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Agenda items 2 and 4

**Annual report of the United Nations High Commissioner for Human Rights****Human rights situations that require the Council's attention****Situation of human rights in Myanmar since 1 February 2022****Report of the United Nations High Commissioner for Human Rights\****Summary*

Prepared pursuant to Human Rights Council resolution 47/1, this report identifies trends and patterns of human rights violations that occurred in Myanmar between 1 February 2022 and 31 January 2023. Two years after launching a coup, the military has brought the country into a perpetual human rights crisis through continuous use of violence, including killing, arbitrarily arresting, torturing, forcibly disappearing, prosecuting, and sentencing anti-coup opponents. Urgent, concrete actions are needed to ensure that all people in Myanmar enjoy their fundamental rights and freedoms. Recommendations are made to all parties, including military authorities, the 'National Unity Government', and the international community.

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\* The present report was submitted after the deadline to include the most recent information.

## I. Introduction and methodology

1. In resolution 47/1, the Human Rights Council requested the United Nations High Commissioner for Human Rights to monitor and follow up on the implementation of the recommendations made by the independent international fact-finding mission, including those on accountability, and to continue to track progress in the situation of human rights in Myanmar, including of Rohingya Muslims and other minorities, with the support of specialist experts and in complementarity to the work of the Independent Mechanism for Myanmar and reports of the Special Rapporteur and to present...a written report at its 52<sup>nd</sup> session.

2. This report covers human rights concerns documented by the Office of the High Commissioner for Human Rights (OHCHR) between 1 February 2022 and 31 January 2023 analyzing verified patterns of human rights violations and of international crimes committed by the Myanmar military and other groups. It highlights relevant trends and patterns in respect of violations of international human rights, humanitarian, and criminal law.

3. OHCHR collected testimonies and information from primary sources, including victims, survivors, witnesses, and satellite images, and verifiable secondary sources<sup>1</sup> – all of which underwent a credibility assessment in accordance with OHCHR’s standard methodology. Without access to Myanmar, OHCHR conducted its documentation activities remotely. A total of 96 interviews were conducted with on-the-ground sources despite significant challenges, including long-term, localized internet shutdowns. OHCHR organized formal and informal consultations with civil society and non-governmental organizations, thematic experts, and other relevant interlocutors. This report also reflects regular collaboration, data and information exchanges within the United Nations (UN) system. OHCHR submitted questionnaires to the Myanmar military authorities and the ‘National Unity Government’; their responses are explicitly referenced in the report.

4. Given the continuous protection and personal safety risks people in Myanmar face daily, OHCHR has prioritized the safety of interlocutors above all other considerations. Factual determinations of incidents and patterns were made where there were reasonable grounds to believe that relevant incidents had occurred. Figures of casualties likely represent an underestimation of realities on the ground.

## II. Context

5. Two years after the military coup, people in all parts of Myanmar remain exposed to daily human rights violations. While some pre-existing conflicts between the military and ethnic armed organizations (EAOs) have reignited, violence has spread nationwide, dramatically changing Myanmar’s conflict landscape and heightening concerns for the protection of civilians. Global advocacy for peace and restraint have remained unheeded, and the military, emboldened by continuous and absolute impunity, has consistently shown disregard for international obligations and principles.

6. By late 2021, and throughout 2022, violence intensified especially in the north-western and south-eastern parts of Myanmar, with the military employing its “four cuts” strategy<sup>2</sup> including through indiscriminate airstrikes and artillery shelling, mass burnings of villages to displace civilian populations, and denial of humanitarian access. Punishing individuals and communities that they perceive as opposing them, the military also adopted

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<sup>1</sup> Including data from the Assistance Association for Political Prisoner and information provided through the Armed Conflict Location and Event Data Project.

<sup>2</sup> The military’s “Four Cuts” policy has been used to cut-off non-State armed groups from access to food, finances, intelligence, and recruits by using scorched-earth tactics that punish civilians, killing them, burning entire villages, and displacing local communities.

rules<sup>3</sup> intended to target anti-coup opposition and severely restrict the civic space that had significantly contributed to Myanmar's democratic transition.

7. Whilst the military has stated commitment to restore a multiparty democratic system through elections in 2023, it has actively designated its opponents, publicly, as terrorists, arbitrarily detained them and prosecuted them primarily on specious charges of treason, sedition, incitement or other crimes in secretive courts without any semblance of due process. These actions take place against a backdrop of killings and extrajudicial executions, use of the death penalty, enforced disappearances, arbitrary arrests, torture, sexual violence, and denial of fair trial rights, among other violations. Credible sources reported having verified 2,940 deaths and 17,572 arrests by the military and its affiliates since the coup.<sup>4</sup>

8. UN data indicates that since February 2021 over one million people have been newly displaced, and that 17.6 million people now need humanitarian assistance.<sup>5</sup> Nearly half of the population, 25 million people,<sup>6</sup> currently live in poverty, with rural populations reported to be at risk of starvation as the military imposed further physical and administrative restrictions on access to areas affected by violence and conflict. Main supply routes and waterways across the country have been blocked, preventing humanitarian actors from reaching people in need.<sup>7</sup> Minority communities, including the Rohingya, that have suffered decades' long discrimination, continue to face discrimination.

9. While the military has consistently shown disregard for international obligations and principles, people of Myanmar continue to demonstrate their determination to reject military rule. Refusal by civil servants to serve the military has led to a massive exodus from jobs, resulting in a near collapse of the military-controlled health and education systems.<sup>8</sup> Meanwhile, anti-military armed groups<sup>9</sup> have organized themselves nationwide with often improvised and rudimentary weapons, and the 'National Unity Government' has reported establishing functioning institutions in areas under their control. OHCHR has also received and investigated reports of violence committed by anti-military groups against civilians. These abuses are of growing concern, but are not occurring at either the rate or scale in proportion to those committed by the military.

10. While important actions have been taken at the international level, they have yet to fully translate into positive impact on the ground. In November, at the annual summit of the Association of Southeast Asian Nations (ASEAN), Member States confirmed their commitment to the 2021 'five-point consensus' that the military has largely disregarded. In December, the Security Council adopted its first resolution on Myanmar calling for an immediate cessation of violence.<sup>10</sup> Meanwhile, the International Court of Justice decided to proceed with the merits of the case of alleged violations of the Genocide Convention brought by The Gambia against Myanmar after rejecting preliminary objections raised by Myanmar, and fixed a time-limit of 24 April 2023 for further filing before the Court of Myanmar's response.<sup>11</sup>

<sup>3</sup> <https://bangkok.ohchr.org/ngo-law-myanmar/>.

<sup>4</sup> <https://aappb.org/?p=24057>.

<sup>5</sup> [https://reliefweb.int/attachments/d61c6ed6-7901-4dbb-bb1d-a06535bb1276/OCHA%20Myanmar%20-%20Humanitarian%20Update%20No.%2025\\_final.pdf](https://reliefweb.int/attachments/d61c6ed6-7901-4dbb-bb1d-a06535bb1276/OCHA%20Myanmar%20-%20Humanitarian%20Update%20No.%2025_final.pdf).

<sup>6</sup> <https://www.undp.org/press-releases/myanmar-urban-poverty-rates-set-triple-new-united-nations-survey-finds>.

<sup>7</sup> <https://myanmar.un.org/en/216732-myanmar-humanitarian-response-plan-2023-january-2023>

<sup>8</sup> A/HRC/50/CRP.1.

<sup>9</sup> Anti-military armed groups refer to People's Defense Forces and other local groups that have resorted to armed resistance against the military coup.

<sup>10</sup> S/RES/2669(2022).

<sup>11</sup> <https://www.icj-cij.org/public/files/case-related/178/178-20220722-JUD-01-00-EN.pdf>.

### III. Situation of human rights

#### A. Violence, conflicts, and protection of civilians

11. As noted in previous reports, a catastrophic human rights situation continued to fester. There are reasonable grounds to believe that acts by the military constitute human rights violations and violations of international humanitarian law, some of which may amount to international crimes, including widespread use of indiscriminate airstrikes and artillery attacks against populated areas, village raids and burnings, arbitrary arrests, use of torture, extrajudicial killings, and sexual violence. OHCHR documented consistent tactics and patterns of abuse across the country confirming that the military operates as a solid and coherent structure, implying knowledge of its leadership of commission of atrocities and/or, at minimum, failures to foreseeably prevent them.

12. Among key developments, violence escalated and intensified in predominantly Burman central regions, with Sagaing and Magway being the most dangerous for civilians; the resumption of hostilities between the military and the Arakan Army in August and until 26 November when parties agreed on a new informal ceasefire; renewed fighting in Kachin and Shan within the context of previously existing non-international armed conflicts with EAOs which extended support to anti-military armed groups; and increasing instability and violence in the south-east, both in ethnic states and in regions like Tanintharyi, which had remained relatively peaceful until 2021.

13. This chapter details tactics and violations of particular concern during the reporting period.

##### 1. Military use of airstrikes

14. As the determination of anti-military armed groups posed serious challenges to military ground operations, airpower played a critical role in the military strategy to quash opponents. Since mid-2022, the military increasingly relied on aerial attacks with incidents occurring nationwide. In at least three instances, the Myanmar military reportedly entered the airspace of or fired into neighbouring countries.

15. Attacks by fighter jets and helicopters struck civilians and civilian objects in towns and villages. Among numerous incidents, on 16 September, in Let Yet Kone village, Tabayin Township, Sagaing, four helicopters opened fire on a school killing at least six children and injuring nine others. After some 60 soldiers deployed from helicopters to the ground, they reportedly raided the village, executing a school technician and five villagers before arresting wounded children and teachers. While the military reported to OHCHR that the operation was carried out "*following numerous reports that terrorists have been smuggling weapons and explosives into the said village*", witnesses confirmed no presence of anti-military armed groups at the location.

16. In another emblematic incident, on 20 October, the military conducted an airstrike against a newly-opened hospital in Man Yu Gyi village, Banmauk Township, Sagaing, killing one woman and injuring five. A source reported that the hospital had been inaugurated a day earlier and victims were all volunteers in the facility.

17. In Kachin, two major airstrikes in Hpakant Township occurred in the reporting period. On 9 August, the military bombed and then raided Sezin village killing at least 16 civilians. Satellite images confirm that at least 200 houses were burnt, but OHCHR received reports of many hundreds more. On 23 October, the military targeted an area in A Nang Pa where the Kachin Independence Organization held a celebratory event with the participation of local artists and people. Following the strike, the military closed off the area and imposed movement restrictions during the search for survivors, thus preventing injured people from accessing life-saving medical assistance. Casualty figures could not be independently verified. Local sources, however, consistently reported between 45 and 79 people were killed, and at least 30 bodies were clearly visible in photos received of the scene.

18. In early December and for the first time since February 2021, the military launched numerous airstrikes, ostensibly against the Ta'ang National Liberation Army and Myanmar National Democratic Alliance Army in Namshan Township, northern Shan State, allegedly due to their support to anti-military armed groups. These attacks displaced over 1,000 people and increased insecurity in areas where according to reports the military continues to open new fronts for its operations.

## 2. Military use of artillery strikes

19. OHCHR received reports of use by the military of artillery against populated areas nationwide, raising serious concerns concerning attacks directed at civilians and indiscriminate attacks. Credible sources indicate that a minimum of 229 individuals were killed due to artillery shelling and that tens of thousands had to flee their homes. In 2022, the south-east was particularly affected with repeated and heavy fighting occurring in Kawkaik, Kyaineikgy, and Myawaddy townships in Kayin, and Moebye, Loikaw, and Demoso in Kayah. However, military-imposed internet shutdowns hampered independent verification efforts on specific incidents. When sources became accessible, OHCHR documented an incident that occurred on 25 October, in Kone Thar village, Loikaw Township. According to first responders, an artillery shell hit a farm where displaced persons were seeking safety. A man died on the spot while his wife was severely wounded and later died.

20. In Rakhine, the resumption of hostilities imposed a dramatic toll on members of all communities. Shortly before the ceasefire, on 16 November, in Gyt Chaung village of Maungdaw Township, an eyewitness stated that the military fired, likely from a base located west of the village hosting Light Infantry Battalion 24, three artillery shells into the village. A shell landed on a house where a naming ceremony of a child from the Mro community was being held. A relative of the victims reported that 13 people, including six children, were killed, and 21, including 12 children, were wounded. No fighting was reported at the time of the attack. A witness indicated that Light Infantry Division 77 had occupied the village for five days before the attack and that the military visited the wounded at the Gyt Chaung hospital and gave 500,000 Myanmar Kyat to relatives of the dead to conduct funeral rites.

## 3. Military burning of villages

21. One of the most frequently used tactics by the military is the systematic and widespread burning of villages and dwellings. Consistent with their modus operandi documented over decades including in Kachin in 2011 and Rakhine in 2017, UN reports indicated that nearly 39,000 houses nationwide have been burnt or destroyed in military operations since February 2022, representing an over 1,000-fold increase compared to 2021. Sagaing was the most affected accounting for over 25,500 homes. In an incident on 1 May in Ah Shey See, Kale Township, Sagaing, satellite images suggest the burning of almost the entire village with 621 structures destroyed. Similarly, satellite imagery and an interviewee suggest that between 16 and 28 September in Taze Township, Sagaing, the military destroyed 458 houses and damaged another 319 across eight villages during a series of raids and attacks.

22. While the military attributed responsibility to anti-military armed groups and reported that in 2022 *“terrorists burnt down 703 houses in Sagaing Region, 28 houses in Magway Region, 220 houses in Chin State, and 30 houses in Kachin State”*, testimonies indicate that the military and affiliated militias are responsible for most of these incidents. Multiple sources confirmed that soldiers moved from village to village, even if there was no active fighting, looted properties, occasionally stayed overnight, and burnt down houses before departing. On several occasions, ground raids were reportedly preceded by artillery fire or airstrikes to rush villagers out so they leave valuables behind. Some villages were burnt multiple times with Thantlang in Chin as the most indicative example. Satellite images suggest that, since November 2021, the village was burnt at least 22 times destroying 1,528 structures out of the original 2,628, including religious sites. On 8 September, satellite images show that 458 properties were destroyed in what appeared to be the largest incident in Thantlang.

23. OHCHR also documented cases where the military reportedly immolated people, set food storage facilities on fire, and burnt cattle. Several interviewees reported finding burnt bodies in villages after military raids. An eyewitness recounted a series of incidents against different villages in Khin-U Township, Sagaing, between 18 and 20 November. Specifically, in Puang Hle Kone the military set brick houses on fire and destroyed a reported 136 houses displacing over 600 individuals. Additionally, the eyewitness reported finding the incinerated corpse of an elderly woman next to her house on fire.

#### **4. Deaths in military custody and extrajudicial executions**

24. Documented patterns of individuals dying while in military custody, both in official places of detention and in informal settings, continued to take shape. According to credible sources, at least 920 individuals, including 52 women, eight girls, and 44 boys, have died since February 2021 while in custody of the military; 554 of which have died in the reporting period. This represents over 31 percent of the total number of persons verified to have been killed by the Myanmar military. 110 of these 920 deaths, including six women and four children, died in interrogation centers, prisons, police stations, or other formal detention settings. Most deaths appear to occur following arrests carried out in villages and towns, often after raids. Sagaing remained the most dangerous region for civilians to be incarcerated with 525 reported deaths in custody since February 2021.

25. Numerous interviewees reported similar dynamics across the country of the military and affiliated groups entering villages and arresting those left behind, often individuals who could not flee before their arrival, including due to disabilities, or persons who stayed behind to protect cattle and belongings. They are typically detained and questioned, often blindfolded with their hands tied, before being shot dead, with headshots appearing to be the prevalent method of execution. Numerous interviewees provided chilling accounts of the discovery of bodies upon returning to villages, with some alleging acts of sexual violence having been perpetrated. When not killed, individuals are taken away reportedly to be used as human shields, porters, and guides. Their fates often remain unknown. In one of many similar incidents, an interviewee from Pale Township described that on 11 July the military entered the village and arrested four villagers. According to the interviewee, they later found three bodies of a man, a woman, and a girl, with gunshot wounds to the front of their heads. A fourth body was subsequently found partially buried with marks consistent with signs of beating.

26. Similarly, OHCHR documented widespread use of extrajudicial executions, particularly during ground operations. Numerous sources consistently reported that the military often killed individuals trying to flee on sight, or after arresting them. An interviewee from Baudlin Township, Sagaing, reported that in May, after a clash with anti-military groups, the military killed nine fleeing villagers, including two elders and a woman, with gunshots to their heads. In the reporting period, there were at least 23 incidents across four states and regions where five or more people were reported by credible sources to have been killed in similar circumstances.

27. OHCHR documented examples where the military conducted targeted killings of perceived opposition-affiliated individuals in a manner which appeared designed to instil fear among the population, to halt support for anti-military groups. In October, for instance, in Pauk Township, Magway, the military beheaded a schoolteacher and hung his head on the gate of the school. Witnesses believed that he had been accused of being affiliated with the ‘National Unity Government’.

#### **5. Military perpetrating enforced disappearances**

28. OHCHR continued to receive information and document cases of enforced disappearances with the military and its affiliated militias reported as main perpetrators. While the nature of the violation makes it challenging to verify the full extent of its occurrence, the information received indicates that prominent political figures, religious and community leaders opposed to the military’s purported seizure of power are targeted.

29. Credible information was received about cases in which the military failed to arrest the intended target, such as members of the National League for Democracy, political

activists, anti-military armed group members, and individuals associated with the civil disobedience movement, and disappeared their family members to force them out of hiding. In April, in Yangon, the military targeted a family accused of supporting anti-military armed groups. After arresting the mother, plain clothes individuals took from kindergarten the three-year-old son. On 19 December, she was reportedly sentenced to 20 years' imprisonment. No additional information about her son has been received since.

30. Finally, enforced disappearances were reportedly occurring in the context of military raids of villages. Military units systematically arrested villagers who stayed behind questioned them, and in some cases forced them to act as guides or human shields. While at times villagers are later released, the fate and whereabouts of others remain unknown. According to credible sources, in a series of incidents between February and April 2022 in Shan, the military raided several villages in Ywangan and Pindaya townships, burning down houses and arresting at least 130 villagers. While 40 of them were reportedly released, no further information has since been obtained about the remaining 90 individuals.

## **6. Violence by anti-military armed groups**

31. OHCHR also received reports of targeted killings by anti-military armed groups of individuals perceived as informers or pro-military militia members, particularly in urban areas. While independent verification remains extremely challenging, media reports suggest that, in the past year, at least 127 local administrators were killed nationwide, with 71 incidents occurring in Mandalay and Yangon.<sup>12</sup> Anti-military armed groups claimed responsibility for 38 such cases. As the level and type of intelligence collected before the killings remains unknown, it is possible that targets may not be as intended. An interviewee related to a victim reported to OHCHR that the victim had been killed after being falsely accused of being a militia member. Moreover, the family was threatened and forced into hiding.

32. Additionally, OHCHR noted with concern a video on social media appearing to show local anti-military armed fighters beating and killing a blind-folded woman in Tamu Township, Sagaing, in June. Members of the 'National Unity Government' claimed investigation of the incident. Bomb attacks have also been reportedly carried out in populated areas with high risks of civilian casualties. On 19 October, two parcel bombs detonated at the gate of Insein prison, Yangon. Prison guards subsequently opened fire. Eight people, including five people visiting the prison and three guards, were killed and at least 18 injured. OHCHR could not independently verify the perpetrators of the killings.

## **B. Sexual and gender-based violence**

33. Serious concerns about continued use of sexual and gender-based violence by the military in conflict and non-conflict settings, and the absolute impunity of perpetrators, remain unaddressed. Additionally, civil society organizations consistently reported increasing patterns of gender-based violence, stressing that negative effects of COVID-19 and related restrictive measures, combined with military actions have exposed women, men, boys, and girls, continuously to risks of abuse. Existing vulnerabilities of minority groups and communities facing discrimination, including LGBTQI+ individuals, are further exacerbated. Interviewees unanimously indicated that the only accessible avenues for redress were community-based dispute-resolution mechanisms, albeit inadequately protective of survivors.

34. OHCHR interviewed survivors and relied on information and data provided by trusted interlocutors to assess patterns of abuses.

35. With full appreciation for challenges including survivors' personal security concerns, impossibility to carry out in-depth risks assessments on interviewees,' safety,

<sup>12</sup> For example, <https://www.mizzima.com/article/alleged-myanmar-military-council-informants-frequently-killed>.

risks of reprisals, complete lack of access to prisons and detention centres by independent actors, cultural norms, and internet shutdowns hampering safe communication.

36. Primary and secondary sources confirmed that sexual and gender-based violence, including rape, were repeatedly perpetrated in interrogation centers and other formal detention settings against women, men and LGBTIQ+ community members, as well as in villages during military raids.<sup>13</sup> OHCHR received allegations of three incidents in June and September in Myaung and Kani Townships, Sagaing, and in September in Yesagyo Township, Magway, where the military reportedly raped multiple women after detaining them during raids. Consistent allegations of rape were also received from other parts of Sagaing about women who were abused as they were unable to flee villages. Reportedly, villagers from Yinmarbin, Tabayin and Kani townships found remains of women who appeared to have been executed by the military and whose bodies were found partially or fully unclothed, or with injuries consistent with acts of sexual violence. LGBTIQ+ interviewees have also reportedly been subjected to discrimination and ill-treatment linked to their sexual orientation after being stopped at checkpoints or in detention centres. UN and other interlocutors consistently stated that these examples likely represented a small fraction of the actual cases and that individuals faced serious risks of sexual and gender-based violence in areas where military operations are ongoing. The military confirmed no investigations or prosecutions took place in the reporting period. OHCHR received no information about sexual violence perpetrated specifically by anti-military armed groups.

37. From a gender-based violence perspective, consequences of the military's seizure of power have significantly exacerbated existing risk factors, including the impact of COVID-19 restrictions. Local organizations report that gender-based crimes, including trafficking, early and forced marriages, sexual harassment and violence, exploitation, and forced prostitution, are reported to be on the rise due to the catastrophic security situation, lack of effective community-based protection mechanisms, displacement, separation from families, scarcity of essential goods and resources, increasing commodity prices, and disruption of community services. Women, girls, persons with disabilities and with non-binary sexual identities are considered most at risk of violence.

38. This is further compounded by the limited functionality of the public health sector after many within the health profession left their jobs in protest against military actions. Inadequate medical services and the prioritization of COVID-19 cases have negatively impacted on survivors' ability to access clinical care, including for unwanted pregnancies and sexually transmitted diseases. Even where public hospitals are functioning, mistrust towards the military, has deterred survivors from seeking assistance, leaving under-resourced civil society organizations as the sole trusted providers of medical care.

### **C. Systemic discrimination against the Rohingya and other ethnic and religious minorities**

39. Ten years after the 2012 violence and five years after the military operations in Rakhine State that killed thousands and displaced over 700,000 Rohingya, the estimated 600,000 community members still residing in central and northern Rakhine remain exposed to grave risks and violations. Conditions remain un conducive for safe returns, and persistent security concerns worsened between August and November when the military and the Arakan Army resumed fighting. Interviews confirmed that battles were fought in and around Rohingya villages, resulting in casualties and displacement. On 23 September, the Arakan Army took up positions around Gu Dar Pyin village, Buthidaung Township, and confrontations lasted for over two weeks. Consequently, 2,000 Rohingya were forced to flee, with many houses reportedly destroyed. OHCHR also received reports of use of sexual violence against Rohingya women and girls by both parties. However, independent verification remains challenging due to the imposition of blanket restrictions on humanitarian access to eight townships since mid-August and localized internet shutdowns.

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<sup>13</sup> For more information on sexual and gender-based violence in detention, see para 53.

Notably, on 20 October, an Arakan Army's spokesperson stated that two soldiers were sentenced to 20 years' imprisonment for raping a Rohingya woman in Buthidaung.

40. Before and after the hostilities, the human rights situation of the Rohingya remained dire. Systemic discrimination persists with no progress on restoration of citizenship rights. Rohingya newborns are usually not registered, deepening the spiral of exclusion. After 10 years, Rohingya students were allowed back to Sittwe University but only for certain subjects. Students, however, had to commit to accept National Verification Cards, a tool rejected by the community at large, which effectively forced them to decide between the rights to education and citizenship.

41. Rohingya confirmed that their freedom of movement to access services and livelihood opportunities have been further restricted. In March, the military announced that possession of citizenship scrutiny cards was mandatory for internal travel. In July, local authorities reinstated "Form 4", a mandatory temporary travel document for those without documents. Consequently, Rohingya faced extortion to receive travel authorizations, cross checkpoints, and were increasingly pressured to apply for the national verification card. However, Rohingya also reported being victimized by the Arakan Army with sources in villages in northern and central Rakhine stating they must pay protection fees to avoid reprisals. Arakan Army personnel reportedly ordered Rohingya to monitor and report on movements by the military, thus exposing them to retaliation. Moreover, Rohingya and other minority groups consistently asserted that Arakan Army-administered judicial and administrative systems were heavily biased against them, particularly in contexts of disputes involving ethnic Rakhine.

42. Due to this situation, many Rohingya resort to harmful coping mechanisms, including indebtedness that leads to long-term exploitation, drug use, and pursuit of a dignified life elsewhere. This has led to an increase in Rohingya attempting to flee the country by sea. In December, several boats, carrying mostly women and children, went adrift and had to be rescued. However, the overall extent of sunk boats and those who succeeded remains unknown. Those rescued and returned to Myanmar face imprisonment. Credible sources report that the number of Rohingya arrested for unauthorized travel doubled in 2022 to around 2,000 cases. According to UN figures, at least 119 Rohingya were reported dead or missing while attempting risky sea escape in the reporting period. The total figures are likely much higher. Credible local sources confirmed that, once arrested, Rohingya are predominantly convicted on charges under the 1949 Registration Act or the 1947 Immigration Act. In the reporting period, a minimum of 350 Rohingya have been reportedly convicted based on forced confessions in opaque legal processes that failed to meet international fair trial standards. Sources confirmed that no Rohingya-language translation is available in court and prosecutions are often rushed through, sometimes completed in a day. Judges and lawyers often misled defendants to plead guilty by promising a shorter jail sentence, which usually amounted to a two-year term.

43. While military narratives and actions toward the Rohingya have continued to be discriminatory and dehumanising, the 'National Unity Government' has committed to abolishing the National Verification system and adopting a new and inclusive citizenship law in accordance with its 2021 "Policy Position on the Rohingya in Rakhine State".

## **D. Rule of law and civic space**

### **1. Instrumentalization of the legal framework and subversion of the judiciary**

44. Military actions also targeted the country's legal and institutional systems by unilaterally adopting purported laws, imposing amendments to existing provisions and using laws and institutions to target opponents and suppress dissent. Myanmar's judiciary or the National Human Rights Commission has effectively been subsumed under military control, thus eliminating any element of independence and credibility.

45. Amendments to the Counter Terrorism Law<sup>14</sup> in 2021, introduced higher penalties and vague formulations open to arbitrary application. Within the reporting period, charges were brought against 226 individuals, and sentences issued against 124 individuals.<sup>15</sup> On 25 May, the military issued a measure entitled the Myanmar Police Act, bringing the police under direct command of the military.<sup>16</sup> It purported to grant the Army Commander-in-Chief unchecked powers over senior appointments and internal organization of the police, and to allow for the deployment of the police as auxiliary forces in military operations relating to national security and defence, while police officers were authorized to carry out warrantless arrests at any time.

46. Cases were often adjudicated in military-controlled courts that fail to respect basic fair trial guarantees, as demonstrated by proceedings against detained President Win Myint and State Counsellor Aung San Suu Kyi.<sup>17</sup> Numerous interviewees reported that trials were typically conducted behind closed doors in special courts within prisons, usually without legal representation for the accused, and with appeals and other complaint procedures considered as a procedural formality. In July, Myanmar resumed implementation of the death penalty by executing four individuals after a three-decade-long moratorium. As of 31 January, 143 people have been sentenced to death, including 42 reportedly tried in absentia.<sup>18</sup>

47. Lawyers, practitioners and other interlocutors familiar with the justice and prison systems confirmed that military-controlled courts systematically violated core principles of independence and impartiality. Some reported being asked by judges not to attend court hearings as verdicts would simply confirm the charges laid. Lawyers, however, continued to perform their professional duties despite facing serious personal risks. An estimated 49 lawyers have been arrested since the coup and at least seven have been convicted under spurious charges.

48. On 28 October, the military purported to amend the 2014 Association Registration Law further restricting the ability of civil society to operate.<sup>19</sup> Amendments introduce compulsory registration and criminal penalties of up to five years imprisonment for lack of compliance. Other requirements, including the payment of fees, reporting obligations, and mandatory approvals by various local authorities, appeared designed to stifle civil society. Finally, on 29 October, the military sought to amend the National Education Law, making Myanmar language the only language of education while repealing provisions allowing for minority languages to be taught beyond primary education. These amendments appeared to pursue the military's vision of a Myanmar defined by its ethnic Bamar majority, disregarding the rights of minority communities.

## 2. Right to liberty and security of person

49. Since 1 February 2021, the military has arrested 17,572 individuals, including 3,610 women, and 381 children on politically motivated grounds.<sup>20</sup> On national holidays since the coup, the military announced large-scale prisoner releases, with credible sources confirming that political prisoners were only a small number among those released. Immediate re-arrests of released political prisoners were reported in several cases. According to credible sources, as of 31 January 2023, at least 13,763 people remained in detention.

50. Numerous interviewees stated that anyone can be arrested at any time. They noted that the military had progressively targeted individuals accused of association with anti-

<sup>14</sup> <https://www.law-democracy.org/live/myanmar-note-on-the-2021-amendment-to-the-counter-terrorism-law/>.

<sup>15</sup> <https://airtable.com/shr9w3z7dyIoqdUv4/tbl8hVtSci8VifbO9>.

<sup>16</sup> <https://www.law-democracy.org/live/myanmar-note-on-police-force-law/>.

<sup>17</sup> <https://www.ohchr.org/en/2021/12/myanmar-bachelet-deplores-conviction-and-sentencing-aung-san-suu-kyi>.

<sup>18</sup> <https://aappb.org/?p=24057>.

<sup>19</sup> <https://bangkok.ohchr.org/ngo-law-myanmar/> and also see paragraph 48 herein.

<sup>20</sup> <https://airtable.com/shr9w3z7dyIoqdUv4>.

military groups and their families. Notably, family members of persons with outstanding arrest warrants increasingly faced arbitrary arrest and detention, including through repeated abductions and hostage-taking of children, as young as three, constituting in some cases enforced disappearances.

51. Credible reports persisted that the military continued to rely on tactics amounting to torture and ill-treatment against detainees, mostly in interrogation centres. Interviewees described instances of severe beatings; mock executions; being suspended from ceilings without food or water; electrocution; forced nudity in front of others, and sexual violence, including against men and LGBTIQ+ individuals. While previously interrogations aimed at identifying leadership of protests, they have increasingly focused more recently on inquiries about detainees' connections with anti-military groups. OHCHR received consistent reports about inadequate conditions in detention, which may amount to torture, including overcrowding; insufficient sanitation and hygiene; and lack of access to or denial of healthcare services, food, and water. Deaths in detention due to torture, ill-treatment, or inadequate access to medical care, continued to be reported at alarming levels.

52. Children in detention remained a grave concern, as they continued to be arrested arbitrarily and detained in juvenile detention centres, police stations, prisons, and military interrogation centres, often instead of their family members, and were subjected to proceedings before military-controlled courts, including on counter-terrorism charges. According to UN figures, between January and December 2022, at least 129 children were incarcerated, including those below the age of criminal responsibility, for alleged association with armed and anti-military groups. Credible sources reported at least 104 known cases of children tortured, mostly in interrogation centres, through different methods, including stabbing in the stomach, electroshocks, and pulling of fingernails.

53. Women have also remained targets of repression and faced often extreme conditions in detention without adequate forms of protection. Although secure access to victims and survivors remains extremely challenging, accounts of sexual violence, including rape, and other degrading treatment, such as denial or lack of access to adequate toilets and menstrual hygiene supplies, intimidation, threats, and physical and verbal abuse were received from multiple sources. Similarly, members of the LGBTIQ+ community were exposed to specific risks. Incidents of rape, torture, beatings, harassment, and other forms of sexual abuse in detention have been widely reported by LGBTIQ+ individuals. According to interviewees, violence inflicted on them appeared to explicitly target their sexual orientation or gender identity: gay men experienced anal rape, while transgender women reported their breasts being ridiculed and targeted during torture.

### 3. Fundamental freedoms

54. Since 1 February 2021, the military has adopted measures severely limiting civic space, including restrictions on the rights to freedom of expression, association, peaceful assembly, and movement, and public participation. Those opposing the military continue to be harassed, arrested, and prosecuted for the peaceful exercise of their rights, both online and offline. On 20 September, the military criminalized social media activity determined to be acts of opposition, including "liking" posts that the military deemed to be supportive of anti-military armed groups. Such acts carry penalties of up to 10 years' imprisonment. Moreover, the military revoked the licenses of at least 13 independent press outlets and eight publication and printing houses. On 26 October, The Irrawaddy's license was revoked for attributing responsibility to the military for civilian casualties in a shooting incident,<sup>21</sup> highlighting the retaliatory nature of the decision. Credible sources report the arrests of 178 journalists, including 27 women, since February 2021; 56 of those 178, including 7 women, remain in detention with widespread accounts of physical and psychological abuses occurring during interrogations. Concerningly, charges of terrorism, carrying heavier penalties, appear to have been increasingly brought against media workers in military courts. On 30 November, a freelance reporter was sentenced to 15 years in prison on

<sup>21</sup> [https://www.irrawaddy.com/news/burma/after-repeated-crackdowns-myanmar-junta-officially-bans-the-irrawaddy.html#google\\_vignette](https://www.irrawaddy.com/news/burma/after-repeated-crackdowns-myanmar-junta-officially-bans-the-irrawaddy.html#google_vignette).

terrorism charges for reportedly interviewing members of anti-military forces. This level of threat and harassment has driven numerous media workers underground or abroad limiting Myanmar-based independent reporting and documentation.

55. Internet shutdowns continued to prevent safe communications and access to life-saving information in violence-affected areas. OHCHR confirmed that internet shutdowns persisted in the 25 townships sanctioned in 2021 and that localized disruptions were imposed in connection with armed confrontations. However, the military blamed anti-military armed groups for destroying “1,284 telecommunication towers”. Interviewees reported human rights concerns, including the rights to privacy, to receive and impart information, and the misuse of personal information, about mobile communications. Licenses of telecommunication companies depend on military authorization, which greatly increases military influence and risks of undue surveillance. Additionally, on 19 September, the military announced the compulsory registration by late January 2023 of SIM cards based on verified extensive personal details. Failure to comply would result in permanent disconnection.

56. Limitations on civic space significantly impacted on operations of local organizations, which play a crucial role in the delivery of essential goods and services to people in need, at great personal risk and with limited support. Specifically, the imposition of severe restrictions on humanitarian actors and the deteriorating security environment have negatively impacted on humanitarian access for the provision of protection and life-saving services, including food, medical supplies, shelter, and access to safe drinking water and sanitation facilities. New provisions on mandatory registration of non-profit organizations will likely further threaten civic space and the ability of humanitarian actors to operate (see paragraph 48).

57. Demonstrating the limits of violence to assert control, the military has struggled to prevent displays of peaceful resistance. People in both cities and villages have continued consistently voicing their dissent, including through widely-attended nationwide silent strikes. Organizers and protesters have been routinely threatened and arrested for their activism. Similarly, trade unionists, workers, and labour activists shrunk have been similarly punished and harassed for protesting, prompting the International Labour Organization’s Governing Body to establish a Commission of Inquiry in respect of violations of the right to freedom of association in March 2022. At the time of writing, the ILO Commission had begun its work with its initial findings expected in early 2023.

## **E. Economic and social rights**

58. Myanmar is in the throes of a deepening economic crisis and worsening humanitarian emergency. Military mismanagement of the economy has exacerbated increasing economic stresses for a large segment of the population, resulting in poverty rates doubling compared to March 2020, with nearly half of the population living below the national poverty line.<sup>22</sup> Steady disinvestment and decoupling by business in many sectors and the imposition of targeted sanctions against senior military leaders and military-owned enterprises highlight the level of isolation to which the military has led the country. Compounding the impact of the coup on the economy, in October 2022, the inter-governmental Financial Action Task Force listed Myanmar among countries at risk in terms of money-laundering, requiring enhanced due diligence for business relations.<sup>23</sup>

59. Outside of military operations, military authorities have also forcibly evicted residents and seized or destroyed their property. For example, 50,000 people in Mingaladon Township in Yangon were reportedly forced from informal settlements in November.<sup>24</sup>

<sup>22</sup> <https://www.worldbank.org/en/country/myanmar/publication/myanmar-economic-monitor-july-2022-reforms-reversed>.

<sup>23</sup> <https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Fatfgeneral/Outcomes-fatf-plenary-october-2022.html>.

<sup>24</sup> <https://www.ohchr.org/en/press-releases/2022/12/myanmar-over-50000-exposed-forced-evictions-and-housing-destruction-say-un>.

Civil society have raised concerns about the increase in land grabbing and the use of property confiscation to persecute political opponents and their families.

60. Further, the collapse of rule of law has had major adverse consequences for environmental protection, as mining and other natural resource extraction activities have proliferated without appropriate regulation. Destructive land concessions have increased since the coup, as the military now has almost full and unchecked powers to privilege agribusiness and development activities over environmental protection, leading to significant detrimental consequences.<sup>25</sup>

61. Attacks on health care have continued throughout 2022, particularly in the north-west and south-east of Myanmar, in conjunction with military operations. Interviewees reported arbitrary arrests of health workers and people transporting medical supplies, obstruction of access to healthcare through the imposition of physical roadblocks, a bureaucratic and discriminatory authorization regime, and confiscation and destruction of medical supplies.

62. While supply chain disruptions contributed to rising food and fuel prices since February 2021, food security in Myanmar has deteriorated significantly. As of September, an estimated 15.2 million people face acute food insecurity. In areas affected by violence and conflict, sources stressed that the military was sabotaging access to food by imposing roadblocks on supply routes and preventing transportation of food items while driving up prices. Soldiers were reported to have confiscated food supplies, destroyed food stocks, and killed livestock. These methods of warfare targeting objects indispensable for survival of the civilian population may have resulted in cases of starvation.

63. Access to education remained challenging. At least 3.7 million children are estimated as not attending the military-run education system with a significant proportion of education staff participating in the civil disobedience movement. As of November, UN figures indicate that attacks on schools and staff doubled in 2022 compared to the previous year with at least 175 incidents -- including the beheading of a teacher in Magway in August and airstrikes on a school in Sagaing in September -- raising particular concern about increase in use of schools for military purposes. While military and affiliated militias are deemed responsible for at least half of these attacks, use of school facilities by the military likely resulted in such locations being targeted by anti-military armed groups.

#### IV. Accountability

64. Progress on accountability remains principally dependent on justice initiatives outside Myanmar. Nationally, the military has suborned and politicized judicial processes, enveloping the regular court system into its own structures and normative framework, including through use of martial law in some townships and creating ad hoc tribunals holding closed-door trials. Alternatively, the 'National Unity Government' ministry of justice has established 24 Township courts, each comprising three to five judges, and appointed 112 judges, 24 legal officers, and 73 corrections department staff as of November. OHCHR has not directly monitored proceedings before these entities.

65. At the international level, in July 2022 the International Court of Justice delivered its judgment dismissing preliminary objections as to the Court's jurisdiction and the admissibility of the case, raised by Myanmar in the proceedings brought against it by The Gambia. No public response has yet been given by the International Criminal Court to the 'National Unity Government' statement from July 2021, stating acceptance of the Court's jurisdiction for crimes committed in the country since 1 July 2002. Meanwhile, steps have been taken at national level in a further third State. On 29 March 2022, a case was

<sup>25</sup> <https://www.aljazeera.com/news/2022/12/14/afraid-of-the-gun-military-coup-fuels-myanmar-resource-grab>; <https://www.thethirdpole.net/en/climate/environment-ignored-as-myanmar-struggles-with-coup/>; <https://www.eastasiaforum.org/2023/02/13/myanmars-arrested-environmental-activism/>. See also: A/HRC/51/41, para. 54-61.

submitted to a Turkish criminal court under principles of universal jurisdiction. At the time of submission of this report, the Turkish court had yet to announce whether it would accept the case. Similarly, on 27 January, 16 applicants from Myanmar submitted a file to the Federal Public Prosecutor General of Germany against senior military officials.

66. Impunity is an overriding root cause of the present crisis in the country. After repeated human rights crises over decades, the military has avoided any attempts to hold it judicially to account for the most serious violations of human rights and international criminal law. Accountability is both a critical factor to dissuade continued and ongoing widespread violations and crucial to any longer-term solution that will prevent the recurrence of these crimes.

67. Consistent with previous reports, numerous human rights violations encompassing the entire sphere of civil, political, economic, social, and cultural rights have continued to occur on a regular basis. There are reasonable grounds to believe that some of these violations committed by the military may amount to crimes against humanity,<sup>26</sup> notably murder; forcible transfer, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape; persecution of an identifiable group or collective on political grounds; enforced disappearances; and other inhumane acts causing great suffering and serious injury.

68. Some of these acts, when committed in relation to armed conflicts, may also constitute war crimes. These include attacks on civilians and protected objects; murder; mutilation; torture; cruel treatment; outrages upon personal dignity; taking of hostages; execution without due process; displacing civilians; starvation; and destroying or seizing properties.<sup>27</sup>

## V. Conclusions and recommendations

70. **In the second year since the military coup, the overall human rights situation in Myanmar has further worsened with multiple serious violations occurring daily across the country. All people in Myanmar are continuously exposed to risks of violations and crimes, including killings, enforced disappearances, displacement, torture, arbitrary arrests, and sexual violence. There are reasonable grounds to believe that the military and its affiliated militias are responsible for most violations, some of which may constitute crimes against humanity and war crimes.**

71. **Forces opposing the military have also committed human rights abuses, particularly in the targeting of non-combatant officials, their family members, or others who believed to be “assisting” the military in some way. Violence directed at civilians violates basic principles of human rights and, where applicable, of international humanitarian law. While reports of abuses have increased, they are not grounds upon which justify unlawful actions of the military perpetrated in the name of “anti-terrorism”, nor are they comparable in scale and breadth to violations committed by the military.**

72. **Of particular concern has been the military’s insistence on a military solution to the crisis and their refusal to allow space for political negotiation, which has produced a polarizing reaction within communities throughout the country. Two years of violence have taken a tremendous toll on the people, crippling public institutions, hollowing out the economy and dragging almost half of the population below the poverty line. . Echoing one of the core recommendations of the Independent International Fact-Finding Mission on Myanmar that, Myanmar’s future depends in major measure on its military being held accountable and placed under effective**

<sup>26</sup> [https://www.ohchr.org/sites/default/files/2022-03/A\\_HRC\\_49\\_72\\_AdvanceEditedVersion.docx](https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_72_AdvanceEditedVersion.docx).

<sup>27</sup> Specifically on crimes committed in Sagaing Region, it is notable that the situation significantly deteriorated after the appointment on 6 January of Major General Than Hteik as the head of the Northwestern Regional Command.

civilian control. Impartial and independent justice processes for violations are essential for the future of the country.

73. Finally, the military has indicated its intention to organise an election in 2023 despite the extreme insecurity and polarization extant throughout the country and to the exclusion of opposition parties. Given the present circumstances, attempting to hold an election in such an environment would likely deepen resentments and exacerbate security risks for the people. It is difficult to currently conceive how such a process could constitute a free and fair expression properly reflecting the popular democratic will.

74. In the light of the above findings, the High Commissioner recommends that the military authorities:

(a) Cease immediately all violence and attacks directed against the people of Myanmar across the country, in compliance with Security Council resolution S/RES/2669(2022) and the ASEAN five-point consensus. Military operations must stop to provide room for dialogue that could end this crisis;

(b) Release immediately all those arbitrarily detained, prosecuted and/or sentenced, notably for mere exercise of their rights to freedom of expression, association, and peaceful assembly. Discontinue politically-motivated prosecutions, including those targeting members of the democratically elected Government, members of political parties, civil society representatives, human rights defenders and all other persons expressing opposition to the military's assertion of power;

(c) Refrain from imposing regulations and procedures that restrict the ability of civil society to assist in the delivery of life-saving humanitarian aid and services;

(d) Immediately abstain from any action, including killings, displacement, and arrest, and harassment, targeting members of the Rohingya community, and ensure full and continuing compliance with the provisional measures ordered by the International Court of Justice.

75. The High Commissioner further recommends that all parties in Myanmar:

(a) Adhere in full to applicable international human rights law and comply with international humanitarian law, particularly about measures of protection of civilians;

(b) Allow for full, unrestricted, predictable humanitarian access to all those in need by international and national organizations to address life-saving needs of the population;

(c) Cooperate with relevant international human rights and accountability mechanisms, to support evidence-gathering processes on crimes committed in Myanmar against the civilian population given future justice processes.

76. The High Commissioner recommends that the Security Council take steps to refer the full scope of the current situation in Myanmar to the International Criminal Court, supplementing the limited, cross-border scope of the investigation currently before the Court, and further that the Council, as well as ASEAN and other Member States, particularly those with influence on the parties;

(a) Maintain rigorous attention to developments on the ground as the situation continues to deteriorate and provide sustainable support for documentation and accountability efforts, both inside and outside of Myanmar;

(b) Promote political solutions that recognize and respect the will of the people to restore a democratic future with institutions subject to the rule of law and capable of vindicating the human rights of all people in Myanmar;

(c) Refrain from supporting any electoral process lacking necessary conditions to ensure free and fair outcomes, including political buy-in from all parties,

and mechanisms that allow all of Myanmar's people to participate effectively in safety and security;

(d) Take action and continue to advocate for the rights of the Rohingya community in particular by continuing to fund humanitarian efforts in Bangladesh, developing voluntary resettlement policies to third countries, rescuing and granting asylum to those undertaking perilous travels at sea, and demanding accountability for gross past and current violations.

(e) Ensure that any engagement in Myanmar, including by private companies, undergoes an enhanced human rights due diligence process to prevent the direct or indirect support of military or other operations that violate human rights and other provisions of international law.

(f) Provide flexible direct funding to local humanitarian organizations to support their ability to assist the population in need with life-saving aid and services.

(g) Provide meaningful access to OHCHR in the country to facilitate independent and impartial monitor and report on the situation in the country, including on protection of civilians, prevention of civilian casualties and conditions within places of detention.

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