



Assistance Association for Political Prisoners (AAPP)
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Assistance Association for Political Prisoner's Submission
to
Special Rapporteur on extrajudicial, summary or arbitrary executions

Call for input – Deaths in custody

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Founded in 2000, the Assistance Association for Political Prisoners (Burma), also known as AAPP, is a human rights organization that advocates for the release of all political prisoners in Burma and for the improvement of their quality of life during and after incarceration. For AAPP, political prisoners represent the struggle for democracy, human rights, equality, and freedom for the people of Burma. This makes the immediate and unconditional release of all political prisoners an integral part of Burma's drive for national reconciliation. AAPP also promotes fundamental human rights for the people of Burma through its international and domestic advocacy campaigns, as well as civil society capacity building, the provision of humanitarian assistance, and mental health counselling.

The following describes the situation of deaths in custody in Burma, including AAPP's methods of data gathering, existing but ignored domestic legal frameworks, and junta-coopted prison monitoring. This submission also provides an overview of deaths of political prisoners in custody—as documented by the Assistance Association for Political Prisoners (Burma), or AAPP—during the Spring Revolution in Burma, i.e., since the junta's attempted coup on February 1, 2021.

I. Data gathering of deaths in custody in Burma since the 2021 military coup

In Burma, deaths in custody have historically been un- and under-reported by state actors. To fill this gap with regards to political prisoners, AAPP—from its inception in 2000—has leveraged the support it gives to political prisoners to develop comprehensive lists of names and details of detained political prisoners, including those who have died in detention. Using this information, AAPP has documented and advocated on the deaths in custody of political prisoners in Burma for more than two decades.

AAPP tracks deaths of political prisoners in custody through its primary and secondary sources—the reports of which are verified through cross-checking by documentation specialists.¹ Primary sources include families of the deceased, as well as individuals within AAPP's local networks comprised of assistance providers, human rights training participants, former political prisoners, and other political activists around the country. Secondary sources include verified independent media outlets and civil society organizations.

In 2021, immediately following the coup, AAPP collected much of its data regarding deaths in custody through first-hand reports from family members of the deceased. Generally, in 2022 and in 2023 thus far, AAPP has recorded deaths in custody predominantly based on reports from independent media outlets, as mentioned above, with subsequent verification from primary sources when possible. In its documentation, AAPP refers to custody as “detainment” and takes a broad view thereof—considering deaths in “detainment” to include any death occurring during arrest or other forcible taking by the junta, as well as during detention and imprisonment by the junta.

II. Ignored laws and regulations regarding deaths in custody and torture

While legal frameworks exist in Burma related to deaths in custody and forms of lethal harm therein, i.e., torture, the junta neither actualizes nor adheres to such laws and regulations.

Burma Jail Manual: The junta's prisons, overseen by its “Prisons Department,” are ostensibly governed by the *Manual of Rules for the Superintendence and Management of Jails in Burma* (hereinafter Burma Jail Manual), which was last revised in 1968.² The Burma Jail Manual includes provisions

¹ For additional information on AAPP's data collection and verification processes, see AAPP, TOWARDS ACCOUNTABILITY: THE URGENT NEED FOR RENEWED INTERNATIONAL ATTENTION TO *SIT-TAT'S* CRIMES AGAINST HUMANITY IN BURMA 11-12 (2023), <https://aappb.org/?p=24334>.

² Manual of Rules for the Superintendence and Management of Jails in Burma (1968) [hereinafter Burma Jail Manual], <https://prisonsdepartment.gov.mm/images/law/bjm-part-I-true.pdf>.

regarding reporting requirements for deaths in custody³ and special cases such as accidental death or suicide,⁴ as well as required procedures for returning their bodies to their families,⁵ burying the deceased,⁶ and allocating the deceased's property.⁷ However, since the 2021 coup, the junta has shirked all of these requirements; instead, among other violent and abusive tactics, the junta has burned bodies⁸ to destroy evidence of deaths in custody and cremated bodies of political prisoners instead of returning them to families.⁹

Prisons Act: Included in the Burma Jail Manual is the Prisons Act of 1894. Sections 15 and 17 of the Prisons Act provide protocols for the “Medical Officer” and the “Jailer” to follow upon the death of a prisoner. Under section 15, “the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained,” e.g., nature of the prisoner’s disease, dates of illness and admission to the hospital, and time of death.¹⁰ Under section 17, “[u]pon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.”¹¹ The Prisons Act includes no further provisions on documenting, reporting, or investigating deaths in prison; notably, the “Superintendent” of the prison is not required to keep records of prisoner deaths, unless otherwise specified through “rules under section 59.”¹² Under

³ *Id.* § 168 (“Upon the death of any prisoner, he shall report the same to the Superintendent and the Medical Officer. A return of every death of a prisoner or of any person residing on the jail premises, shall be furnished by the Chief Jailer to the person appointed to register births and deaths for the area in which the jail is situated. On the occasion of an unnatural or sudden death of any person within the walls of a prison or in the custody of the Prisons Department, the Chief Jailer shall, after consulting the Superintendent and Medical Officer, report the facts forthwith to the officer in charge of the nearest police-station and shall grant facilities to the Police for carrying out the instructions contained in Judicial Department Notification No. 275, dated the 2nd July 1891, as amended by Judicial Department Notification No. 154, dated the 12th October 1927.”); *id.* § 532 (providing the procedure to be followed “when a prisoner dies in course of transfer from one district to another”).

⁴ *Id.* § 64 (“He shall report to the Inspector-General, as they occur, all cases of attempts to escape, any escapes and recaptures, all serious assaults and other serious breaches of Jail discipline, all suicides and accidental deaths and all outbreaks of epidemic disease or cases of serious overcrowding. In the case of escapes, attempts to escape, serious breaches of Jail discipline, suicide, attempts to commit suicide, accidental deaths and serious accident a departmental enquiry must be held and the proceedings submitted to the Inspector-General. In cases where prosecution has been resorted to, a report of the result of the trial must also be forwarded as soon as the result is known. The Court Proceedings, however, need not be forwarded unless required.”); *id.* § 65.

⁵ *Id.* § 1019.

⁶ *Id.* §§ 1020-1027.

⁷ *Id.* § 495.

⁸ *See, e.g.*, AAPP, *supra* note 1, at 19 (“Sit-Tat’s ground troops raided Mone Taing Pin Village in Ye-U Township, Sagaing Region, and arrested 28 locals by tying their hands behind their backs. The locals were then killed in the village monastery compound. Their dead bodies were burned along with the houses.”)

⁹ *See, e.g., id.* at 33 (“[Hla Htoo] died in a military interrogation center from severe torture. The junta informed Hla Htoo’s family members of his death and cremated him. The family members were not able to see his body.”).

¹⁰ Prisons Act 1894, as amended by Acts Nos. XIII of 1910, X of 1914, and XVII of 1925 and by the Government of Burma (Adaptation of Laws) Order, 1937, § 15 (“Report on death of prisoner. 15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely: (1) the day on which the deceased first complained of illness or was observed to be ill, (2) the labour, if any, on which he was engaged on that day, (3) the scale of his diet on that day, (4) the day on which he was admitted to hospital, (5) the day on which the Medical Officer was first informed of the illness, (6) the nature of the disease, (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate, (8) when the prisoner died, and (9) (in cases where a post-mortem examination is made) an account of the appearances after death, Together with any special remarks that appear to the Medical Officer to be required.”).

¹¹ *Id.* § 17.

¹² *See id.* § 12.

section 59, “[t]he Governor may make rules consistent with this Act,” including, *inter alia*, “in regard to the admission, custody, employment, dieting, treatment and release of prisoners.”¹³

Penal code provisions regarding torture: Burma’s domestic law prohibits torture, as well as “bodily pain” and “grievous hurt” under Articles 319 and 320 of Burma’s Penal Code.¹⁴ Articles 330 and 331 specifically forbid any government employee from committing “hurt” and “grievous hurt” during interrogations. According to Article 166, any government employee violating this law and intentionally harming any person shall be sentenced to one year’s imprisonment, a fine, or both. If the government employee tortures someone to death, that action is considered murder, which is to be punished under the law. However, AAPP documentation indicates that the junta has—with complete impunity—tortured people to death while in custody, particularly during interrogation through, e.g., severe physical assault and during pre-trial detainment or imprisonment through, e.g., deprivation of nutrition, water, and medical care.

III. Junta-complicit prison monitoring in Burma

Following the 2021 coup, independent monitoring of prisons, detention facilities, and interrogation centers is non-existent in Burma. The International Committee of the Red Cross (ICRC)—banned from visiting prisons since the onset of the COVID-19 pandemic—requested resumed access to prisons following the coup in 2021; however, the junta has still not allowed ICRC to resume its prison monitoring.¹⁵ Thus, no international bodies currently have access to Burma’s junta-controlled prisons.

At the time of this submission, the Myanmar National Human Rights Commission (MNHRC)—a domestic institution established by presidential decree in 2011¹⁶—is the only body which can conduct prison visits, although it cannot do so unannounced.¹⁷ Despite its superficial claims of promoting human rights in Burma, the MNHRC has long been complicit in and continues to enable the junta’s gross human rights violations, i.e., deaths in custody, “ultimately aiding...a terrorist junta by providing them a shield for decades of human rights abuses.”¹⁸ Notably, “[s]ince

¹³ *Id.* § 59.

¹⁴ Information in this paragraph was taken from AAPP, TORTURE TO DEATH IN DETENTION (June 11, 2021), <https://aappb.org/?p=15746>.

¹⁵ *Int’l Red Cross Asks Myanmar Junta Chief for Access to Prisons*, IRRAWADDY (June 4, 2021), <https://www.irrawaddy.com/news/burma/intl-red-cross-asks-myanmar-junta-chief-for-access-to-prisons.html>.

¹⁶ *Burma/Myanmar, Joint Submission to the UN Universal Periodic Review, 37th Session of the Working Group: Myanmar National Human Rights Commission*, CSO WORKING GROUP ON MNHRC REFORM, ¶ 3 (July 8, 2020) <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=8189&file=EnglishTranslation> (“The MNHRC was established on 5 September, 20112 by Presidential Decree and formalised through the passage of the enabling law – the Myanmar National Human Rights Commission Law (MNHRC Law) – in March 2014. The MNHRC has persistently suffered a public legitimacy deficit with concerns over the transparency of the selection process, the closeness of commissioners to the previous military regime, a perceived lack of effectiveness, and lack of a human rights mindset.”).

¹⁷ *Id.* ¶ 23.

¹⁸ CSO WORKING GROUP ON INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTIONS (BURMA/MYANMAR) & ASIAN NGO NETWORK ON NATIONAL HUMAN RIGHTS INSTITUTIONS, ACCESSORY TO THE JUNTA’S CRIMES 10-11 (2023) [hereinafter ACCESSORY TO THE JUNTA’S CRIMES], https://progressivevoicemyanmar.org/wp-content/uploads/2023/02/Accessory-to-the-Juntas-Crimes_Final.pdf (“The MNHRC is in effect endorsing the military junta’s and in some case military troops administration of prisons and condoning human rights violations. The junta attempts to conceal their crimes by having a human rights institution inspect and report on prisons – parading this in front of the international community to fend off probes and criticism.”).

the attempted coup, the MNHRC has continued prison inspections and after a cursory review has concluded these prisons have overall complied with human rights despite overwhelming evidence-based reports of torture, ill-treatment and murder of prisoners – widely displayed both in news media and civil society.”¹⁹

In February 2023, the Asian NGOs Network on National Human Rights Institutions and the CSO Working on Independent National Human Rights Institution (Burma/Myanmar) called for a shift in support from the MNHRC to “the establishment of a new independent [National Human Rights Institution] under the National Unity Government (NUG), currently underway,”²⁰ which would aim to function as an independent monitoring body for prisons and other locations of detention.²¹ Accordingly, to move towards effective investigation, documentation, and prevention of custodial deaths, the UN and other international actors are called to cease engagement with and funding for the MNHRC, and support “the [NUG] and civil society to establish a new human rights commission,” which will not be silent on, or complicit in, the deaths in custody of political prisoners.²²

IV. Deaths in custody in Burma between 1 February 2021 and 31 January 2023

The following data describes the deaths of political prisoners in custody which AAPP documented between February 1, 2021, and January 31, 2023. Of the 1,009 deaths AAPP has verified, four extrajudicial executions²³ were the result of junta-enforced death sentences, preceded by arbitrary arrests and unfair trials by the junta.²⁴

¹⁹ *Id.* at 10. See, e.g., *Statement of the MNHRC on the Inspection Visits of Prisons, Jails, Detention Centers and Police Lock-ups from January to May 2022*, *Statement No. (3/2022)*, MYAN. NAT’L HUM. RTS COMM’N (Mar. 2022), <https://mnhrc.org.mm/statements/en/print/49>; *Statement of Myanmar National Human Rights Commission on the Status of its Handling of Complaints and on the Inspection of Prisons, Jails and Lock-ups in Myanmar in 2022*, *Statement No. (2/2023)*, MYAN. NAT’L HUM. RTS COMM’N (Feb. 2023), <https://mnhrc.org.mm/statements/en/print/82>.

²⁰ CSO Working Group on Independent National Human Rights Institution (Burma/Myanmar) & Asian NGO Network on National Human Rights Institutions, *Open Letter to Global Alliance of National Human Rights Institutions (GANHRI)*, PROGRESSIVE VOICE MYAN. (Feb. 23, 2023) <https://progressivevoicemyanmar.org/2023/02/23/open-letter-to-global-alliance-of-national-human-rights-institutions-ganhri/>.

²¹ CSO Working Group on NHRI Burma (Myanmar), @WG_MMNHRI, TWITTER (Sept. 20, 2022, 6:30 PM), https://twitter.com/WG_MMNHRI/status/1572911212995956736.

²² ACCESSORY TO THE JUNTA’S CRIMES, *supra* note 18, at 10-21.

²³ See Press Release, Off. of the High Comm’r for Hum. Rts, Myanmar: Bachelet Condemns Executions, Calls for Release of All Political Prisoners, U.N. Press Release (July 25, 2022), <https://www.ohchr.org/en/press-releases/2022/07/myanmar-bachelet-condemns-executions-calls-release-all-political-prisoners>.

²⁴ Press Release, Nicholas Koumjian, Head of Indep. Investigative Mechanism for Myan., Death Sentences Announced by Myanmar Military May Constitute a Serious International Crime, U.N. Press Release (June 20, 2022), <https://iimm.un.org/death-sentences-announced-by-myanmar-military-may-constitute-a-serious-international-crime/> (“The Myanmar military announced on 3 June 2022 that it intends to execute four individuals who have been sentenced to death by a military court. The available information strongly suggests that under international law, fundamental rights of the convicted persons were blatantly violated in these proceedings. One of the most fundamental attributes of a fair trial is that it be held in public to the greatest extent possible. Exceptions based on national security or other considerations must be limited to the extent that they are strictly justified. Yet it appears that there were no public proceedings nor are the judgments publicly available. The secrecy of proceedings is itself a violation of one of the most basic principles of a fair trial, and casts doubt on whether any of the other fair trial guarantees have been respected, such as the requirement that the tribunal was impartial and independent.”); AAPP, *supra* note 1, at 21.

The data provided below is from AAPP’s publicly available *Killed* list, filtered by “special condition” including “detainment.”²⁵ In AAPP’s casualty recording, “detainment” refers to an individual who was in the custody of the military junta when they died. In AAPP documentation, “detainment” is used broadly to include arrest, abduction, or any other form of forcible taking of the individual by the junta, as well as detention and imprisonment by the junta.

Gender and age demographics: As of January 31, 2023, AAPP recorded 1,009 deaths in custody since February 1, 2021. Of those who died, there were 928 male individuals, 52 female, and 1 LGBT²⁶; there were 28 individuals whose genders AAPP could not verify, as shown in *Figure 1*. In terms of age, at least 67 children died in custody. Among those whose ages are known, the average age of the deceased was approximately 35 years old. AAPP could not verify the ages of 259 people who died in custody, as shown in *Figure 2* below.

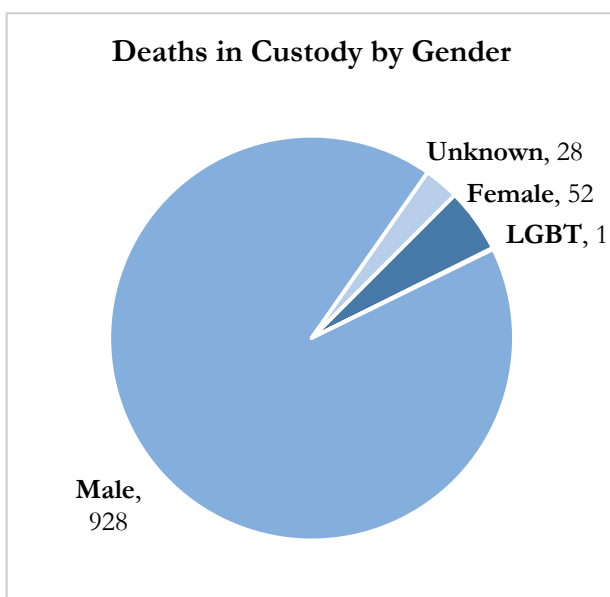


Figure 1

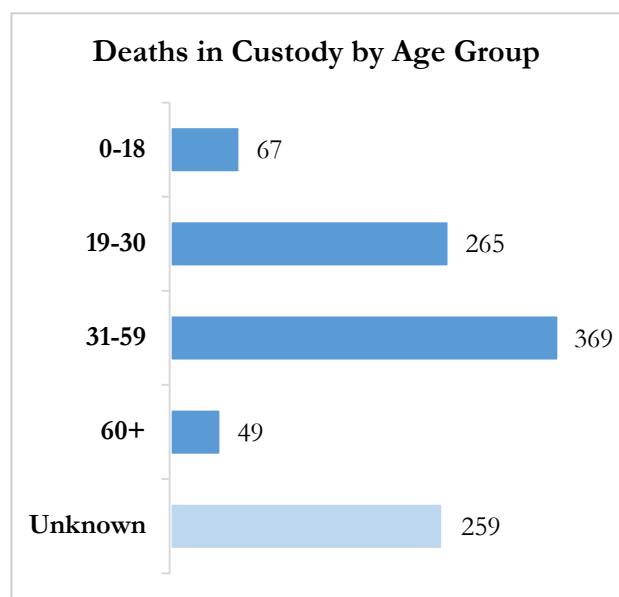


Figure 2

Identities of the victims: AAPP has worked to confirm the identities of the pro-democracy supporters who have died in custody. Of the 1,009 individuals, 114 were members of anti-junta resistance groups (11.3 percent); 39 were education staff (3.9 percent); and 31 were members of political parties (3.1 percent). Between February 1, 2021 and January 31, 2023, there were 789 individuals whose backgrounds remain unknown or unverified; they are labeled as “Civilians” in *Figure 3*.

²⁵ AAPP, *Killed*, AIRTABLE, <https://bit.ly/3taCmp3> (to filter for those killed in detainment, select “Filter” and then “Add condition”; choose “special_condition_L,” “has any of,” and “Detainment” for the three fields, respectively).

²⁶ LGBT refers to individuals who have been identified as lesbian, gay, bisexual, or transgender. While some of these individuals may identify with more than one category (e.g., male and LGBT, or female and LGBT), the LGBT category takes precedence here in order to highlight the junta’s targeting of individuals who identify as LGBT.

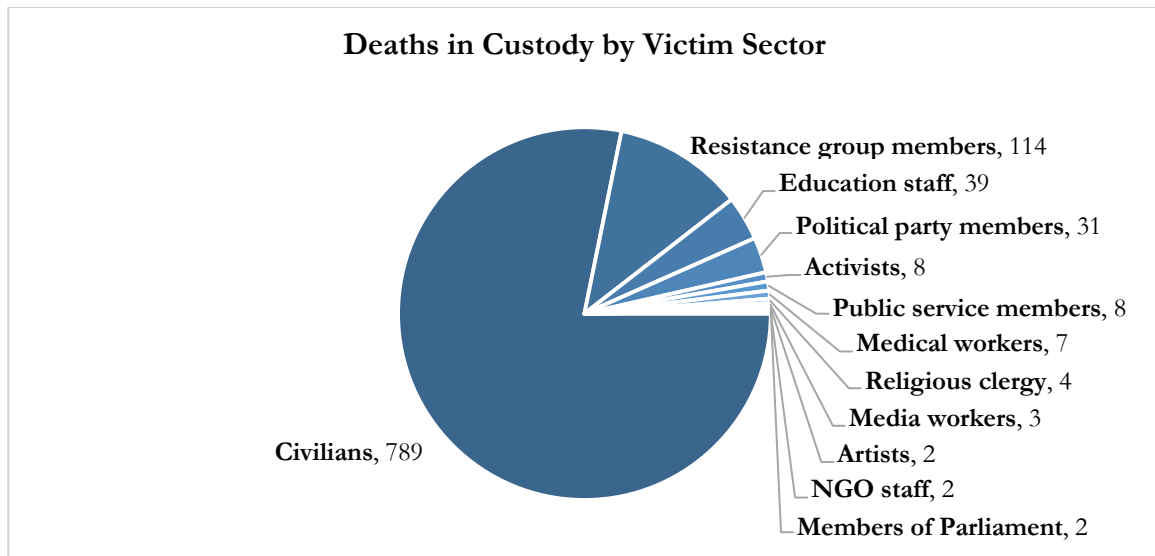


Figure 3

Geographical distribution: Between February 1, 2021, and January 31, 2023, AAPP documented deaths in custody in all of Burma’s states/regions and its capital district of Nay Pyi Taw. Most of the deaths in custody—specifically, 566 deaths or 56 percent—were of individuals residing in Sagaing Region, followed by Magway Region (98 deaths, 9.7 percent) and Mandalay Region (96 deaths, 9.5 percent).²⁷ Notably, these three regions are geographically clustered in northwestern Burma,²⁸ as shown on the map in Appendix A.

Special Conditions: For deaths in custody, AAPP verifies and records special conditions of the individual and their death when available.²⁹ Individuals on the *Killed* list can be labeled with more than one special condition. As of January 31, 2023, AAPP had confirmed special conditions for 49.6 percent of the deaths in custody, demonstrating the indiscriminate brutality that the junta inflicts on its detainees when killing them extrajudicially. These deaths included 170 cases where individuals were shot to death in custody, representing 16.8 percent of the deaths. AAPP also verified 75 cases (7.4 percent) where individuals died during interrogation—more likely than not because they were tortured to death. In 81 cases (8 percent), the individuals in custody were burned alive. See *Table 1* below for the list of special conditions as of January 31, 2023, and the number of deaths for which AAPP verified each condition.

²⁷ The geographical data—i.e., region/state for each death in custody—provided here and in Appendix A refer to the place of residence of the person at the time of their death as verified by AAPP. At the time of death, there is often overlap between an individual’s region/state of residence and the region/state of death. AAPP collects and verifies place of death for the *Killed* list, but does not publicly share this data for security reasons.

²⁸ See generally Mary Callahan, *Myanmar’s Dry Zone: The History of a Tinderbox*, FULCUM (Feb. 9, 2022), <https://fulcrum.sg/myanmars-dry-zone-the-history-of-a-tinderbox/>.

²⁹ See *infra* Appendix B for descriptions of the special conditions.

Special Conditions of Deaths in Custody

Special Conditions*	Deaths**
No special conditions verified	508
Death Penalty	4
Hostage	13
Human Shield	60
Set Fire Alive	81
Set Fire Dead Body	82
Shot	170
Shot in Head	66
Mental Illness	11
Interrogation	75
Physical Assault	13
Physical Disability	4
Police Station	4
Prison	38
Rape (reported)	1
Stabbed with Knife	1
Total Deaths in Custody	1,009

Table 1

*See Appendix B for the definitions of these special conditions.

**For some deaths, more than one special condition was verified.

Regarding special conditions, AAPP observed throughout 2021 that many families of deceased detainees received death certificates reporting falsified causes of death, including, *inter alia*, heart attacks, COVID-19, and falling down flights of stairs—when in fact the detainees were most likely tortured to death during interrogation. Through written or oral communication, these family members directly informed AAPP that they had seen the detainees’ bodies, which revealed signs of torture. In several cases, the person was taken into custody with no pre-existing health conditions and was pronounced dead within 48 hours, indicating the arbitrary deprivation of human life at the hands of the junta.

In one case, military officials told a woman that her husband—who had been arrested the day before—died of a heart attack, despite no pre-existing health conditions.³⁰ When she later retrieved her husband’s body, his body showed clear signs of torture: his skull was broken, his face covered in black and blue bruises, his thighs and back burnt, and his ribs wounded.³¹ Similarly, Daw Khin Marlar Win (aka Myo Myo Lwin), age 39, was forcibly arrested on March 19 in the Pakokku

³⁰ AAPP, ACCOUNTABILITY FOR THE JUNTA CRIMINALS, ¶ 127 (2022), <https://aappb.org/?p=22316>.

³¹ *Id.*

crackdown, despite begging the junta offices not to arrest her.³² Her family was called to retrieve her dead body the next morning.³³ Likewise, U Zaw Myat Linn, age 46, was arrested in Shwepyithar Township, Yangon Region, and killed the same day.³⁴ According to individuals who saw his dead body, his whole head was bruised, and parts of his mouth and body had disintegrated.³⁵

V. Concluding Remarks

While Burma's domestic laws provide legal requirements and provisions regarding deaths in custody, there are currently no practical effects of these laws in junta-controlled custody. Following the 2021 junta coup, no oversight for deaths in custody exists; similarly, the junta has precluded access to prisons by independent monitoring organizations. Acutely aware of lack of measures in place regarding deaths in custody, AAPP as an independent civil society organization works to fill these gaps by monitoring, documenting, and memorializing deaths of political prisoners in custody, as well as facilitating the participation of victims' families to receive recognition and support related to their family members' deaths. Moving forward, AAPP will continue documenting deaths in custody, alongside its other human rights documentation work, with the goals of holding the military junta accountable for its crimes and ensuring transitional justice for the people of Burma.

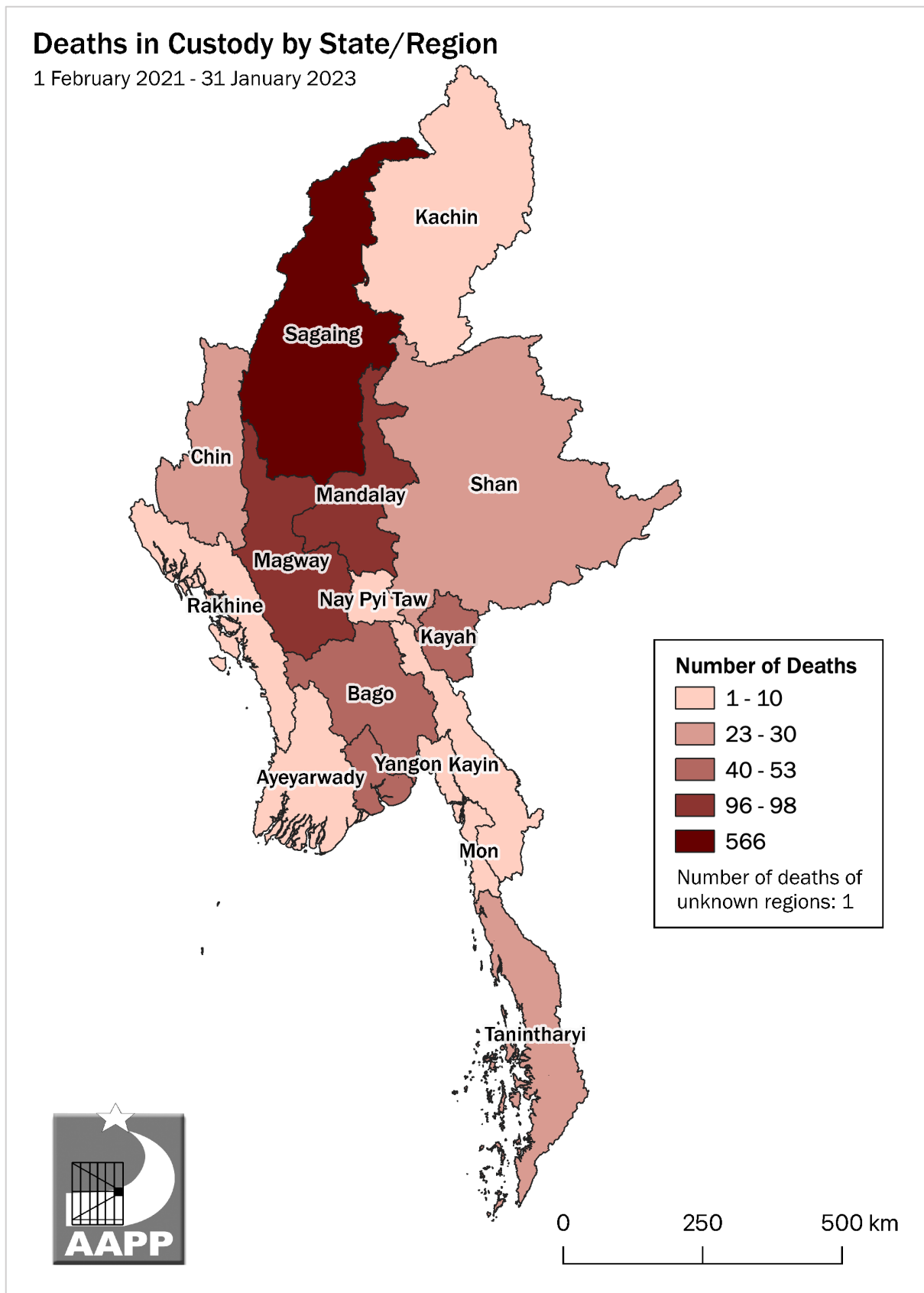
³² AAPP, *supra* note 14.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

Appendix A: Deaths in Custody by State/Region



Appendix B: Descriptions of Special Conditions of Deaths in Custody

In its casualty recording,³⁶ AAPP uses the following special conditions to describe any death, including any death in “detainment,” i.e., custody. The table below provides descriptions of each special condition when specifically applied to individuals who died in custody of the junta.³⁷

Descriptions of Special Conditions of Deaths in Custody	
No special conditions	The individual died while in custody. AAPP could not verify any special conditions of their death.
Death Penalty	The individual was executed after being sentenced to death.
Hostage	The individual was arrested as a hostage.
Human Shield	The individual was used as a human shield while in custody.
Set Fire Alive	The individual was burned alive while in custody.
Set Fire Dead Body	The individual’s body was burned after they died in custody.
Shot	The individual was shot to death while in custody.
Shot in Head	The individual was shot in the head while in custody.
Mental Illness	The individual suffered from a mental illness before their death.
Interrogation	The individual was tortured to death during interrogation.
Physical Assault	The individual suffered physical assault while in custody.
Physical Disability	The individual had a physical disability before their death.
Police Station	The individual died while in custody at a police station.
Prison	The individual died in prison after most likely suffering torture. Deaths in prison result from, <i>inter alia</i> , physical assault, deprivation of medical care, or deprivation of proper nutrition.
Rape (reported)	The individual was reportedly raped while in custody, either before or after they died.
Stabbed with Knife	The individual was stabbed with a knife while in custody.

³⁶ AAPP, *supra* note 25.

³⁷ For broader definitions of each special condition, see AAPP, *supra* note 1, at 45-46.