



Assistance Association for Political Prisoners (AAPP)

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## **“Accountability for the Junta Criminals”**

Evidence of Crimes Against Humanity Perpetrated by the Armed Wing of the Junta in Burma Since the 2021 Coup

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## Acknowledgements

*In honor the people who have sacrificed their lives and liberty for the Spring Revolution.*

*Credit to original photo owner on cover page.*

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# Australian National University

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## Executive Summary

This report aims to tackle the impunity of junta military leaders for crimes violating international norms of *jus cogens*. As the National Unity Government (NUG), the legitimate representative of the state, is currently ‘unable’ to ensure fair functioning of domestic courts, and as it has lodged a declaration with the ICC accepting the court’s jurisdiction under article 12 (3) of the Rome statute on August 20, 2021, the court has jurisdiction to prosecute perpetrators of atrocity crimes committed from 2002 on. AAPP argues that military leaders should be held accountable for the crimes committed by their subordinates as per the Rome Statute in all cases where their active (art. 25) or passive (art. 28) responsibility can be incurred.

Since the **murder** of Mya Thwet Thwet Khaing on February 9, AAPP has recorded and verified **1,875** cases of murder as of May 31, 2022. Interviews reveal that the Light Infantry Division (LID) 77 and Light Infantry Division (LID) 44 have either been present during or have personally been committing these crimes. Families of victims reported instances of mass shooting in civilian areas; on March 15, 2021 “soldiers shot over 400 bullets across the village” according to the uncle of a victim. They also report victims being shot multiple times, to ensure their death. For instance, many were shot two or three times within their respective homes. According to the data collected by AAPP, a minimum of **337** people have been killed in **13** different instances of brutal attacks amounting to **extermination** since the attempted *coup*. The combination of open-source data and data collected by AAPP allows the verification of the use of artillery shells and other heavy artillery, such as machine guns, which shows an intent to collectively target pro-democracy protesters and other civilians perceived as such. It also identifies LID 66 as a perpetrator of extermination of civilians during the ‘Christmas Eve massacre’ and LID 44 during the four-step extermination in Kani Township. Those crimes, amongst others committed by the military, are the cause of massive **forcible transfers** of the civilian population. As of May 2022, there are at least 1,000,000 Internally Displaced People (IDP) in Burma, **700,000** of which have been displaced by the conflict and general climate of insecurity since February 1, 2021. Not only do the violence and destruction of homes force civilians to flee, but landmines placed around villages also prevents them from safely returning. The imposition of laws in some township is also a strong push factor, as the fear of **arbitrary detention** is increased. AAPP has verified the arrest of **13,902** political prisoners since the *coup*, 10,847 of whom remain under detention as of May 31, 2022. The often-violent arrests are unlawful by nature as the legal basis used to justify them is contrary to International Law; for one example, the new 505-A provision to the amended Penal Code by the military violates international standards for freedom of expression. AAPP has documented at least **338** children detained - for more than 24 hours – with **61** of them taken as hostages of wanted relatives. Moreover, released prisoners have shared with AAPP the inhumane conditions they endured, with systematic violations to the right to adequate healthcare and visitation. They also reported the outright lack of due process during their trial, which renders any imprisonment unlawful. Convictions are handed out systematically to political prisoners, many times on the basis of coerced confessions obtained through **torture**. Indeed, the junta is conducting beatings at the place of arrest and in prisons as a punishment and intimidation method; and, in interrogation centers to obtain information or confessions. The brutality reaches its peak in interrogation, a

seventeen-year-old released detainee for instance reported being punched a minimum of seven times for each question asked, before being taken to a forest and forced into a pit: “they were threatening to kill me by cutting me with an axe. They put soil into the pit, so my whole body was completely buried with soil – only my head was outside”. The broken bones, skull fractures, or gunshot wounds are poorly nursed or even left fully untreated. Torture comes in many forms and AAPP data revealed not only physical torture, but also psychological torture, through for instance prolonged isolation, the threat of re-arrest upon release, and other denigrating treatment. Rape and other forms of sexual violence are also used as a method of torture. Such cases have been reported in coercive environments such as prisons and interrogation centers, mostly targeting women but affecting all genders. Men have also been victims, for instances of “forcibly injecting bamboo poles into the victim’s anuses” according to the All Burma Federation of Student Unions. Male genitals were also cut off during the massacre in Kani Township; while a female detainee reported enduring genital beatings that caused severe vaginal bleeding, as well as *being touched by a police officer in a sexual way*.

The analysis of the crimes of the junta and the identity of their victims shows that civilians are targeted for their real or perceived political opposition to the military junta. Pro-democracy supporters are **persecuted**, specifically through crimes of murder, extermination, arbitrary detention, and torture. Moreover, the **13,902** civilians according to AAPP’s documentation as of May 31, 2022 that have been targeted for their political affiliations and unlawfully detained have all been **enforced disappeared** at the point of detention. Indeed, the military junta has refused to acknowledge the deprivation of liberty and/or concealed the fate or whereabouts of each of them, cutting detainees off from the outside world completely, for days, weeks or even sometimes, months. The aunt of a victim of enforced disappearance who had previously been shot by the junta described to AAPP the vain efforts she had put into finding her detained nephew, at Insein Prison and in Shwepyithar interrogation center. At the time of the interview, his location was still unknown.

When the attempted *coup* took place, the public health situation was already dire. However, since then, the situation has reached critical heights as the military junta has been weaponizing the COVID-19 pandemic; by restricting access to medical supplies, intentionally harming civilians trying to access such supplies and targeting medical staff.

The commission of these crimes is part of a **widespread** and **systematic** attack targeting the **civilian population**. The murders of 1,875 civilians have been committed throughout the country, as have the 13 massacres confirmed by AAPP, from Bago City to Hpruso Township. The 700,000 people displaced since the *coup* are also distributed from Tanintharyi in the South to Sagaing in the North, with clusters of displacement throughout. The 13,902 civilian victims of arbitrary detention and enforced disappearance are also spread through the country (*c.f.* [AAPP database](#)), with the majority victims of psychological and/or physical torture. Victims of persecution are particularly numerous, as they include all victims of murder, extermination, arbitrary detention and torture that were targeted for their perceived political affiliation. Furthermore, as of May 31, 2022, arrest warrants have been issued against 598 medical workers, and 149 have already been arrested throughout

Myanmar; there has also been 299 attacks of medical personnel, 11 of which resulted in their death. Hence, **all those crimes are widespread based on the significant number of victims and on the geographical scope of the attack.**

The widespread nature of the commission of such crimes is rooted in a culture of impunity that has been surrounding the military junta for decades. The violations committed since the coup are clear repetitions of previously used *modi operandi* that historically never triggered legal repercussions. The systemic recourse to crimes against humanity is a political strategy used to repress opposition. In many cases, the cognizance and planning of the crime is clear, specifically in the case of divisions appointed to target protestors, including the LID 77. They were supplied with weapons and maps of the targets before being transported to these locations throughout Burma, attacking civilians, protestors and youths. The presence of buses and military vehicles waiting to transport protestors to prison, the establishment of roadblocks, the identification of houses owned by protest leaders, and the frequent fabrication of evidence are signs of premeditation in the commission of crimes against humanity. The commission of each crime is part of a larger pattern. For instance, when the military junta fails to find a political opponent, specifically a high profile one, the arrest of family members as hostages and/or the seizure of their property is *quasi*-automatic. If they do find them, they will resort to physical or psychological torture to obtain information and coerce a confession. During detention and interrogation, their families will not be made aware of their location. Hence, the commission of each crime individually is systematic.

Since the crimes take place throughout a large geographical scope, are part of a larger *modus operandi*, and have attracted the attention of national and international media, as well as members of governments across the globe and international organizations, the perpetrators' knowledge that the crimes committed are part of a widespread and systematic attack is established, as developed by the ICC in the Bemba case. Other clues can also be considered, such as statements from the junta themselves. For instance, after the 'Christmas Eve massacre', Major General Zaw Min Tun assured that the soldiers [from LID 66] followed the rules while carrying out the military operation, showing previous knowledge and planning to conduct such military operation. However, the sheer intensity and frequency of the crimes committed appears to be enough to establish the knowledge element, as the context of commission and larger pattern of grave human rights violation is inconceivable to ignore.

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