

Assistance Association for Political Prisoners (AAPP) နိုင်ငံရေးအကျဉ်းသားများကူညီစောင့်ရှောက်ရေးအသင်း

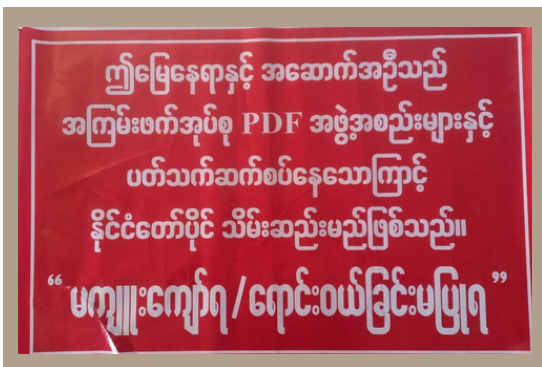


April 4, 2022



Seizing People's Lives:

The unlawful confiscations of civilians' property by the terrorist military



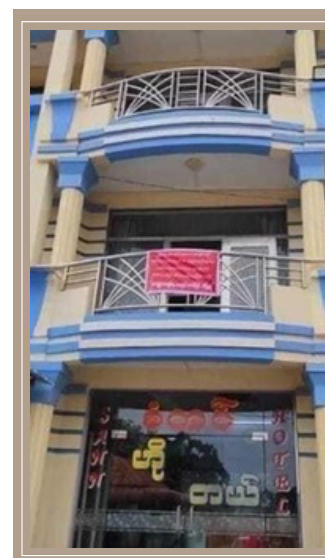
Since the failed coup, the military junta has been terrorizing, repressing, and plundering the lives and livelihoods of the civilian population in escalatory attacks with each passing day.

The military junta's intensification of so-called military operations has resorted to instilling a climate of fear. Inhumane tactics detailed below further demonstrate the military's intent to return Burma to harsh authoritarian rule.

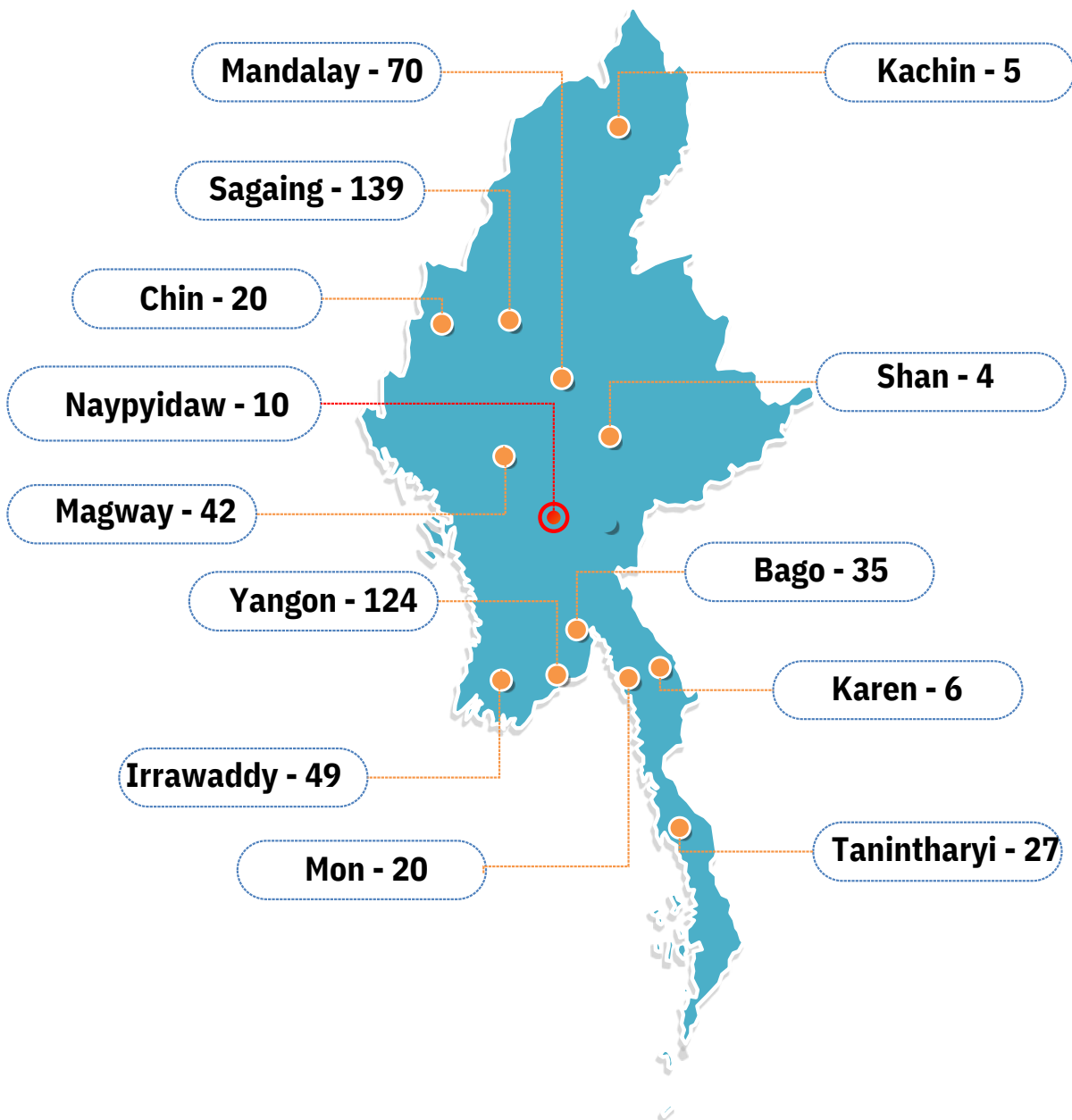
In the 14 months since the coup, **13040** civilians were arbitrarily arrested and prosecuted on specious charges, leading in some cases, to a death sentence. Family members have not been spared. Relatives of all ages, infants, and the elderly, across the country are being detained as hostages to torment and entrap pro-democracy supporters on-the-run.

But arbitrary arrests are not all. Following the National Unity Government's (NUG) declaration of defensive war in September 2021, the military junta has increasingly resorted to illegal seizures of houses and other properties. Such violations specifically target parliamentarians, NLD members, and civilians for alleged connection to the NUG, Committee Representing Pyidaungsu Hluttaw (CRPH), and PDF.

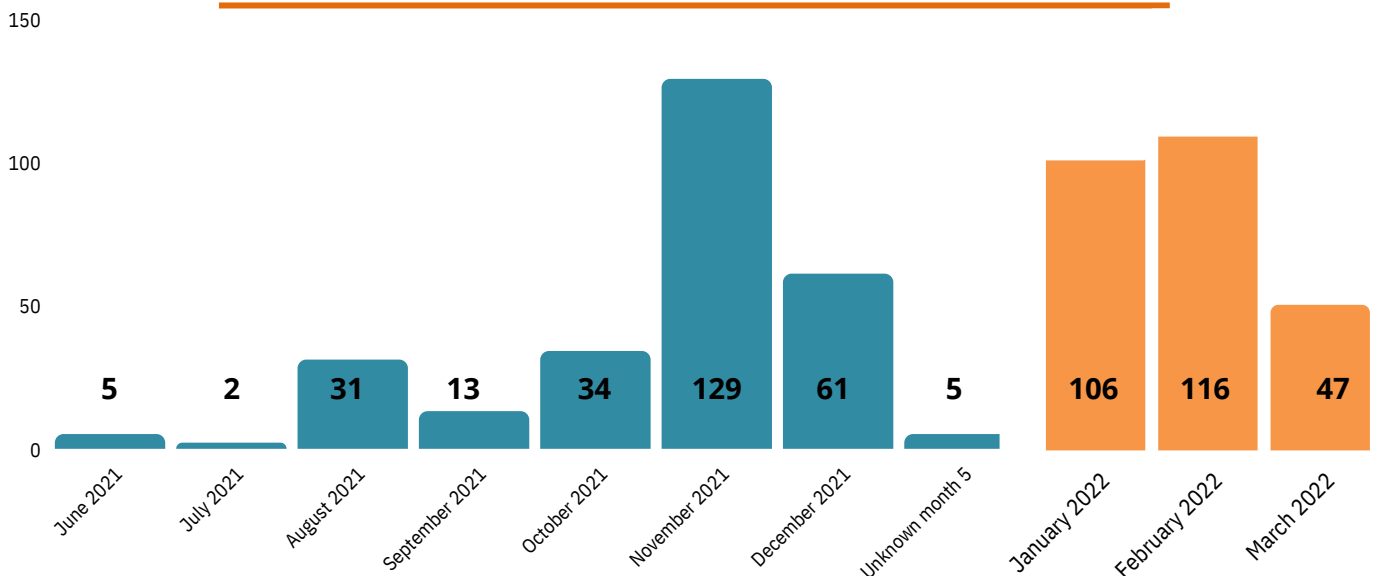
According to documentation collected by Assistance Association for Political Prisoners (AAPP), since the coup and as of March 31, 2022, more than **547** households and buildings have been seized by the military junta. The most were in Sagaing Region, with **139** seizures, whilst **124** occurred in Yangon.



Number of seized houses and other properties per region/state



Number of seized houses and other properties per month



Civilians with pending arrest warrants or detained political prisoners have been subject to property seizures, but a significant element to these systematic violations has been its collective punishment. Primarily, the owners of seized property since the coup have been relatives and loved ones of the military's attack target.



Punishment of individuals not responsible for the [alleged] wrongdoing is prohibited in contexts of international and non-international armed conflicts.[1]

Unlawful seizures of houses and other properties not only collectively punish the owner, but also close and extended family members. U Moe Ma Kha's in-laws saw their two homes and clothing store expropriated when the Junta failed to arrest the regional Hluttaw representative of Taungoo Township, who had been on the run since the coup.[2] The properties were not in any way connected to U Moe Ma Kha, and the distress caused led to the death of his mother-in-law. The funeral could not be held at the family home because the junta had seized the house, instead the procession was carried out on the street

Article 17 of the Universal Declaration of Human Rights (UDHR) recognizes a right to own property, and a negative obligation to not arbitrary deprive someone of said property. The right to property is considered as a prerequisite to the realization of other Human Rights, such as the right to privacy, protected by the International Covenant on Civil and Political Rights (ICCPR).

As a non-state actor, the military junta has no legitimacy to exert expropriations. Regardless of its illegitimacy, the sovereign right of a state to expropriate exists within a legal framework, rooted in customary international law. As such, expropriation can be lawful if it is executed: "(a) For a public purpose; (b) In a nondiscriminatory manner; (c) In accordance with due process of law; (d) Against the payment of compensation".[3]



[1] See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (1977), article 4(c), ICRC Study on Customary International Humanitarian Law (2005), Rule 103

[2] <https://www.bbc.com/burmese/burma-60626075>

[3] United Nations Conference on trade and development (2012), Expropriation, UNCTAD Series on Issues in International Investment Agreements II.

The seizure of property owned by political activists, or even more so by their families, cannot qualify as a lawful expropriation. As explained by the Ad Hoc arbitrator in BP Exploration Co. v. Libya[4], an act of political retaliation cannot be qualified as a public purpose

The seizure of property based on the real or perceived political beliefs of an individual or their family member is arbitrary and discriminatory, and as such, constitutes a violation of public international law, even more so as said expropriations were not followed by any form of compensation.

Under domestic law, the court is allowed to examine a witness and record their deposition in their absence if the accused has absconded, pursuant to Section 512[5] of the Criminal Procedure Code. Under Section 87[6] of the Code of Criminal Procedure, a court can issue an official proclamation of warrant only if there is evidence of guilt by examination under Section 512. Then, pursuant to Section 88[7] of the Criminal Procedure Code, the court has the right to seize the property of the accused, whether movable or immovable. Similarly, Section 56[8] of the Anti-Terrorism Law states that money and property confiscated as evidence can only be expropriated for the state treasury if the accused is found guilty by the court.

Yet, these acts by the terrorist junta were carried out prior to any judicial proceeding taking place, thus the seizing of properties was done in full disregard of the law



In an interview with AAPP, a victim of such expropriations explained:

“They charged me with Counter-Terrorism Law Section 52 (A) at the police station on February 5th. Then they seized my house on February 10th, 2022. They told my siblings prior to the confiscation to collect the items they want in the house and gave them a very short window of time to do so. Because of that, they ended up not being able to gather any possession as the house got seized. What they did at my house even before I got convicted with any kind of sentences was just a blatant act of tyranny in my opinion.”

[4] <https://jusmundi.com/en/document/decision/en-bp-exploration-company-libya-limited-v-government-of-the-libyan-arab-republic-award-wednesday-10th-october-1973>

[5] The Code of Criminal Procedure Section 512: Record of evidence in absence of accused

[6] The Code of Criminal Procedure Section 87: Proclamation for person absconding

[7] The Code of Criminal Procedure Section 88: Attachment of property of person absconding

[8] The Counter Terrorism Law Section 56: The court shall pass an order of confiscation or disposal in accord with the stipulations on money and assets seized as exhibit, if it is punished with an offence of financing of terrorism.

The NUG has released a statement regarding the seizures of houses, asserting that victims of the violations can report it, and based on evidence will work towards returning the illegally seized properties to their rightful owners during the transitional period.[9]



A victim of the junta desired justice be delivered for the military’s terrorist acts:

“I want them to be tried in accordance with the law of course. I want see justice procedures carried out and make them confess the crimes they did themselves and apologize for it. Additionally, this is not just for me, but since this is something everyone across the country has been experiencing so I want to make sure something like this will never happen again in the future. And I want to see things being done to make sure it will not occur again,”

People across Burma have endured atrocities for generations, through successive military dictatorships. Seizing property of relatives is a strategy to instigate fear and intimidate the pro-democracy movement into submission.

The international community needs to decide on a precise course of action to finally bring the terrorist junta to justice for their cruelty and blatant violations of human rights. We urge the United Nations, along with others in the international community to support our efforts to put the military junta on trial for their sadistic actions and bring forth the realization of a true and just judicial system in Burma.



[9] <https://www.facebook.com/NUGmyanmar/posts/261203536182877>