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### 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 in Myanmar since 1 February 2022

### Report of the United Nations High Commissioner for Human Rights\*

#### *Summary*

The present report, prepared pursuant to Human Rights Council resolution 47/1, 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 the continuous use of violence, including killings, arbitrary arrests, torture, forcible disappearances and the prosecution and sentencing of anti-coup opponents. Urgent, concrete actions are needed to ensure that all people in Myanmar enjoy their fundamental rights and freedoms. The report contains recommendations for all parties, including the 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 its 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 the situation of Rohingya Muslims and other minorities, with the support of specialist experts, in complementarity to the work of the Independent Investigative Mechanism for Myanmar and reports of the Special Rapporteur on the situation of human rights in Myanmar, and to present a written report at its fifty-second session.
2. The present report covers human rights concerns documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) between 1 February 2022 and 31 January 2023, analyses verified patterns of human rights violations and international crimes committed by the military and other groups in Myanmar and highlights relevant trends and patterns in respect of violations of international human rights and of humanitarian and criminal law.
3. OHCHR collected testimonies and information from primary sources, including victims, survivors, witnesses and satellite images, as well as from verifiable secondary sources,<sup>1</sup> all of which underwent a credibility assessment in accordance with standard OHCHR methodology. Without access to Myanmar, OHCHR was obliged to conduct its documentation activities remotely. Despite significant challenges, including long-term, localized Internet shutdowns, a total of 96 interviews were successfully conducted with sources on the ground. OHCHR organized formal and informal consultations with civil society and non-governmental organizations (NGOs), thematic experts and other relevant interlocutors. The report also reflects regular collaboration and data and information exchanges between entities in the United Nations system. OHCHR submitted questionnaires to the military authorities and to the National Unity Government, the responses to which have been explicitly referenced in the report.
4. Given the continuing protection and personal safety risks faced by people in Myanmar on a daily basis, OHCHR has prioritized the safety of interlocutors above all other considerations. Factual determinations of incidents and patterns have been made in cases where there were reasonable grounds to believe that identified incidents have occurred. It is likely that figures of casualties represent an underestimation of realities on the ground.

## II. Context

5. People in all parts of Myanmar, in the two years since the military coup, remain exposed to daily human rights violations. In addition to the use of violence by the military itself, some pre-existing conflicts between the military and ethnic armed organizations have been reignited and violence has spread nationwide, dramatically changing the conflict landscape in Myanmar and heightening concerns for the protection of civilians. Global advocacy for peace and restraint have remained unheeded and the military, emboldened by absolute impunity, has consistently shown its 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 the denial of humanitarian access. Punishing individuals and communities that they perceive to be opposing them, the military has also

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<sup>1</sup> Including data from the Assistance Association for Political Prisoners 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 and kill civilians, including the burning of entire villages and the displacement of local communities.

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

7. While the military has stated its commitment to restore a multiparty democratic system through elections in 2023, it has actively and publicly designated its opponents as terrorists, arbitrarily detained and prosecuted them, primarily on specious charges of treason, sedition, incitement or other crimes, in secretive courts without any semblance of due process. Such actions take place against a backdrop of killings and extrajudicial executions, the use of the death penalty, enforced disappearances, arbitrary arrests, torture, sexual violence and a 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. Data from the United Nations indicate that, since February 2021, over one million people have been displaced and that 17.6 million people are now in need of 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 imposes 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 community, continue to face discrimination, as they have for decades.

9. While the military has consistently shown disregard for international obligations and principles, the people of Myanmar continue to demonstrate their determination to reject military rule. The refusal of civil servants to serve under military rule 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 its control. OHCHR has also received and investigated reports of violence committed by anti-military groups against civilians. While those abuses are of growing concern, they are not occurring at either the rate or scale of those committed by the military.

10. Although significant actions have been taken at the international level to address the situation, they have yet to translate fully into a 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”, which the military has largely disregarded. In December, the Security Council adopted resolution 2669 (2022), its first resolution on Myanmar, in which it called for an immediate end to all forms of violence throughout the country. In its judgment of 22 July 2022, the International Court of Justice decided to proceed with the merits of the case of alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide brought by the Gambia against Myanmar. After rejecting preliminary objections raised by Myanmar, the Court fixed a time limit of 24 April 2023 for further filing before the Court.<sup>10</sup>

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

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

<sup>5</sup> See [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> See <https://www.undp.org/press-releases/myanmar-urban-poverty-rates-set-triple-new-united-nations-survey-finds>.

<sup>7</sup> See <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> International Court of Justice. *The Gambia v. Myanmar*, Judgment of 22 July 2022 and Order of 22 July 2022 (available at: [www.icj-cij.org/public/files/case-related/178/178-20220722-JUD-01-00-EN.pdf](http://www.icj-cij.org/public/files/case-related/178/178-20220722-JUD-01-00-EN.pdf) and [www.icj-cij.org/sites/default/files/case-related/178/178-20220722-ORD-01-00-EN.pdf](http://www.icj-cij.org/sites/default/files/case-related/178/178-20220722-ORD-01-00-EN.pdf)).

### III. Situation of human rights

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

11. As noted in previous reports, the catastrophic human rights situation continues 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 war crimes, including the widespread use of indiscriminate airstrikes and artillery attacks against populated areas, the raiding and burning of villages, arbitrary arrests, the use of torture, extrajudicial killings and sexual violence. OHCHR has documented consistent tactics and patterns of abuse across the country, confirming that the military authorities operate as a solid and coherent structure, implying knowledge by the leadership of the commission of atrocities and/or, at minimum, failures to foreseeably prevent them.

12. Other key developments included: escalated and intensified violence in the predominantly Burman central regions, with the Magway and Sagaing Regions being the most dangerous for civilians; the resumption of hostilities between the military and the Arakan Army from August until 26 November 2022, when the parties agreed on a new informal ceasefire; renewed fighting in Kachin and Shan States in the context of previously existing non-international armed conflicts with ethnic armed organizations that have extended support to anti-military armed groups; and increasing instability and violence in the south-east, both in ethnic States and in some regions, including the Tanintharyi Region, which had remained relatively peaceful until 2021.

13. Tactics and violations of particular concern during the reporting period are outlined below.

##### 1. Military use of airstrikes

14. Because of the determination of anti-military armed groups and the serious challenge they pose to military ground operations, airpower has played a critical role in the military strategy to quash opponents. Since mid-2022, the military has increasingly relied on aerial attacks, with incidents occurring nationwide. Moreover, 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 have killed and injured civilians and seriously damaged civilian objects in towns and villages. Among numerous other incidents, on 16 September, in Let Yet Kone village, Sagaing Region, four helicopters opened fire on a school, killing at least six children and injuring nine others. Some 60 soldiers deployed from the helicopters to the ground, where they reportedly raided the village, executed a school technician and five villagers and subsequently arrested the 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 that there were no anti-military armed groups at the location.

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

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

18. In early December, for the first time since February 2021, the military launched numerous airstrikes, ostensibly against the Ta'ang National Liberation Army and the Myanmar National Democratic Alliance Army in Namhsan Township in the northern part of Shan State, allegedly due to the support they provide to anti-military armed groups. The 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. During the reporting period, OHCHR has received reports of the military use of artillery against populated areas nationwide, raising serious concerns about attacks directed at civilians as well as indiscriminate attacks. Credible sources indicate that a minimum of 229 individuals have been killed as a result of artillery shelling and that tens of thousands have had to flee their homes. In 2022, the south-east of the country was particularly affected, with repeated and heavy fighting occurring in Kawkareik, Kyainseikgi and Myawaddy Townships in Kayin State and in Moe Bye, Loikaw and Demoso townships in Kayah State. However, Internet shutdowns imposed by the military hampered independent verification efforts on specific incidents. Once 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, killing one man on the spot and severely wounding his wife, who later died.

20. In Rakhine State, the resumption of hostilities imposed a dramatic toll on members of all communities. On 16 October, shortly before the ceasefire, an eyewitness reported that the military had fired three artillery shells into Gyt Chaung village, Maungdaw Township, most likely from a base located west of the village hosting light infantry battalion 24. A shell landed on a house where a naming ceremony for a child from the Mro community was being held. A relative of the victims reported that 13 people, including 6 children, were killed and that 21 people, 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 kyats (approximately \$240) 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 the military's modus operandi, documented over decades, including in Kachin State in 2011 and Rakhine State in 2017, United Nations reports indicated that nearly 39,000 houses nationwide have been burned or destroyed in military operations since February 2022, representing a greater than thousand-fold increase compared to 2021. In this regard, the Sagaing Region was the most affected, with over 25,500 homes damaged. In an incident on 1 May in the village of Ah Shey See, Sagaing Region, satellite images suggest the burning of almost the entire village, with 621 structures destroyed. Similarly, satellite images and an eyewitness report suggest that, between 16 and 28 September, the military destroyed 458 houses and damaged another 319 homes in eight villages in Taze Township, Sagaing Region, during a series of raids and attacks.

22. While the military attributed responsibility to anti-military armed groups and reported that "terrorists burned down 703 houses in Sagaing Region, 28 houses in Magway Region, 220 houses in Chin State and 30 houses in Kachin State" in 2022, testimonies indicate that the military and affiliated militias are responsible for most of those incidents. Multiple sources confirmed that soldiers moved from village to village, even if there was no active fighting, looted properties, occasionally staying overnight, and burned down houses before departing. On several occasions, ground raids were reportedly preceded by artillery fire or airstrikes, forcing villagers to rush out of their homes leaving their valuables behind. Some villages were burned multiple times, with Thantlang village in Chin State being the most prominent example. Satellite images suggest that, since November 2021, the village was burned 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 such incident in Thantlang village.

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

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

24. Documented cases of individuals dying while in military custody, both in official places of detention and in informal settings, continued to emerge. According to credible sources, at least 920 individuals, including 52 women, 8 girls and 44 boys have died since February 2021 while in military custody – 554 of whom died during the reporting period. This figure represents over 31 per cent of the total number of persons verified as having been killed by the military. Of the total of 920 deaths, 110, including 6 women and 4 children, died in interrogation centres, prisons, police stations or other formal detention settings. Most deaths appear to have occurred following arrests carried out in villages and towns, often after raids. The Sagaing Region remains the most dangerous region for civilians, with 525 reported deaths in custody since February 2021.

25. Numerous interviewees reported similar incidents of the military and affiliated groups entering villages and arresting those left behind across the country. Oftentimes, people with disabilities have been left behind as they were unable to flee before the arrival of the military; others stayed behind to protect their cattle and belongings. Such people are typically detained and questioned, often blindfolded, with their hands tied before being shot dead – the most prevalent method of execution. Numerous interviewees provided chilling accounts of the discovery of bodies upon returning to villages, with some witnesses alleging that acts of sexual violence have been perpetrated. If not killed, individuals are taken away, reportedly to be used as human shields, porters or guides. Their fates often remain unknown. In one of many similar incidents, an interviewee from a village in Pale Township reported that on 11 July the military entered the village and arrested four villagers. According to the interviewee, the villagers later found the 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 has documented the widespread use of extrajudicial executions, particularly during ground operations. Numerous sources consistently reported that the military often kill individuals trying to flee on sight or after arresting them. An interviewee from Budalin Township, Sagaing Region, reported that in May, after a clash with anti-military groups, the military killed nine fleeing villagers by shooting them in the head, including two elders and a woman. During 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 under similar circumstances.

27. OHCHR has documented examples where the military conducted targeted killings of perceived opposition-affiliated individuals in a manner that appeared designed to instil fear among the population and to halt support for anti-military groups. In October, for instance, in Pauk Township, Magway Region, 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. Enforced disappearances perpetrated by the military**

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

29. Credible information has been received about cases in which the military authorities, having failed to arrest an intended target, such as members of the National League for Democracy, political activists, anti-military armed group members or individuals associated with the civil disobedience movement, have arrested and detained family members to force their targets out of hiding. In April, in Yangon, the military targeted a family accused of supporting anti-military armed groups. Plain-clothes individuals took a three-year-old into custody from its kindergarten after having arrested the child's mother. On 19 December, she was reportedly sentenced to 20 years' imprisonment. No additional information about her son has since been received.

30. Enforced disappearances have also been reported in the context of military raids on villages. Military units have systematically arrested villagers who stay behind, questioned them and, in some cases, forced them to act as guides or human shields. While 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 State, the military raided several villages in Ywangan and Pindaya Townships, burning down houses and arresting at least 130 villagers. While 40 of the villagers were reportedly released, no further information has 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 have been killed nationwide, with 71 incidents occurring in the cities of Mandalay and Yangon.<sup>11</sup> Anti-military armed groups have claimed responsibility for 38 such cases. As the level and type of intelligence collected before the above killings remains unknown, it is possible that the targeted individuals may not be the ones originally intended. One interviewee, who was related to a victim, reported to OHCHR that the relative had been killed after being falsely accused of being a militia member. Moreover, the family was threatened and forced into hiding.

32. In a related incident, OHCHR noted with concern a video on social media appearing to show local anti-military armed fighters beating and killing a blindfolded woman in Tamu Township, Sagaing Region, in June. Members of the National Unity Government claimed that an investigation of the incident was being undertaken. Bomb attacks have also been reportedly carried out in populated areas, despite the inherent risk of civilian casualties. On 19 October, two parcel bombs detonated at the gate of Insein prison in Yangon. Prison guards subsequently opened fire. Eight people, including five visitors to the prison and three guards, were killed and at least 18 injured. OHCHR could not independently verify the perpetrators.

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

33. Serious concerns about the 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 have consistently reported increasing patterns of gender-based violence, stressing that negative effects of the coronavirus disease (COVID-19) pandemic and related restrictive measures, combined with military actions, have exposed women, men, boys and girls to the risk of abuse. Existing vulnerabilities of minority groups and communities facing discrimination, including LGBTQI+ individuals, have been further exacerbated. Interviewees unanimously indicated that the only accessible avenues for redress were community-based dispute-resolution mechanisms, although such mechanisms have so far proven to be inadequate in protecting survivors.

34. OHCHR interviewed a number of survivors, relying on information and data provided by trusted interlocutors to assess patterns of abuse. Investigations of these violations have

<sup>11</sup> See, for example, <https://www.mizzima.com/article/alleged-myanmar-military-council-informants-frequently-killed>.

been limited, however, due to the challenging environment in which most victims survive. Risks to their personal security and safety, including their medical condition and risk of reprisal, make it essential to carry out thorough risk assessments prior to conducting interviews. Cultural stigma, lack of support services and secure communications and Internet services, as well as the inaccessibility of places of detention, made assessing the risks faced by individual survivors nearly impossible.

35. Primary and secondary sources confirmed that sexual and gender-based violence, including rape, were repeatedly perpetrated in interrogation centres and other formal detention settings, as well as in villages during raids, against women, men and individuals who identify as LGBTIQ+.<sup>12</sup> OHCHR received allegations of three incidents in June and September in Myaung and Kani Townships, Sagaing Region, and in September in Yesagyo Township, Magway Region, where the military reportedly raped multiple women after detaining them during raids. Consistent allegations of the rape of women who were unable to flee their villages were also received from other parts of Sagaing Region. Reportedly, villagers from Yinmabin, 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. The United Nations and other interlocutors have consistently stated that these examples likely represented a small fraction of the actual cases and that individuals face serious risks of sexual and gender-based violence in areas where military operations are ongoing. The military confirmed that no investigations or prosecutions took place during the reporting period. OHCHR has received no information about sexual violence perpetrated specifically by anti-military armed groups.

36. From a gender-based violence perspective, the consequences of the military's seizure of power have significantly exacerbated existing risk factors, including the impact of COVID-19. 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 the disruption of community services. Women, girls, persons with disabilities and with non-binary sexual identities are considered most at risk of violence.

37. This situation is further compounded by the limited functionality of the public health sector since many individuals within the health profession have left their jobs in protest against the military. In addition, inadequate medical services and the prioritization of COVID-19 cases have had a negative impact on the ability of survivors 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 underresourced civil society organizations as the sole trusted providers of medical care.

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

38. In 2022, 10 years after the 2012 violence and 5 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 State remain exposed to grave risks and violations. Conditions remain unconducive for safe return and persistent security concerns worsened between August and November when fighting resumed between the military and the Arakan Army. 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, with confrontations that lasted for over two weeks. In the end, 2,000 Rohingya

<sup>12</sup> For more information on sexual and gender-based violence in detention, see para. 52 below.



were forced to flee and many houses were reportedly destroyed. OHCHR also received reports of use of sexual violence against Rohingya women and girls by both parties. Independent verification remains challenging, however, due to the imposition of blanket restrictions on humanitarian access to the eight townships since mid-August and localized Internet shutdowns. Notably, on 20 October, a spokesperson for the Arakan Army stated that two soldiers were sentenced to 20 years in prison for raping a Rohingya woman in Buthidaung Township.

39. The human rights situation of the Rohingya community, both before and after hostilities, remains dire. Systemic discrimination persists, with no progress on the restoration of citizenship rights. Rohingya newborns are usually not registered, deepening the spiral of exclusion. After 10 years, Rohingya students, who were allowed back to Sittwe University, but only in certain subjects, had to agree to sign up for national verification cards, a tool rejected by the community at large as it effectively forces them to decide between their rights to citizenship and education.

40. Rohingya interviewees confirmed that their freedom of movement to access services and livelihood opportunities have been further restricted. In March, the military announced that citizenship scrutiny cards were mandatory for internal travel, and in July, local authorities reinstated “form 4”, a mandatory temporary travel document for those without documents. As a result, the Rohingya are forced by officials to pay exorbitant fees or to provide other forms of compensation in order to obtain travel authorizations to cross checkpoints and are 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 have reportedly ordered Rohingya to monitor and report on movements by the military, thus exposing them to retaliation. Moreover, the Rohingya as well as other minority groups have consistently asserted that Arakan Army-administered judicial and administrative systems are heavily biased against them, particularly in disputes involving ethnic Rakhine.

41. As a result of this situation, many Rohingya resort to harmful coping mechanisms, including indebtedness, which can lead to long-term exploitation and drug use. Furthermore, this has led to an increase in the number of Rohingya attempting to flee the country by sea to seek a better life. In December, several boats carrying mostly women and children went adrift and had to be rescued. The overall number of boats lost at sea and the number of people who have succeeded in escaping from their desperate circumstances 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 United Nations figures, at least 119 Rohingya were reported dead or missing while attempting the risky escape by sea during the reporting period – the total figure is 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. During the reporting period, a minimum of 350 Rohingya have been reportedly convicted based on forced confessions under opaque legal processes that fail to meet international fair trial standards. Sources confirmed that no interpretation or translation into the Rohingya language is available in court and that prosecutions are often rushed through, sometimes being completed in a day. Judges and lawyers often mislead defendants into pleading guilty by promising a shorter jail sentence, which usually amounts to a two-year term.

42. While military narratives and actions toward the Rohingya have continued to be discriminatory and dehumanizing, the National Unity Government has committed to the abolishment of 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

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

44. In 2021, amendments to the Counter-Terrorism Law<sup>13</sup> introduced higher penalties as well as vague formulations that are open to arbitrary application. Within the reporting period, charges were brought against 226 individuals and sentences were issued against 124 individuals.<sup>14</sup> On 25 May, the military issued a measure entitled the Myanmar Police Act, bringing the police under the direct command of the military.<sup>15</sup> The measure purported to grant the Commander-in-Chief of the Myanmar Military unchecked powers over senior appointments and the internal organization of the police. In addition, it allowed for the deployment of the police as auxiliary forces in military operations relating to national security and defence and authorized police officers to carry out warrantless arrests at any time.

45. Cases have often been adjudicated in military-controlled courts that failed to respect basic fair trial guarantees, as demonstrated by the proceedings against detained President Win Myint and State Counsellor Aung San Suu Kyi.<sup>16</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>17</sup>

46. Lawyers, practitioners and other interlocutors familiar with the justice and prison systems confirmed that military-controlled courts systematically violate 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 in the face of serious personal risk. An estimated 49 lawyers have been arrested since the coup and at least 7 have been convicted under spurious charges.

47. On 28 October, the military unilaterally amended the 2014 Association Registration Law, which now further restricts the operations of civil society.<sup>18</sup> The 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, appear designed to stifle civil society. Subsequently, on 29 October, the military sought to amend the National Education Law of 2014, making Myanmar the only language of education and repealing provisions allowing for minority languages to be taught beyond primary education. These amendments appear 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

48. Since 1 February 2021, the military has arrested 17,572 individuals, including 3,610 women and 381 children, on politically motivated grounds.<sup>19</sup> On national holidays since the coup, the military has announced large-scale prisoner releases, with credible sources

<sup>13</sup> See <https://www.law-democracy.org/live/myanmar-note-on-the-2021-amendment-to-the-counter-terrorism-law/>.

<sup>14</sup> See <https://airtable.com/shr9w3z7dyIoqdUv4/tbl8hVtSci8VifbO9>.

<sup>15</sup> See <https://www.law-democracy.org/live/myanmar-note-on-police-force-law/>.

<sup>16</sup> OHCHR, "Myanmar: Bachelet deplores conviction and sentencing of Aung San Suu Kyi", 6 December 2021.

<sup>17</sup> See <https://aappb.org/?p=24057>.

<sup>18</sup> See <https://bangkok.ohchr.org/ngo-law-myanmar/> and see also para. 47 above.

<sup>19</sup> See <https://airtable.com/shr9w3z7dyIoqdUv4>.

confirming that political prisoners were only a small number among those released. The immediate rearrest of released political prisoners was reported in several cases. According to credible sources, as of 31 January 2023, at least 13,763 people remained in detention.

49. 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-military groups and their families. Increasingly, family members of persons with outstanding arrest warrants face arbitrary arrest and detention, including through repeated abductions and the hostage-taking of children as young as three, which constitute, in some cases, enforced disappearances.

50. Credible reports persisted that the military continues 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 interrogations were previously aimed at identifying the leadership of protests, they have increasingly been focused on inquiries about the connections of detainees 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 health-care services, food and water. Deaths in detention due to torture, ill-treatment or inadequate access to medical care continue to be reported at alarming levels.

51. Children in detention remain a grave concern as they continue to be arrested arbitrarily and detained in juvenile detention centres, police stations, prisons and military interrogation centres, often in place of their family members, and have been subjected to proceedings before military-controlled courts, including on counter-terrorism charges. According to United Nations figures, between January and December 2022, at least 129 children were incarcerated, including children 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 being tortured, mostly in interrogation centres, through different methods, including stabbing in the stomach, electroshocks and the extraction of fingernails.

52. Women also remain targets of repression, facing often extreme conditions in detention without adequate 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 adequate access to toilet facilities and menstrual hygiene supplies, intimidation, threats and physical and verbal abuse, were received from multiple sources. Similarly, LGBTIQ+ individuals were exposed to specific risks, and numerous incidents of rape, torture, beatings, harassment and other forms of sexual abuse in detention have been widely reported. According to interviewees, violence inflicted on them appeared to explicitly target their sexual orientation or gender identity: gay men report having experienced anal rape, while transgender women reported on their breasts being ridiculed and targeted during torture.

### 3. Fundamental freedoms

53. 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 constitute 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 in prison. Moreover, the military revoked the licences of at least 13 independent press outlets and 8 publication and printing houses. On 26 October, the licence of *The Irrawaddy* news website was revoked in retaliation for having attributed responsibility for civilian casualties in a shooting incident to the military.<sup>20</sup> Credible sources reported the arrests of 178 journalists,

<sup>20</sup> See [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).

including 27 women, since February 2021; of those 178, 56, including 7 women, remain in detention and there are widespread accounts of physical and psychological abuse during interrogation. Concerningly, it appears that charges of terrorism, carrying heavier penalties, have been increasingly brought against media workers in military courts. On 30 November, a freelance reporter was sentenced to 15 years in prison on 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.

54. 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. The military, on the other hand, blamed anti-military armed groups for destroying “1,284 telecommunication towers”. Interviewees reported human rights concerns, including a lack of the rights to privacy and to receive and impart information, as well as the misuse of personal information, with regard to communications on mobile devices. Licences of telecommunication companies depend on military authorization, which greatly increases military influence and the risk of undue surveillance. Further, on 19 September, the military announced the compulsory registration of SIM cards, based on extensive, verified personal details, by late January 2023. Failure to comply can result in permanent disconnection of mobile devices.

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

56. Demonstrating the limits of violence in maintaining control, the military has struggled to prevent displays of peaceful resistance. People both in cities and villages have consistently continued to voice 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 have been punished and harassed for protesting, prompting the Governing Body of the International Labour Organization (ILO) 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 findings expected in 2023.

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

57. 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 a doubling of poverty rates compared to March 2020, with nearly half of the population living below the national poverty line.<sup>21</sup> The steady disinvestment and decoupling by businesses in many sectors and the imposition of targeted sanctions against senior military leaders and military-owned enterprises highlight the level of isolation into which the military has led the country. Compounding the impact of the coup on the economy, in October 2022, the intergovernmental Financial Action Task Force listed Myanmar among those countries at risk in terms of money-laundering, requiring enhanced due diligence for business relations.<sup>22</sup>

<sup>21</sup> See <https://www.worldbank.org/en/country/myanmar/publication/myanmar-economic-monitor-july-2022-reforms-reversed>.

<sup>22</sup> See <https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Fatfgeneral/Outcomes-fatf-plenary-october-2022.html>.

58. In addition to military operations, military authorities have also forcibly evicted residents and seized or destroyed their property. In Mingaladon Township, in Yangon, 50,000 people were reportedly forced to leave informal settlements in November.<sup>23</sup> Civil society organizations have raised concerns about the increase in incidents of land grabbing and the confiscation of property to persecute political opponents and their families.

59. Furthermore, the collapse of the rule of law has had major adverse effects in the area of environmental protection, as mining and other natural resource extraction activities have proliferated without due 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, with significant damaging consequences.<sup>24</sup>

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

61. While supply chain disruptions have 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 the survival of the civilian population, may also have contributed to cases of starvation.

62. Access to education remained challenging. It is estimated that at least 3.7 million children are not attending the military-run education system, with a significant proportion of educational staff participating in the civil disobedience movement. As of November, United Nations 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 Region in August and airstrikes on a school in Sagaing Region in September, raising particular concerns about increase in the use of schools for military purposes. While the military and affiliated militias are deemed responsible for at least half of these attacks, it is likely that the use of school facilities by the military has resulted in such locations being targeted by anti-military armed groups.

#### IV. Accountability

63. 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, the creation of ad hoc tribunals and the holding of closed-door trials. Alternatively, the National Unity Government has established 24 township courts, each comprising three to five judges, and has appointed 112 judges, 24 legal officers and 73 corrections department staff as of November. OHCHR has not directly monitored proceedings before those entities.

64. At the international level, in July 2022 the International Court of Justice delivered its judgment, dismissing preliminary objections 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

<sup>23</sup> See <https://www.ohchr.org/en/press-releases/2022/12/myanmar-over-50000-exposed-forced-evictions-and-housing-destruction-say-un>.

<sup>24</sup> See <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, paras. 54–61.

response has yet been given by the International Criminal Court to the statement of the National Unity Government of July 2021, accepting the Court's jurisdiction over crimes committed in the country since 1 July 2002. Meanwhile, steps have been taken at the national level in a third State. On 29 March 2022, a case was submitted to a Turkish criminal court under principles of universal jurisdiction. At the time of submission of the present 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 Public Prosecutor General of Germany against senior military officials.

65. 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 such crimes.

66. 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 the violations committed by the military may amount to crimes against humanity,<sup>25</sup> notably murder; forcible transfer, imprisonment or other severe deprivations of physical liberty, in violation of fundamental rules of international law; torture; rape; the persecution of an identifiable group or collective on political grounds; enforced disappearances; and other inhumane acts causing great suffering and serious injury.

67. Some of these acts, when committed in relation to armed conflict, may also constitute war crimes. These include attacks on civilians and protected objects; murder; mutilation; torture; cruel treatment; outrages upon personal dignity; the taking of hostages; execution without due process; displacing civilians; starvation; and the destruction or seizing of property.<sup>26</sup>

## V. Conclusions and recommendations

68. **The overall human rights situation in Myanmar during the second year since the military coup has worsened, with multiple serious violations occurring daily across the country. People throughout the country are exposed to continuing violations of their rights and to crime, 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 of such violations, some of which may constitute crimes against humanity and war crimes.**

69. **Forces opposing the military have also committed human rights abuses, in particular in the targeting of non-combatant officials, their family members and others whom they believe to be assisting the military in some way. Violence directed at civilians violates basic principles of human rights and, where applicable, international humanitarian law. While reports of abuses have increased, they are not grounds upon which to justify the 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.**

70. **Of particular concern has been the insistence of the military authorities 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. The past two years of violence have taken a tremendous toll on the people of Myanmar, crippling public institutions, hollowing out the economy and leaving almost half of the population living below the poverty line. Echoing one of the core recommendations of**

<sup>25</sup> A/HRC/49/72.

<sup>26</sup> With regard to specific 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 Command.

the independent international fact-finding mission on Myanmar, that the future of Myanmar depends in major measure upon its military being held accountable and placed under effective civilian control, it is clear that impartial and independent justice processes for violations are essential for the future of the country.

71. Finally, the military has indicated its intention to organize an election in 2023, despite the extreme insecurity and polarization throughout the country, and to exclude 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 conceive how such a process could constitute a free and fair expression, properly reflecting the popular democratic will.

72. 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 2669 (2022) and the ASEAN five-point consensus; military operations must stop to provide room for dialogue that could end the crisis;

(b) Release immediately all those arbitrarily detained, prosecuted and/or sentenced, notably for the mere exercise of their rights to freedom of expression, association and peaceful assembly, and 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, displacements, arrests 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.

73. 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 measures to protect civilians;

(b) Allow for full, unrestricted, predictable humanitarian access to all those in need by international and national organizations so that they may provide life-saving aid to 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.

74. 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 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 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 the necessary conditions to ensure free and fair outcomes and ensure political buy-in from all parties and mechanisms that allow all of the people of Myanmar to participate effectively in elections 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 the 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 OHCHR with meaningful access within the country so as to facilitate independent and impartial monitoring and reporting on the human rights situation, including on the protection of civilians, the prevention of civilian casualties and conditions in places of detention.

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