Win, 67, was taken to the cemetery with his wrists tied behind his back and shot in the head at close range by junta soldiers. From March 29 to April 10, violent battles occurred in Pinlebu Township, Sagaing Region, between the military terrorists and the local People's Defense Force. Following the confrontations, junta forces executed nine residents who were accused of supporting the PDF and had been arrested under Penal Code 505(A).

Six people from Pae Yin Taung Village in Ywangan Township, Shan State, were killed by the junta's paramilitary wing on April 19 for supposedly being PDF members. Tin Pe, Hla Soe, Tun Oo, Thet Aung, Myo Htwe, and Win Naing are the six villagers that were detained on April 16. Three additional people: Ba Htoo, Phoe Pyaung, and Hla Shwin were later murdered.

On April 28 at around 9:30 pm, two local villagers named Kyaw Htwe and Pe Than were shot and killed, while two others were seriously injured, as the paramilitary wing Pyu Saw Htee members entered the houses of local villagers in Pan Da Lal Village, Launglon Township, Tanintharyi Region.

The right to life is protected by a number of international treaties including the Geneva Conventions, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Extrajudicial executions may be deemed a war crime in the context of an armed conflict. In some circumstances and if they are part of collective practice, they may also amount to genocide or crimes against humanity.

(d) Perfidious Act

Early on April 23, military troops dressed as members of the People's Defense Forces raided Ywar Thar Village in Sagaing Region's Khin-U Township (PDF). They assassinated Aung Naing Soe by shooting him in the back on his way home. Nyein Kyaw, who had been held as a prisoner, was also slain after being tortured.

Article 39(2) of the Additional Protocol (I) to the Geneva Conventions prohibited all the actions to make use of the flags or military emblems, insignia or uniforms of adverse Parties while engaging in attacks or in order to shield, favour, protect or impede military operations. Though Myanmar is not a party to the Additional Protocol (I), the Myanmar military have to follow the prohibition of perfidy since is regarded as a norm of customary international law. However, in the above-mentioned scenario, the terrorist military clearly violated the prohibition of perfidy.

2) Unfair Trials

The High Court of Mandalay Region sentenced Dr. Htar Htar Linn, director of the Ministry of Health's Department of Public Health, and Director-General Dr. Soe Oo, both members of the Civil Disobedience Movement (CDM), to imprisonment on April 20. The two were charged with mismanaging the funding for the COVID-19 vaccination program. Dr. Htar Htar Linn was charged under Section 56 of the Anti-Corruption Law and sentenced to three years in prison with hard labour. Dr. Soe Oo was charged with violating Section 56/63 of the Anti-Corruption Law and sentenced to two years in prison with hard labour.

A special court in Nay Pyi Taw convicted State Counselor H.E. Daw Aung San Suu Kyi, who had previously been sentenced to six years in prison, to further five years under Section 55 of the Anti-Corruption Law. U Phyo Min Thein, the Chief Minister of Yangon

Region, allegedly promised State Counselor H.E. Daw Aung San Suu Kyi seven gold bars (about 11.4kg) and 600,000 dollars.

The Thandwe Court sentenced Cherry Thet Shay, a high school teacher from Taungup Township in Rakhine State, to ten years in prison for violating Section 50(j) of the Counter-Terrorism Law. On November 20, 2021, Cherry Thet Shay was detained in her home for participating in the Civil Disobedience Movement.

Article 10 of the Universal Declaration of Human Rights states, “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”. In Myanmar, the victims were subject to Myanmar military-controlled kangaroo courts instead of independent and impartial decision-makers. Moreover, these military-controlled kangaroo courts do not allow the right to defense or access to information in most cases. In this regard, it can be clearly seen that the Myanmar military has been violating the right to fair trial of the people of Myanmar.

3) Taking Hostages

On 23 April 2022, as the military forces could not find a civilian named Thet Paing Soe, who is the Regional Member of Parliament (MP) of Ngapudaw Township in Ayeyarwady Region, they arrested his wife, his 10-months-old daughter, his uncle, the 13-years-old daughter of his uncle, and the neighbours as hostages. All those arrested as hostages are living in Ka Nyin Chaung Village of Ngapudaw Township.

The military arrested a civilian named Ohn, who is a teacher involved in the Civil Disobedience Movement (CDM), on 22 April 2022. She was arrested as a hostage at her home in Min Tatar Ward of Mogoke Township in Mandalay Region, when the military forces could not find her niece named Htet Htet Naing, who is accused of supporting PDF members. It was reported that Ohn was later released, when Htet Htet Naing voluntarily went to the East Mogoke Police Station to be arrested.

Because the junta was unable to locate her father, Shaki, the 4-and-a-half-year-old daughter of a CDM teacher who organized a peaceful protest at Kyaukse Education, was kidnapped on May 4.

4) Violation of Fundamental Human Rights

Several junta troops detained comedian Kaung Kyaw at his residence in Ward (8), Thaketa Township, Yangon Region, on the night of April 19 for social media posts that opposed the military.

The military terrorists rammed an anti-coup demonstration in South Okkalapa Township, Yangon Region, on April 20 by driving a car into the demonstrators and then arresting them. Two members of Myanmar's Confederation of Trade Unions (CTUM) were apprehended. They were CTUM Communication Department Head Khaing Thinzar Aye (aka Bote Bote, Phaung Yoe) and Ei Phyu Phyu Myint.

From these incidents, we can clearly observe that the Myanmar terrorist military is never hesitant to torch villages as well as kill and attack civilians and their property that cannot be considered military targets. The junta's actions that can be regarded as Crimes Against Humanity include murdering civilians; imprisoning political leaders, activists and civilians; torturing political opponents to death; sexual violence against detained women; enforced disappearances of individuals by paramilitary wings and other inhumane acts.

Reference: Assistance Association for Political Prisoners (AAPP)

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