



**Republic of the Union of Myanmar**  
**National Unity Government**  
**Ministry of Human Rights**



**International Crimes Against the People of Myanmar -**

**War Crimes and Crimes Against Humanity**

**20 October 2023**

**1. Introduction**

The people of Myanmar have demonstrated extraordinary courage and determination in defending their democracy, individual rights and freedoms, and entire communities against escalating atrocities perpetrated by the illegal military regime. Upholding its democratic mandate, the National Unity Government has persistently led from inside Myanmar. Furthermore, in collaboration with its partners in Myanmar, the National Unity Government exercises substantial and expanding territorial control while providing essential public services and humanitarian assistance.

After the attempted coup d'état in 2021 against the democratically elected government, Myanmar spiraled into a civil war, leading to a profound security and human rights crisis.<sup>1</sup> The situation has never been as alarming and dire as it has become in recent months.<sup>2</sup> Multiple pieces of evidence gathered and verified by the National Unity Government, the United Nations bodies, and civil society confirm widespread human rights violations, war crimes, and crimes against humanity against the people of Myanmar.

The conflict in Myanmar spilled across the country as civilians took up arms against the junta. The severity, intensity, and geographical breadth of the conflict have fuelled protracted armed violence between the military junta and resistance groups, resulting in a non-international armed conflict.<sup>3</sup> Available data showcases that civilians have been the targets

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<sup>1</sup> See: Myanmar's multidimensional crises have 'deepened and expanded dramatically', UN News, June 13, 2022, available at: <https://news.un.org/en/story/2022/06/1120292>.

<sup>2</sup> See: Two years after coup, Myanmar faces unimaginable regression, says UN Human Rights Chief, UN Press Release, January 27, 2023, available at: <https://www.ohchr.org/en/press-releases/2023/01/two-years-after-coup-myanmar-faces-unimaginable-regression-says-un-huma>.

<sup>3</sup> The analysis of the National Unity Government indicated that the threshold of hostilities has amounted to non-international armed conflict in the meaning of the Common Article 3 to the Geneva Conventions of 1949, Art. 1 of Additional Protocol II to the Geneva Conventions of 1949. See also: ICTY, *The Prosecutor v. Dusko Tadic*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 2 October 1995, para.70; Y. Sandoz/C.Swinarski/B. Zimmermann, Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, ICRC, Geneva, 1987, para. 4461.

of intentional attacks perpetrated mainly through airstrikes, extrajudicial killings resulting in ground operations, pillaging and burning of villages, unlawful detention, or torture. In addition, numerous reports confirm that the military junta has systematically and widely targeted civilians through indiscriminate and disproportionate attacks.<sup>4</sup> Despite this protracted campaign of violence, the National Unity Government's findings confirm that the regime continues to act with deeply ingrained impunity while depriving victims of their rights and adequate access to justice.

Myanmar is a party to the Four Geneva Conventions of 1949 and several international human rights treaties. The NUG has also issued a declaration under Article 12(3) under the Rome Statute granting the International Criminal Court countrywide jurisdiction from 2002. All parties in Myanmar, including the military junta, are bound by relevant rules of customary international law that apply to non-international armed conflicts. Crimes against humanity and war crimes are impermissible under the generally applicable international law. Acts reported as crimes against humanity and war crimes in the meaning of the Rome Statute are unequivocally prohibited. As such, they require an immediate and robust response from the international community, including protecting civilians, de-escalating the crisis, and holding those responsible criminally liable under the International Criminal Court's or within the universal jurisdiction.

This report relies on information gathered by human rights documenters of the Ministry of Human Rights and other human rights organizations. This data has been validated, and the findings included herein are driven by information the MOHR has assessed as credible and reliable based on the "reasonable grounds of belief" standard of proof.

## **2. Background: Grave Human Rights Violations and International Crimes in Myanmar**

After the failed attempt to seize power by the military junta in a coup d'état in 2021 against the democratically elected government of Myanmar,<sup>5</sup> the National Unity Government has witnessed a continued deterioration of the country's security. It has been estimated that over 600-armed resistance groups and people's defense forces took up arms against the military

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<sup>4</sup> Ibid.

<sup>5</sup> See: *Illegal and illegitimate: examining the claim by the Myanmar military to be the Government of Myanmar, and the international response thereto*. Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/52/CRP.2. In this report, the Special Rapporteur on the situation of human rights in Myanmar argued that "the junta (the State Administrative Council, SAC) is not a legitimate government and should not be recognized, or engaged with, as such. The SAC lacks effective control of the country, has no democratic or constitutional legitimacy, and cannot stake a claim to being the legitimate representative of the people of Myanmar. The Special Rapporteur further indicated that "The SAC lacks control over all or most of the territory of Myanmar." The Special Rapporteur urged "that Member States who support human rights, democracy, and the aspirations of the people of Myanmar publicly reject the SAC's false claim as a legitimate government and instead recognize the NUG as the legitimate representative of the people of Myanmar."

junta and are engaged in civil war. In response, the junta enhanced its attacks as an act of collective punishment and as part of a systematic strategy to inflict terror upon the civilian population.

As the UN High Commissioner for Human Rights stated in January 2023, “*Despite clear legal obligations for the military to protect civilians in the conduct of hostilities, there has been a consistent disregard for the related rules of international law. Far from being spared, civilians have been the actual targets of attacks.*”<sup>6</sup> He further indicated that “[*t*]here are reasonable grounds to believe that the military and its affiliated militias continue to be responsible for most violations, some of which may constitute crimes against humanity and war crimes.”<sup>7</sup>

The incidents reported by the National Unity Government from February 2021 till today provide strong evidence driving the conclusion that the **military junta did commit crimes against humanity as part of its widespread and systematic attack against the civilian population – and, to the extent arising in armed conflict, war crimes, in the meaning of the Rome Statute.** As reported, the most common lethal methods used by the military junta, as identified by the National Unity Government, the UN bodies, and civil society, were air strikes, extrajudicial executions committed by ground operations, and burning civilian properties and infrastructures, including destroying entire villages through arson.<sup>8</sup>

Overall, the National Unity Government gathered evidence confirming 158 cases of massacres (at least 5 people in one case) involving the deaths of 1,723 persons, the majority of which were adult men, as of 19 October, 2023. The region most affected has been the Sagaing Region, followed by Kachin, Bago, Magway, Yangon, Shan, Chin, Karenni, Rakhine, Mandalay, Tanintharyi, and Ayeyarwady. As regards the arson and burning of civilian houses and infrastructure, the National Unity Government documented 2,029 instances of burned villages, 75,920 destroyed houses, 73 - wards, 66 - places of religious

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<sup>6</sup> See: Two years after the coup, *supra* note 3. Similarly: UN High Commissioner for Human Rights, Volker Türk: “Tragically, regional and global efforts for peace and restraint have largely fallen on deaf ears. The military, emboldened by continuous and absolute impunity, has consistently shown disregard for international obligations and principles. Urgent, concrete action is needed to end this festering catastrophe.”, see: <https://docs.google.com/document/d/1HChtMsAR2hI7aw6cCNX5kwDiP-fiYHcNI5WLCajxFcLY/edit>, and <https://www.ohchr.org/en/statements/2023/04/un-human-rights-chief-volker-turk-condemns-myanmar-attacks>.

<sup>7</sup> UN High Commissioner for Human Rights, Volker Türk, Military’s ‘four cuts’ doctrine drives perpetual human rights crisis in Myanmar, says UN report, see: <https://www.ohchr.org/en/press-releases/2023/03/militarys-four-cuts-doctrine-drives-perpetual-human-rights-crisis-myanmar>.

<sup>8</sup> See Report of the UN High Commissioner for Human Rights, A/HRC/54/59; Revenge Against the People: Killing of Civilians in the Context of Conflict and Repression in Myanmar, Report, Equality Myanmar.

worship, 53 - schools, and 16 - medical buildings destroyed by arson, while arson caused 334 deaths.<sup>9</sup>

Since February 2021, the junta has killed civilian children, women, and men, including during peaceful protests, through airstrikes, ground operations, or arson and burning villages. The National Unity Government documented cases of 4,149 deaths, 25,308 arrests (including 19,621 ongoing arrests), 7,777 convictions of civilians identified as activists, and 103 cases of sexual violence since February 2021. It also estimated that 2,000,000 people have been internally displaced, mainly in Magway, Sagaing, Chin, Karen, and Karenni. UN estimates that 158 people were sentenced to death by military-junta-controlled courts and four people had been executed as of 19 October, 2023. Political prisoners remained detained in deplorable conditions, and reports of torture, sexual violence, and deaths in prisons or during prison transfers have been regularly reported to the UN.<sup>10</sup> Overall, the use of airstrikes has been progressively increasing since February 2021. Between 1 April 2022 and 31 July 2023, the airstrikes amounted to 687, compared to 301 airstrikes documented between February 2021 and March 2022, killing at minimum 281 individuals, according to data collected by the UN.<sup>11</sup> Additionally, 15.2 million persons are estimated to be moderately or severely food insecure<sup>12</sup>, while the military junta had happened to block the transport of food, medicine, and vaccines by traders, as well as humanitarian aid.<sup>13</sup>

For instance, in April 2023, the military junta used a “thermobaric” munition and multiple airstrikes in an indiscriminate and disproportional attack on an opposition building in the village of Pa Zi Gyi, in Sagaing Region, resulting in the largest mass casualty incident recorded since February 2021.<sup>14</sup> On 10 April, 2023, at least nine civilians were killed and several others injured when the Myanmar military junta launched airstrikes on Waibula town in Falam Township, Chin State, dropping two bombs near the school and football field. An air and ground attack in Magway Region on April 21, 2023, burned a Japan-funded hospital, a Japan-Myanmar Friendship Hospital during a raid on a village in Myaing Township.<sup>15</sup> On May 10, 2023, the military junta raided Nyaung Pin Thar, plundering the village, killing 19 people, including four children, and burning their bodies. On 9 October 2023, the military

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<sup>9</sup> See also Report of the UN High Commissioner for Human Rights, A/HRC/54/59.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Report of the Special Rapporteur on the situation of human rights in Myanmar, A/78/527.

<sup>14</sup> Report of the UN High Commissioner for Human Rights, A/HRC/54/59.

<sup>15</sup> Irrawaddy, T. (2023, April 20). Myanmar regime troops destroy japan-funded hospital and kill teenage boy. The Irrawaddy. <https://www.irrawaddy.com/news/burma/myanmar-regime-troops-destroy-japan-funded-hospital-and-kill-teenage-boy.html>

junta attacked the Mung Lai Hkyet IDP camp, close to the town of Laiza in Kachin State, near Myanmar's border with China, killing at least 30 civilians, mostly women and children in a midnight air strike.

Additionally, the situation of the Rohingya people in the Rakhine Region continues to be alarming. Six years after genocidal attacks by the Myanmar military junta in Rakhine, the Rohingya continue to face violence, persecution, and neglect regardless of their location.<sup>16</sup> It requires the utmost attention of the international community, given that approximately 600,000 Rohingya remain under an apartheid regime, with 140,000 confined to de facto internment camps, where they have been deprived of humanitarian aid in particular in the wake of Cyclone Mocha, with devastating consequences.<sup>17</sup>

Documentation has been widely gathered by the National Unity Government, human rights groups, including Human Rights Watch, Amnesty International<sup>18</sup>, the UN High Commissioner for Human Rights, the UN Special Rapporteur on the situation of human rights in Myanmar, and the Independent Investigative Mechanism for Myanmar.<sup>19</sup> Growing, strong evidence has led to a common recognition of mass-scale killings and widespread indiscriminate or disproportionate attacks against civilians and civilian objects in Myanmar.

Amnesty International called for “[t]he world ... [to] wake up to the horror unfolding daily in Myanmar. The UN Security Council should impose a long-overdue arms embargo, including on the supply of aviation fuel, as the Myanmar military repeatedly unleashes its arsenal on civilians across the country.” referring to continuous accounts of indiscriminate attacks against civilians, “many of which amount to war crimes.”<sup>20</sup> Additionally, Human Rights Watch stated that the “security forces have been implicated in mass killings, arbitrary arrests and detention, torture, sexual violence, and attacks on civilians in conflict areas. Amid a post-

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<sup>16</sup> Report of the Special Rapporteur on the situation of human rights in Myanmar, A/78/527.

<sup>17</sup> See Report of the UN High Commissioner for Human Rights, A/HRC/54/59; Report of the Special Rapporteur on the situation of human rights in Myanmar, A/78/527.

<sup>18</sup> See also: Human Rights Watch, Myanmar: Abuses Mount Since Military Coup, available at: <https://www.hrw.org/news/2023/01/12/myanmar-abuses-mount-military-coup>; Amnesty International, Myanmar: Two years after coup, global action needed to halt military's 'nationwide assault on human rights', available at: <https://www.amnesty.org/en/latest/news/2023/01/myanmar-coup-second-anniversary/>; Amnesty International, Myanmar: Military onslaught in eastern states amounts to collective punishment, <https://www.amnesty.org/en/latest/news/2022/05/myanmar-military-onslaught-in-eastern-states-amounts-to-collective-punishment/>; Relief, 9 children among 11 civilians killed in Myanmar military attacks in Shan State and Sagaing, 16 Sept, available at: <https://reliefweb.int/report/myanmar/9-children-among-11-civilians-killed-myanmar-military-attacks-shan-state-and-sagaing-16-sept>; Relief Human, Not for Shield: Attack on civilians in Bilin Township, Doo Tha Htoo District, April 22nd to May 22nd 2022, available at: <https://reliefweb.int/report/myanmar/human-not-shield-attack-civilians-bilin-township-doo-tha-htoo-district-april-22nd-may-22nd-2022>

<sup>19</sup> See also Report of the Independent Investigative Mechanism for Myanmar, A/HRC/54/19.

<sup>20</sup> Amnesty International, Myanmar: 28 civilians killed in military air strike – new investigation and witness testimony.

*coup d'état economic crisis, the junta has severely hindered the delivery of humanitarian aid to communities most at risk.*"<sup>21</sup>

Mr. Tomas Andrews, the UN Special Rapporteur on the human rights situation in Myanmar stated: "[a]rbitrary detention, torture and systematic attacks on villages have become hallmarks of the junta. The military is repeatedly attacking civilian populations throughout the country and has quite literally made war on the Myanmar people."<sup>22</sup>

Mr. Volker Turk, UN High Commissioner for Human Rights, called to end this "*unspeakable tragedy*" and "*inhumanity in its vilest form*",<sup>23</sup> as the "*widespread campaigns of violence perpetrated by the military continue, in full disregard for the fundamental principles of humanity and repeated demands of the United Nations Security Council for an immediate cessation of the hostilities and calls for unhindered humanitarian access*". He further added that the most recent report published by his office in September 2023 "*describe[s] a range of incidents - many of particular brutality, emblematic of a systematic negation of human rights, human life, and human dignity.*"<sup>24</sup>

In its fifth report, the Independent Investigative Mechanism for Myanmar indicated strong evidence that the Myanmar military junta and its affiliate militias are committing increasingly frequent and brazen war crimes.<sup>25</sup>

The United Nations Security Council, in its landmark resolution regarding the situation of Myanmar adopted in December 2022, demanded "an immediate end to all forms of violence throughout the country" and urged "all parties to respect human rights, fundamental freedoms, and the rule of law," and called to "uphold democratic institutions and process," along with the release of "all arbitrarily detained prisoners, including President Win Myint and State Counsellor Aung San Suu Kyi."<sup>26</sup>

Importantly, what the National Unity Government asserts as a missed opportunity is that the Security Council has not exercised its Chapter VII powers to impose a global arms embargo or targeted economic sanctions or to refer the situation in Myanmar to the International

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<sup>21</sup> Human Rights Watch, Myanmar: Abuses Mount Since Military Coup, January 12, 2023, available at: <https://www.hrw.org/news/2023/01/12/myanmar-abuses-mount-military-coup>.

<sup>22</sup> OHCHR, UN expert urges Japan to step up pressure on Myanmar junta, see <https://www.ohchr.org/en/press-releases/2023/04/un-expert-urges-japan-step-pressure-myanmar-junta>

<sup>23</sup> See the UN High Commissioner for Human Rights, Interactive Dialogues on Myanmar, 26 September 2023, available at: <https://www.ohchr.org/en/statements-and-speeches/2023/09/myanmar-turk-calls-new-thinking-end-unspeakable-tragedy>.

<sup>24</sup> See the UN High Commissioner for Human Rights, Interactive Dialogues on Myanmar, 26 September 2023, available at: <https://www.ohchr.org/en/statements-and-speeches/2023/09/myanmar-turk-calls-new-thinking-end-unspeakable-tragedy>.

<sup>25</sup> Ibid.

<sup>26</sup> UN Security Council, Resolution S/RES/2669 (2022), December 21, 2022.

Criminal Court. The United States, United Kingdom, European Union, Canada, and Australia took action individually and imposed sanctions to protect the people of Myanmar from grave human rights violations and international crimes.<sup>27</sup>

### **3. Crimes Against Humanity**

According to Article 7(1) of the Rome Statute, crimes against community are committed as part of a widespread or systemic attack directed against any civilian population with knowledge of the attack and include, among others, murder (7(1)(a)), deportation or forcible transfer of population (7(1)(d)), imprisonment (7(1)(e)), torture (7(1)(f)), sexual offences (7(1)(g)), persecution (7(1)(h)), enforced disappearance (7(1)(i)), or other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body and mental health (7(1)(k)).

Almost three years after the attempted coup d'état, the human rights situation in Myanmar continues to deteriorate significantly, exposing the population to gross human rights infringements and serious violations of international humanitarian law while eroding the civilian rule of law, governance, and justice.<sup>28</sup> According to Independent Investigative Mechanism for Myanmar, these and other acts devastate the entire civilian population, consume many victims, and cause great suffering or serious injury to the body or mental health both individually and as a community.<sup>29</sup>

Reported attacks in Myanmar against the civilian population are widespread, comprising multiple commissioned acts perpetrated in all states nationwide, including military acts, as part of the junta's intentional strategy. Evidence gathered by the National Unity Government confirms cases of murder, unlawful detention, torture, sexual violence in detention, enforced disappearances, persecution, taking hostages, forcing internal displacement, passing sentences, and carrying out executions without fair trial and judicial guarantees by the military junta.

Furthermore, the attacks directed at the people of Myanmar and their infrastructure are systemic. The National Unity Government's analysis of attacks disclosed existing patterns for the regime's violence, including perpetrating indiscriminate attacks in villages and broader operations strategies. For example, the National Unity Government's investigations and documentation identified a repeated pattern of attacks, including the sequences of an air strike, deploying troops from the sky followed by a light infantry attack on villages,

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<sup>27</sup> Report of the Special Rapporteur on the situation of human rights in Myanmar, A/78/527.

<sup>28</sup> Report of the UN High Commissioner for Human Rights, A/HRC/54/59.

<sup>29</sup> See also Report of the Independent Investigative Mechanism for Myanmar, A/HRC/54/19.

targeting civilians, burning civilian infrastructure, and using civilians as living shields while retreating from the attack. Numerous reports expose repeating patterns of attacks on schools, places dedicated to religion, hospitals, and civilian gatherings.

Importantly, the broader policy of the military junta to attack and harm the civilian population has had devastating consequences on individuals and entire communities living in a continuous atmosphere of distress and terror, fearing loss of life and health of their families and themselves, having their households damaged, and economic security destroyed. The patterns of military junta's violence and recurring attacks in civilian areas forced many to flee their communities and houses or stay in hiding, impairing their ability to continue with their life, and making them instead live in terror and constant fear of attack and retaliation.

The large-scale violence and its progressive increase in severity and breadth have disclosed repeated patterns and have indicated the existence of the junta's broader policy. Additionally, the military junta has used recurring and deliberate tactics in individual operations targeting civilians. Therefore, the National Unity Government asserts that the military junta's forces are committing crimes against humanity against the people of Myanmar, according to Article 7 of the Rome Statute, and as such, require immediate decisive international attention, action to protect civilians, and further investigation.

#### **4. War Crimes**

Documentation gathered and verified by the National Unity Government has documented numerous war crimes within the non-international armed conflict on the territory of Myanmar as defined by the 8 (c)-(e) Rome Statute. The accounts include evidence of breaching international humanitarian law and grave human rights violations, including attacks against civilians, civilian objects, prisoners of war, or other protected persons. The National Unity Government has also gathered evidence confirming torture, sexual violence, enforced disappearances, taking civilians hostage, mistreating persons hors de combat, including extrajudicial killings, using civilians as human shields, looting and pillaging civil houses, and burning and destroying entire villages, causing mass-scale displacement across Myanmar.<sup>30</sup>

In particular, the National Unity Government has identified the three most common types of war crimes, the intensity of which has increased significantly over the past months: (1) indiscriminate or disproportionate targeting of civilians using air strikes and bombs; (2)

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<sup>30</sup> See also Report of the Independent Investigative Mechanism for Myanmar, A/HRC/54/19.

killings of civilians or combatants detained during operations; and (3) large-scale and intentional pillaging, looting, and burning of civilian dwellings and other civilian buildings.”<sup>31</sup>

Below, the National Unity Government presents selected emblematic case studies showcasing acts of war crimes within the non-international armed conflict committed by the military junta on the territory of Myanmar, breaching international humanitarian law and human rights and unlocking the individual accountability for war crimes of those liable under international criminal law.

**1) Attack on Civilians near Moso Village, Hpruso Township, Karenni State**

- 2) On the afternoon of 24 December 2021, thirty-four people including women, children, and NGO staff (Save the Children) were burned alive along with their vehicles by Infantry Regiment 108 under Infantry Division 66 and joint forces near Moso Village, Hpruso Township, Karenni State. The vehicles were also looted for food, medication, and gasoline. Additionally, members of the Myanmar Army tortured and arrested local villagers and stole their private property. **Attack on the school in Let Yet Kon Village, Sagaing Division**

On September 16, 2022, around midday, two junta Mi-35 helicopters directed heavy fire at a monastic elementary school in Let Yet Kon Village in Depayin Township, Sagaing Region. The attack lasted for approximately 45 minutes during school hours. The airstrike was followed by a ground operation and included troop shooting against civilians. Seven children were killed, some as young as six and seven, and numerous students and school staff sustained severe injuries. Bodies were cremated by the military junta and not returned to families.

Simultaneously, the military junta, using two fighters conducted an airstrike targeting the village and its vicinity, which included the village’s clinic. The airborne bombardment was followed by attacks from the ground, surrounding the village from four sides. Following the existing pattern, troops were indiscriminately shooting and killing, among many, a local fisherman and a female farmer. Civilians were taken hostage, some of whom were subsequently murdered. Reportedly, at least three men from the resistance group in hiding and not participating in hostilities, were killed, and their bodies were thrown into the river. Many others were subjected to various degrees of physical harm. Witness testimonies attest

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<sup>31</sup> See also Report of the Independent Investigative Mechanism for Myanmar, A/HRC/54/19, June 30, 2023; Report of the UN High Commissioner for Human Rights, A/HRC/54/59; *Revenge Against the People: Killing of Civilians in the Context of Conflict and Repression in Myanmar*, Report, Equality Myanmar.

that 20 people, including teachers and school students, were arrested and used as human shields. Civilian houses were pillaged and looted, and burned down.

### **3) Attack on an Open-Air Public Event in A Nang Pa Village, Kachin State**

On October 23, 2022, during the evening hours, three military jet fighter aircraft carried out an aerial bombardment against an open-air public event within the environs of A Nang Pa village in Phakant Township in Kachin State, killing over 80 people. The purpose of this event was to commemorate the 62nd anniversary of the Kachin Independence Organization (KIO), attracting the attendance of numerous individuals, including civilians, performing artists, musicians, local entrepreneurs, and political dignitaries, who had congregated around a central stage. Three bombs were dropped successively on the venue, targeting the audience and killing over 80 people. Those injured were restricted from receiving medical treatment, leading to more deaths and the overall increase of the death toll of this massacre. According to eyewitness accounts, the exterior dimensions of the bomb resembled a 20-liter water tank. Pertinent witness reports suggest that, on the day of this event, the checkpoint proximate to the village had facilitated participants' entry, waiving usual security checks.

### **4) Series of Attacks on Civilians in Pazigy Village, Sagaing Division**

On April 11, 2023, the military junta performed two attacks on the Pazigy village in Kantbalu Township in Sagaing Region. The initial one occurred in the morning hours, during which a 500-pound explosive was released from a YAK-130 jet fighter onto a civilian assembly organized by the village's administration. This attack was followed by a Mi-35 helicopter protracted airstrike on a village spanning approximately 30 minutes. This civilian assembly gathered the local community of not only the Pazigyj village but also villagers from nearby Tharyamon, Deng Zin, Maeza, and Tanning villages. As a result, 157 civilians, including women and children, were killed, succumbing to fatal injuries. Many suffered from bone fractures, extensive burns, injuries necessitating amputations, and severe psychological trauma.

The second attack on the village occurred during the early evening hours, approximately at 5.45 pm, and involved an A5 jet fighter armed with a 23-millimeter machine gun. It encompassed six distinct airstrikes, each extending approximately 15 minutes. This attack led to further casualties, damage to the village's private housing and infrastructure, and fleeing medical rescue teams. Consequently, many people fled their houses, fearing further attacks. It should also be noted that ground troops had already attacked the Pazigy village twice.

### **5) Attack on the school in Wuntho Township, Sagaing Division**

On September 27, 2023, the military junta, operating through its Light Infantry Battalion No. 120, under the control of Division 33, conducted a brutal assault using heavy weaponry on both a monastery and a village-based school in Joe Taug Ywama village, Wuntho Township, Sagaing Division. The attack inflicted harm on 20 primary school children and one teacher, causing burns to three children, injuries from bullets to ten children and their teacher, and necessitating surgery for seven children due to injuries from bullet fragments.

### **6) Airstrike Attack to Kuafo Village, Thantlang Township, Chin State**

On March 30, 2023 two MI-35 aircraft belonging to the Military Junta conducted multiple bombings on Kuafo village. Kuafo village, located about 5 miles from Thantlang Township, Chin State, is home to a population of 230 residing in 53 houses. Notably, there were no hostilities in the village at the time. The use of internationally unrecognized phosphorus bombs and cluster mines resulted in the tragic deaths of eight civilians, including four children under 18, and injuries to eleven civilians, eight of whom were children under 18. Moreover, the bombardment caused damage to seven civilian buildings and a Baptist church in the village.

### **7) Attack on Munglai Hkyet village and internally displaced persons' camp, Kachin State**

On 9 October 2023, the military junta attacked the Munglai Hkyet village in Laiza Township in Kachin State, where the internally displaced person camp was situated, using heavy artillery and air strikes, including disproportionate deployment of high-explosive bombs. The massacre caused significant damage, resulting in the death of 30 individuals, 16 men, 14 women. 15 children as young as 2 months old are among them. It also destroyed over fifty buildings, including a school, preschool, and a church, in the village with approximately 500 residents and displaced individuals.

- **Application of international humanitarian law and international criminal law**

Evidence gathered by the National Unity Government supports the assertion that war crimes have occurred in the above cases. Common Article 3 of the Geneva Conventions of 1949, Additional Protocol II, Article 8 (c)-(e) of the Rome Statute, and customary international law protect civilians during non-international armed conflicts, prohibiting indiscriminate attacks, acts of violence, harm, and intimidation against civilians and civilian objects, and emphasizing the principles of proportionality and distinction between combatants and non-combatants.

Common Article 3 to the four Geneva Conventions of 12 August 1949 outlines the minimal protections that must be afforded to individuals in the case of non-international armed conflicts, stipulating that persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall be treated humanely. Article 13(2) of Additional Protocol II prohibits making the civilian population, as well as individual civilians, the object of attack in non-international armed conflicts, in line with the principle of distinction between civilians and combatants.<sup>32</sup> Additionally, under the Article 8(2)(e)(xii) Rome Statute, an attack against a civilian object constitutes a war crime as long as such an attack is not imperatively demanded by the necessities of the conflict, which is followed by the principle of distinction between civilian objects and military objectives, which is a well-established norm of customary international law.<sup>33</sup> Additionally, Article 13(2) of Additional Protocol II prohibits acts or threats of violence, the primary purpose of which is to spread terror among the civilian population.

Under customary international law, state practices have prohibited indiscriminate attacks in non-international armed conflicts<sup>34</sup>, that are (1) not directed at any specific military objective, (2) that employ a method or means of combat that cannot be directed at a specific military objective, or (3) that employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law. Additionally, launching an attack lacking proportionality that may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive to the concrete and direct military advantage anticipated, is also prohibited.<sup>35</sup>

Further, in case of armed conflicts of non-international character, serious violations of Article 3 to the four Geneva Conventions committed against civilians and persons not actively participating in hostilities that cause violence to life and person (in particular murder, mutilation, cruel treatment and torture), induce humiliating and degrading treatment, results in taking hostage, and extrajudicial executions are prohibited under the Rome Statute (Article 8(2)(c)(I)-(iv)) and as such lead to individual criminal liability for war crimes. Similarly, the Rome Statute prohibits other serious instances of violations of the laws and customs applicable in armed conflict not of international character under Article 8(2)(e)(I)-(xv).

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<sup>32</sup> Rule 1 IHL, ICRC IHL Database, available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule1>.

<sup>33</sup> Rule 7 IHL, ICRC IHL Database, available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule7>.

<sup>34</sup> The jurisprudence of the International Criminal Tribunal for the Former Yugoslavia provides further evidence of the customary nature of the prohibition of indiscriminate attacks in both international and non-international armed conflict, See Tadić case, Interlocutory Appeal (§ 134) [in:] Rule 11 IHL, ICRC IHL Database, available at: [https://ihl-databases.icrc.org/en/customary-ihl/v1/rule11#Fn\\_96E03BC0\\_00020](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule11#Fn_96E03BC0_00020).

<sup>35</sup> Rule 14 IHL, ICRC IHL Database, available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule14>.

In all seven cases described above, the military junta's actions involved deliberately targeting civilians, indiscriminate attacks leading to civilian casualties, disproportionate use of force, and other prohibited tactics, leading to grave breaches of international humanitarian law, specifically Common Article 3 of the Geneva Conventions, Additional Protocol II, and customary International law.

In the first case regarding the monastic elementary school during school hours in Let Yet Kon village, the attack was performed for 45 minutes using two Mi-35 helicopters during school hours, resulting in the death of seven students and severe injuries to children and school staff, clearly stating the intent to attack a civilian object. Additionally, overall, attacking the school and the village through heavy fire from helicopters and ground operations without distinguishing between possibly present combatants and civilians constitutes an indiscriminate attack. The fact that classes were in progress and the attack persisted indicates a disregard for the principle of distinction. Breach of civilian protection is further demonstrated by arresting and using individuals as human shields and disregarding civilian property by pillaging and looting houses, as per witnesses' reports.

This massacre results in serious violations of Article 3 common to the four Geneva Conventions by committing violence to life and persons not actively participating in hostilities, and amounting to the war crime of violence to life and person, in particular murder - Article 8(2)(c)(i)-1, cruel treatment - Article 8(2)(c)(i)-3, and taking of hostages - Article 8(2)(c)(iii) under the Rome Statute. Additionally, the attack constitutes a war crime of intentionally directing attacks against the civilian population - Article 8(2)(e)(i), intentionally directing attacks against buildings dedicated to education - Article 8(2)(e)(iv), pillaging, looting, and disproportional burning of civilian dwellings - Article 8(2)(e)(v) and Article 8(2)(e)(xii) Rome Statute.

In the case, the airstrike on the outdoor public event in A Nang Pa Village targeted a celebration attended by hundreds of people, leading to many deaths. The timing and nature of the attack indicate an intentional targeting of civilians engaged in a peaceful public event. Additionally, even if there were combatants actively participating in hostilities present, the use of military jet fighters and the dropping of bombs on a densely populated demonstrates an indiscriminate attack, which also raises severe concerns about the proportionality of the use of force.

As such, this case amounts to the war crime of violence to life and person, in particular murder - Article 8(2)(c)(i), intentionally directing attacks against the civilian population - Article 8(2)(e)(i) and destroying civilian objects - Article 8(2)(e)(xii) under the Rome Statute.

In the case, the series of attacks on Pazigy village, including aerial and ground assaults, resulted in the deaths of 157 civilians, including women and children, showing a deliberate and coordinated effort to target civilians and civilian objects. The attacks involved various types of military aircraft, rockets, and machine guns, indicating disproportionate use of force in a civilian area, far from military targets, direct killings, and indiscriminate targeting leading to war crimes of violence to life and person, in particular murder - Article 8(2)(c)(i), intentionally directing attacks against the civilian population - Article 8(2)(e)(i) and disproportional destroying property of adversary - Article 8(2)(e)(xii) under the Rome Statute.

In the case of attack on the school in Wuntho Township, the military junta deliberately and indiscriminately targeted civilians in Wuntho Township. This assault on the monastery and village-based school flagrantly violated the principle of distinction. The intentional use of heavy weaponry in a populated area disregarded the prohibition of indiscriminate attacks, posing a severe risk to civilian lives. Furthermore, the deliberate targeting of a monastery and school, protected under international law, runs afoul of the principle of proportionality and undermines the respect owed to religious and educational institutions during armed conflicts. This act amounts to a grave breach of Common Article 3 of the Geneva Conventions and violates international humanitarian law. As such, the massacre constitutes war crimes of violence to life and person, in particular murder - Article 8(2)(c)(i), intentionally directing attacks against the civilian population - Article 8(2)(e)(i), and intentionally directing attacks against buildings dedicated to religion and education - Article 8(2)(e)(iv) under the Rome Statute.

In the case of attack to Kuafo Village, the MI-35 aircraft conducted multiple bombings on a civilian-populated area, resulting in the deliberate targeting of civilians, indicative of war crimes. The use of internationally unrecognized phosphorus bombs and cluster mines is in violation of international law, as these weapons are known to cause excessive harm to civilians and property. The attack also clearly violated the principle of distinction, a crucial component of international humanitarian law. This attack violates Common Article 3 of the Geneva Conventions, and amount to war crimes of violence to life and person, in particular murder - Article 8(2)(c)(i), intentionally directing attacks against the civilian population - Article 8(2)(e)(i), and disproportional destroying property of adversary - Article 8(2)(e)(xii) under the Rome Statute.

In the case, the military junta's assault on Munglai Hkyet village involved heavy artillery and air strikes, including the disproportionate deployment of high-explosive bombs. This constitutes a clear violation of international humanitarian law, explicitly breaching the prohibition against indiscriminate attacks and the principle of proportionality. The intentional targeting of Munglai Hkyet village, which housed an internally displaced person camp, is a direct infringement of the principle of distinction, as it is a civilian-populated area. The destruction of over fifty buildings, encompassing a school, preschool, and church, amounts to an attack on civilian objects, a blatant violation of international humanitarian law. The analysis led to the conclusion that the massacre constituted a war crime of violence to life and person, in particular murder - Article 8(2)(c)(i), intentionally directing attacks against the civilian population - Article 8(2)(e)(i), and intentionally directing attacks against buildings dedicated to religion and education - Article 8(2)(e)(iv) under the Rome Statute.

In the case of the attack on Civilians near Moso Village, Hpruso Township, the attack resulted in the killing of civilians, indicating the commission of war crimes. Civilians were targeted in the attack, which is a breach of the principle of distinction, a key component of international humanitarian law. Additionally, the nature of the attack suggests indiscriminate and disproportional violence against civilians, as well as civilian property. The attack on civilians clearly contravenes Common Article 3 of the Geneva Conventions and other principles of humanitarian law, which safeguards individuals not taking part in hostilities during non-international armed conflicts. As such, the massacre constituted a war crime of violence to life and person, in particular murder - Article 8(2)(c)(i), intentionally directing attacks against the civilian population - Article 8(2)(e)(i), pillaging - Article 8(2)(e)(v), under the Rome Statute.

Further, in all cases, the military junta's commanders and their militia allies knew or must have known about the substantive presence of civilians in areas and places targeted at the time of attacks, as these regions were densely populated with residential neighborhoods and essential non-military infrastructure. Despite this, the commanders did not prevent the attacks or hold the perpetrators accountable, creating an overall atmosphere of impunity, consequently leading to increased violence. Importantly, military commanders are obliged under international law to prevent or repress war crimes committed by their subordinates.

Failure to do so may not only trigger their command responsibility but also serve as additional proof of their actual intent to commission war crimes.<sup>36</sup>

Existing evidence supports the conclusion that war crimes have been committed by the military junta's forces in Myanmar in each of the described cases, violating international law, particularly the Common Article 3 of the Geneva Convention, Additional Protocol II, and the Rome Statute. Therefore, the chain of command liability for war crimes unlocks and warrants the pursuit of individual criminal accountability under the Rome Statute. The urgent need for justice and reparation for the victims demands an impartial and fair trial, followed by effective prosecution by competent courts for the listed war crimes against civilians and civilian infrastructure in Myanmar.

## **5. Lack of Access to Justice for Victims of Human Rights Violations and War Crimes**

No rule of law in Myanmar or reliable transitional justice mechanisms exist to hold the military junta accountable for grave human rights violations, war crimes, and crimes against humanity. Attacks against innocent civilians continue with impunity due to this lack of accountability mechanisms. Notably, transitional justice requires, among others, reparations to victims, recognition and acknowledgment of the truth about mass violations, and legal reforms to guarantee non-repetition. In Myanmar, however, the regime has blocked all possible transitional justice pathways.

Justice for victims is routinely denied as soldiers are protected in military junta's courts. In 2015, the Reparations Working Group was established to advocate for state-led reparations for victims' programs. However, since February 2021, these efforts have been forcibly put on hold. For victims and survivors of the military junta's brutal assaults on civilian lives, justice is long overdue. Nonetheless, the military junta's violations will persist without any substantial policy commitment related to institutional reform in Myanmar.

## **6. Recommendations**

The National Unity Government calls for adopting the following recommendations:

### **To the Government of the United Kingdom:**

- Continue to work with key international partners to introduce strengthened sanctions against the military junta that target its capacity to access arms, munitions, dual-use items, jet fuel and sources of revenue used to fund its atrocity campaigns.

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<sup>36</sup> See Report of the Independent Investigative Mechanism for Myanmar, A/HRC/54/19

- Work with Security Council partners to adopt a follow-up resolution to 2669 (2022) that also introduces punitive (Chapter VII) measures against the junta, advances accountability efforts, and confirms its support for the will and interests of the Myanmar people.
- Engage with the new ASEAN “troika” mechanism (Indonesia, Laos, Malaysia) to support the development of a concrete 5PC implementation plan that sets out clear deliverables, timeframes and punitive measures for continued junta compliance failures and acts of violence.
- Encourage the International Criminal Court to accept the article 12(3) declaration issued by the National Unity Government in 2021.
- Use UK courts to prosecute atrocity crimes committed in Myanmar under universal jurisdiction.
- Consider joining/intervening in The Gambia v. Myanmar case before the International Court of Justice
- Consider increasing humanitarian assistance, given the deepening crisis.
- Consider extending its support to CSOs and Human Rights Organizations, including the NUG Ministry of Human Rights, for collecting evidence and documenting human rights violations.
- Consider bringing like-minded, free, and democratic countries into an International Alliance on Burma, similar to the International Alliance for Ukraine. This could be done through UK Alliance, Partners, and platforms like G7, G20, and relevant UN bodies.

**To the UK Parliament:**

- The UK parliament should adopt a motion recognizing the National Unity Government as the legitimate government of Myanmar and use this as a basis for advocating with the UK Government to do the same.