

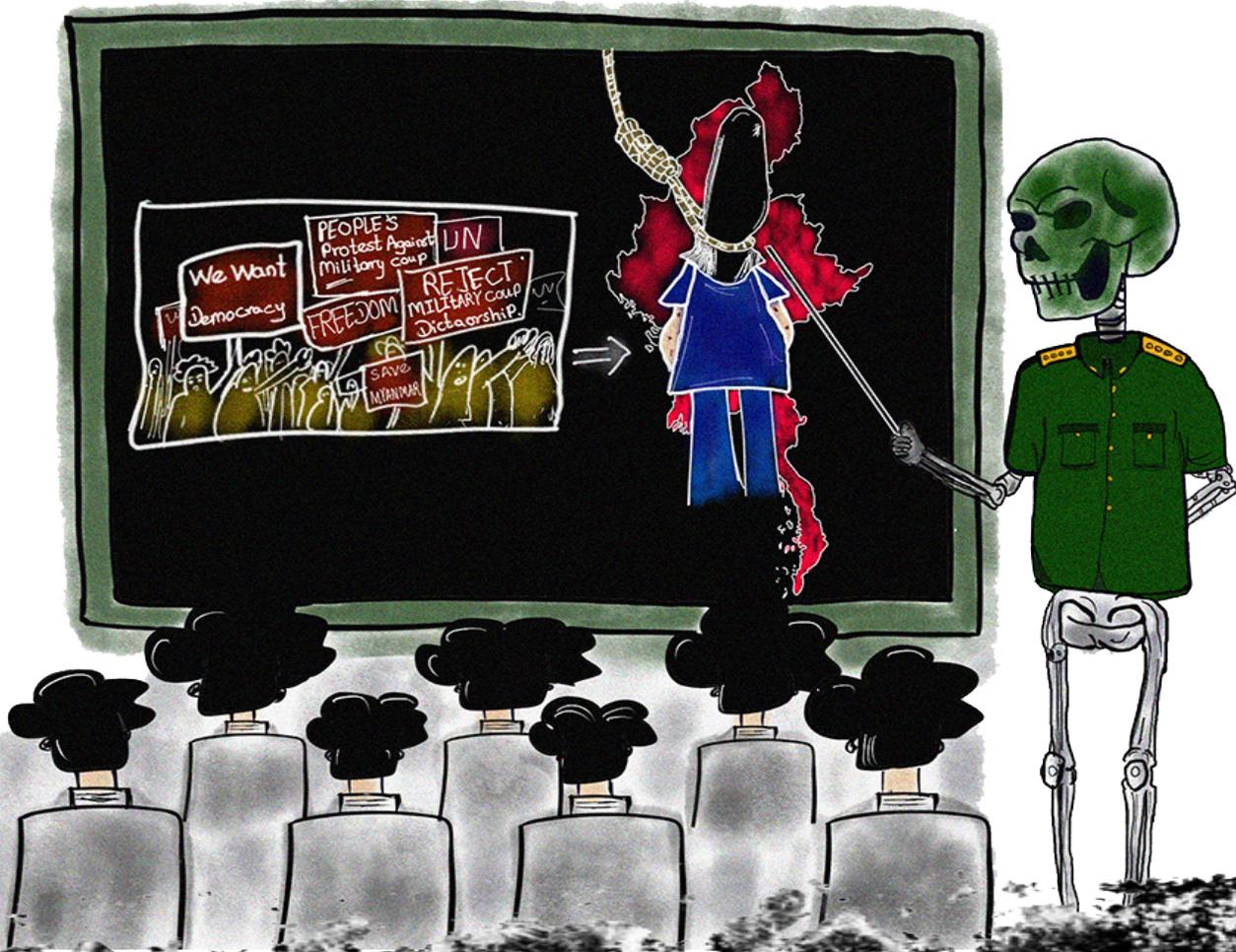


Athan - Freedom of Expression
Activist Organization

"Death penalty in Myanmar;

How the Junta Misused the Name of Jurisdiction to Murder Oppositions"

Research Report - 2023





Death Penalty in Myanmar: How the Junta Misused the Name of Jurisdiction to Murder Oppositions

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Summary

In Myanmar, until now, the brutal army has been accusing people who have different political opinions and killing them. We believe that labeling such behavior as the lawful death penalty is not acceptable behavior in a civilized modern society. Myanmar Junta has been practicing those methods for many decades, and now it is carrying out larger numbers of killings overtly. This research report exposes how the junta defies legal procedures despite masquerading as legal behavior based on the collected data. This research report examines and summarizes how the brutal army's methods of killing have been accumulating in various ways.

Methodology

The research report was compiled and analyzed through reading the other related published reports, research and interviewing legal experts. The facts and trends were studied based on data obtained from daily monitoring of independent online news media and data of death sentences published by the Assistance Association for Political Prisoners (AAPP).



The practice of capital punishment

As the death penalty is no longer relevant to the nature of modern jurisdiction systems, it has been abolished in various developed countries. The death penalty is an act that fails to respect the dignity of life, the inherent human rights. Although Myanmar has not completely abolished the death penalty from its legal system, it has been recognized by international research organizations as a country that no longer uses the practice until the Junta illegally seized power.

Extrajudicial judgment

On 1st February 2021, the 2008 Constitution was destroyed due to the brutal army usurping the people's power derived from the people under section 4 of the constitution. The new constitution has not yet been enacted. Therefore, Myanmar has been under the condition of not having a binding constitution since the brutal army seized power. Section 449 of the 2008 Constitution affirms that the constitution is the basis of all laws. All judiciary cannot act without the basis of the provisions from chapter 6 of the constitution. According to section 16, the head of state is the president, but the brutal army, in clear opposition to the provisions of section 20 (f), illegally detained the president elected by the people and turned the country into a lawless place.

“Here, after the coup, the military council also amended the laws as they wished. He was above the law. He even overstepped the constitution and it happened in a coup”, a law professor said in an interview.

After that, the brutal army has even disrupted the basic pillars that are essential in a fair and just trial, such as the rule of law, jurisdiction derived from the people while operating against the very nature of the Common Law System, including statutory procedures, all of their criminal behavior appears to be carried out extrajudicially by illogically naming of justice.



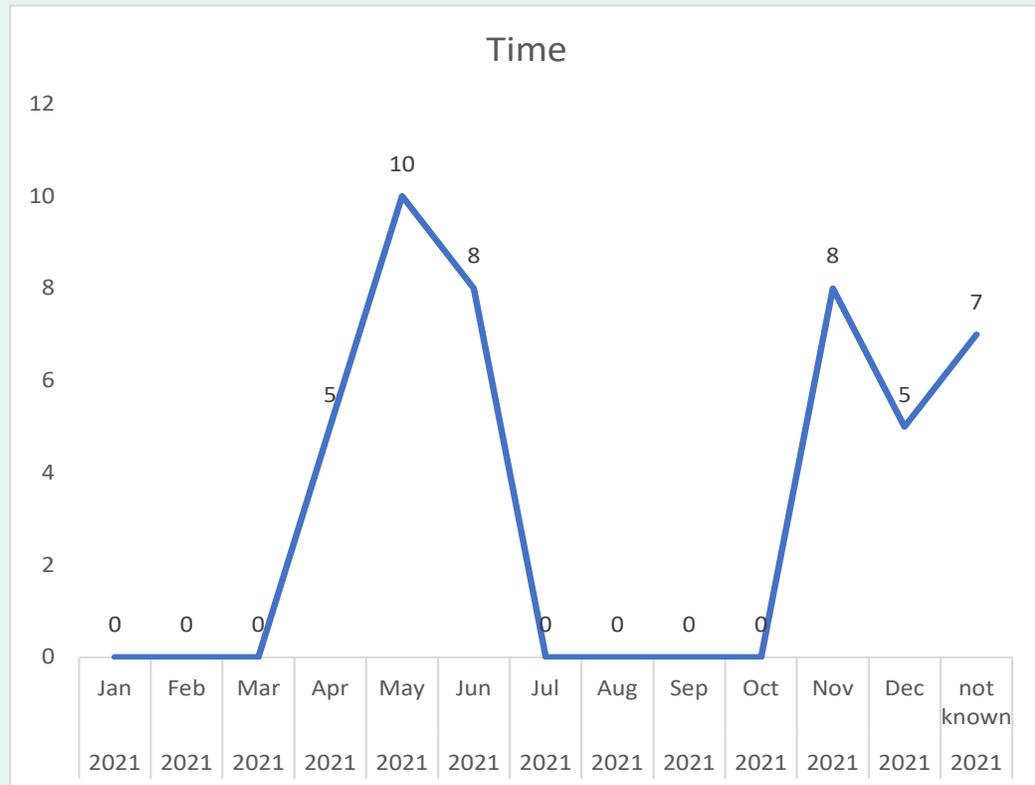
“I see that they want to kill illegally. Because... even if they have to give the death penalty, there are a lot of procedures they have to go through.” said a lawyer whose name should not be disclosed at this time due to the safety of his life.”

A study of death penalty cases since February 1, 2021

During the period of (1) year and (10) months, while the brutal army was trying to carry out a coup d’état in Myanmar, there have been (100) cases of arbitrary arrest and execution of innocent people and (42) people who have been sentenced to death in absentia. It has been observed that among those who have been sentenced to death by the brutal army, there are (2) people under the age of 18.

Such unjust death sentences were imposed by the brutal army (43) times in 2021. It was found that (51) death penalties were committed during the year 2022 and six death penalties that have not yet been confirmed.

According to observations, five cases in April, ten cases in May, eight cases in June, eight cases in November and five cases in December 2021 were sentenced to death penalties respectively.



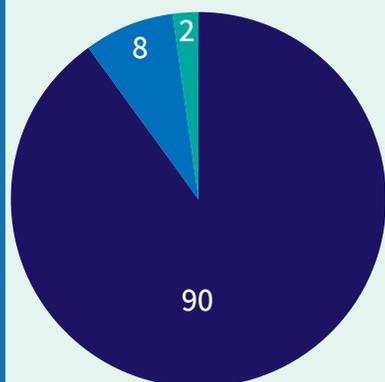


A study of death penalty cases in 2022

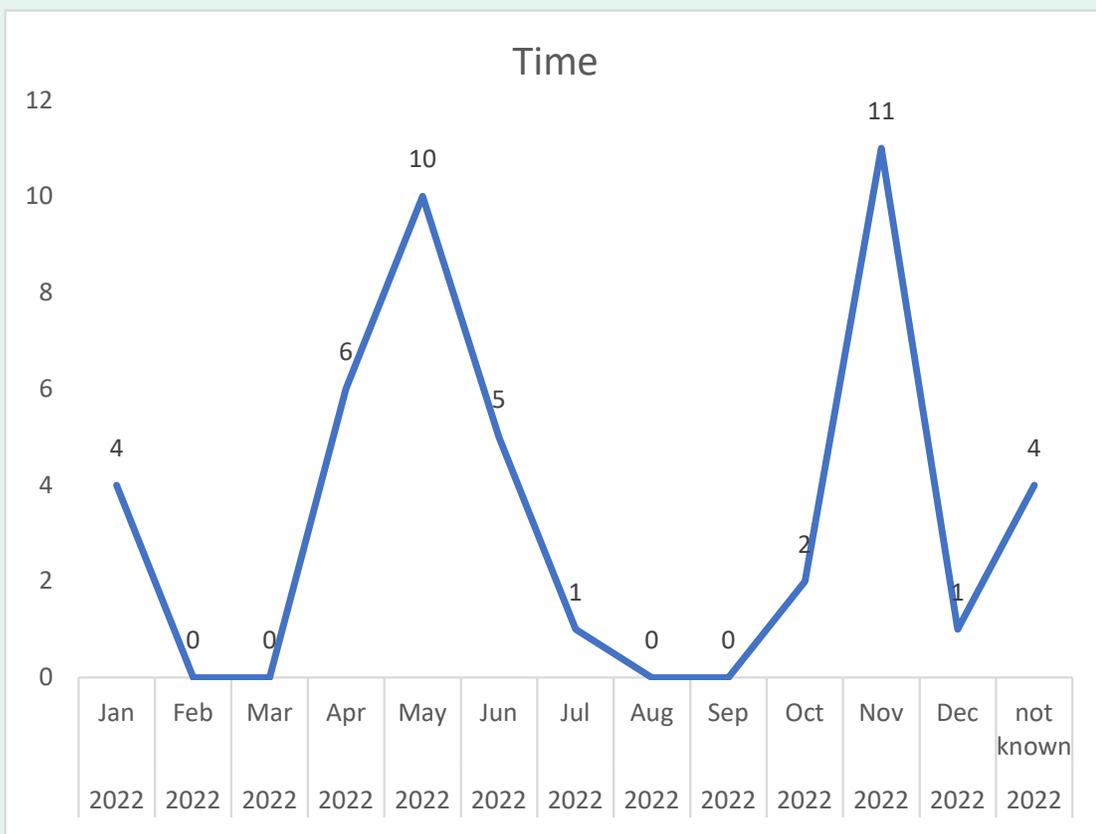
In addition, there were seven unverified cases in 2021. May saw the highest number of death penalties by the brutal army while June and November saw the second highest number of death penalties in 2021.

For 2022, four cases in January, seven cases in March, six cases in April, ten cases in May, five cases in June, one case in July, two cases in October, eleven cases in November, one case in December and four unconfirmed cases were sentenced to death penalties.

In 2022, it was also found that the brutal army carried out the most arbitrary death penalties in November last year. According to AAPP's data, among those who have been sentenced to death, the number of civilians is the highest, including (90), eight of education workers and two members of the people defense force.



- People Defense Force
- Education Workers
- Civilians



In addition to the above table, there are 6 peoples whose personal details has not yet been confirmed. The number of those who were executed in absentia by the Myanmar brutal army is 42.



Type of punishment

In addition to the death penalty, the brutal army imposes life imprisonment with hard labor and long-term imprisonment. There are 90 people in total who have been sentenced to death. Including four people who were sentenced to long-term imprisonment with hard labor and six people who were sentenced to death and life imprisonment. These data are based on the collection of the **Assistance Association for Political Prisoners (AAPP)**.

Extrajudicial imposition of death penalty with hard labor and long-term imprisonment

In Mandalay Region, two members of the Wundwin Township Revolution Force (WTRF) were sentenced to (225) years in prison and the death penalty in Mithila Prison Court on October 22. The army sentenced Kyaw Thet, a member of the People Defense Force, (225) years in prison with hard labor and the death penalty. Along with this, Ko Hnin Maung was also sentenced to (95) years in prison with hard labor as well as the death penalty. In addition, Ko Soe Oak Paing (aka) San Shae, who lives in the northern part of North Dagon, was sentenced to 6 years in prison on 18 May 2022 and the death penalty on 11 March, 2022 respectively.

Criminalization in the name of justice is seen as the most used method in the current situation in killing innocent people who are trying for democracy in the country.

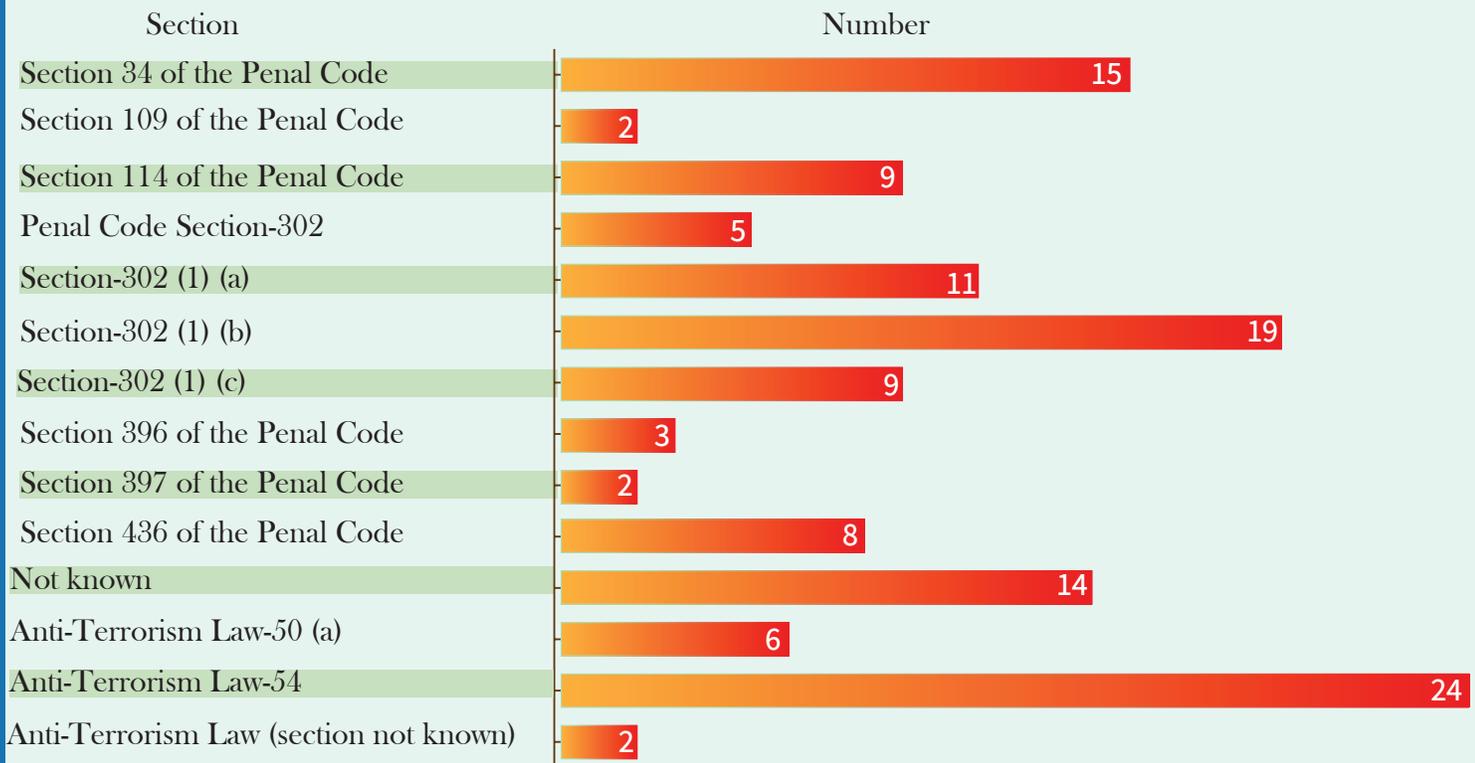
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“If you look at the people who have been sentenced to death, it is also an interesting fact that it is only young people,” said
aforementioned law professor.

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Demographics and legal charts of the brutal military’s death sentences



Among those who are sentenced to death, section 54 of the Counter Terrorism Law imposed the maximum death penalty on 24 people, and section 302 (1) (b) of the Penal Code imposed the second maximum death penalty on (19) people.

Under section-34 of the Penal Code, a total of (15) people were sentenced to death as the third most. It was observed that (14) people were also sentenced to death using the unverifiable section of the Counter Terrorism Law.

Adding a new way of killing people by the Junta

Since 1962, Myanmar has not had an independent legal system and judicial body that is independent of the military. Thus, the crimes committed by the military and the evidence and records have never been adjudicated in the courts. Therefore, in the past, the brutal army used to arrest people at gunpoint and easily torture and kill them for various reasons.

Since 2010, the brutal army, which has been killing people for decades,



has increasingly used new methods of killing, after changing the name of their country's governance to democracy. Even after changing the name of the country's governance to democracy, this method is still used from time to time.

As a prominent example among many cases, we study the Kopa Gyi case. On September 30, 2014, the No. 210 Infantry Battalion arrested him in Kyaikmaraw Township, Mon State, and on 4 October, journalist Ko Par Gyi, the husband of Hluttaw member Daw Thandar, was killed by the Myanmar Junta by shooting him repeatedly in the head and body. It is obvious that the assassins in that assassination were not arrested and punished as a consequence of absence of judiciary independence.

However, the military, after changing the name of their country's governance principle to democracy in 2010, has been using more and more methods of hiring assassins from the military family circle, in addition to the previous method of simply arresting people at gunpoint, torturing and killing them.

This method has spread to the extent that even Daw Aung San Suu Kyi's legal advisor was exterminated and killed in public. As a prominent example among many cases, this method is found in the U Ko Ni case. However, the public's use of the Internet as their primary source of information has made it difficult for the military to destroy the evidence and records left behind by hired assassins after using murderous methods.

Therefore, the method of committing murder under the judicial heading has been used since 2021. This method is also called silent execution. Regarding the situation after the coup

“Death penalty is being used as a political tool. Because they don't accept the opposition. And they want people to think what they're doing is the right thing, but unfortunately they use it as a weapon to keep people from opposing it”, the law professor said.



Silent Execution

A distinctive follow-up behavior to naming and killing as a result of justice is silent execution. Although the nature of the judiciary is to show that there is justice in front of the public, the brutal army did not give any arrested person the right to defend themselves in accordance with the law and they judged them one-sidedly without even informing the relevant persons and secretly executed the victims.

The brutal army has arrested U Jimmy who is a student leader of 88 Generation, U Phyo Zayar Thaw who is a former member of parliament, U Hla Myo Aung and U Aung Thura Zaw who are democratic activists since 21 January and quietly executed. The brutal army announced on 25 July that they had been killed and executed. It was found that the bodies of four victims including U Jimmy and U Phyo Zayar Thaw who had already been executed were not released to the bereaved family and the dead bodies were not even allowed to be seen.

Relating to accessing information for the family of who were sentenced to death,

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“We don’t know anything! I mean anything... even the death penalty was confirmed because they said so. There is no other way to meet the family. Finally, I heard that there is no reason to return the urn.”
“At the time of the confirmation of this death sentence, if it was our normal procedure, they would have to call the prison doctors. The president’s... not the president, but the signature and approval of a head of state, etc. There is nothing. How do we know that the death sentence has been confirmed? Add it to the newspaper. Just like the case of Jimmy... I don’t know if they actually approved the death sentence on Friday. It came to the newspaper three days after Sunday. Even family members know about it from the newspapers. In fact, they found out that their family member was executed three days ago when it appeared in the newspaper,” a lawyer said in an interview.

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There has been strong objection from the international community, including the United Nations and human rights organizations, to Junta's irrationally committed executions, which violated local and international judicial standards. However, Junta did not appear to be aware of these objections. Due to the fact that the junta has realized that the international community, including the United Nations and human rights organizations, cannot do more than issuing written objections to the helpless Burmese people.

Acknowledgement of Principle

We reference the 2008 constitution only to point out the fact that extrajudicial judgments have arisen in Myanmar as consequences of failure in the judiciary, administration and legislation sectors. As a result, the brutal army even names these actions of crimes as jurisdiction. We, Athan, do not accept and recognize the 2008 Constitution.