

# Abuse of LGBTI communities widespread in post-coup Myanmar

**Policy Brief**

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*“Let me die. Do not let anything come out of my mouth. It hurts. It hurts a lot. Many times, I prayed to let me die at once because I was in so much pain...I was treated like that for not only as a protester, but also being an LGBT, I was even more discriminated against and tortured.”*

Transgender woman, Yangon

The National Unity Government’s (NUG) Ministry of Women, Youth and Children’s Affairs (MOWYCA) acknowledges the role of LGBTQI+ (Lesbian, Gay, Bisexual, Transgender, Queer/questioning, Intersex +, here after referred to as ‘LGBTI’) activists in the democracy movement, and initiated this policy brief to highlight their participation in the Spring Revolution. The Ministry believes that inclusion is the cornerstone of democratic strength and legitimacy, and recognises the crucial role LGBTI people have to play in building Myanmar’s Federal Democracy.

Nearly six years after landmark 2015 general elections, Myanmar’s military, known also as the Tatmadaw, attempted to seize full control of the state on 1 February 2021. LGBTI groups joined the widespread pro-democracy protests in full force, commanding unprecedented attention. Rainbow and trans-pride flags marched alongside the red of the National League for Democracy in Yangon, Mandalay, and Monywa and in towns and cities across Myanmar (TIME, March 2021).

#### Purpose of the review paper

Visibility in the protests allowed the public to acknowledge and feel unity with LGBTQI+ (Lesbian, Gay, Bisexual, Transgender, Queer/questioning, Intersex +) people, and their bravery in joining the protests was well marked. However, deeply embedded attitudes and discrimination towards LGBTI people persist, and visibility has also facilitated direct targeting by authorities. The vicious crackdown that followed the coup saw countless citizens suffer grave human rights violations and, evidence now confirms, LGBTI people have been left particularly vulnerable to harm.

LGBTI communities in Myanmar are in urgent need of support in the form of enhanced protection programming, integrated national and international networks through which information and data can be passed, and targeted financing. International actors are once again urged to recognise and support the National Unity Government (NUG) as it continues to develop its LGBTI human rights policy framework.

## **New evidence of abuse; ‘The regime forces have been hunting the LGBT people’**

While human rights abuses against protestors and civil society following the coup are well-documented, LGBTI-specific data is in much shorter supply than for the population as a whole. However, **evidence from civil society monitors demonstrates LGBTI communities’ particular vulnerability to abuse** under which these communities currently survive.

**17 newly documented and cases of possible torture and other abuses of LGBTI people by security forces in Myanmar**, including both police officers and soldiers, have been confirmed through interviews with survivors<sup>1</sup>. The reports mainly reflected the experiences of gay men and transgender women as they have come into contact with the security forces of the Myanmar military. Cases involving trans men and bisexual women have also been documented.

LGBTQI+ people consistently face the abuse and discrimination from their families and communities, and transgender people in particular are often subject to humiliation, harassment and violence by police. **On the street and in detention, LGBTI people are particularly at risk**, and their experiences highlight the attitudes of security forces towards vulnerable minorities who are more likely to be isolated from their families and communities. Transgender people in particular experience the highest levels of marginalisation, and are unable to conceal their identities as effectively as cisgendered LGBTI people. This social marginalisation means employment is hard to access, and many transgender people are forced to engage in sex work and the informal economy in order to survive.

The abuse described in the case study data is consistent in this regard, almost all cases involved physical beatings, sexual assault, sexual humiliation and gang rape or repeated rape. The incidents, many of which are highly to be incidents of torture, have had life changing consequences for the survivors. Injuries sustained during torture have affected survivors’ ability to move, see, hear and remember. They have also resulted in lasting disabilities, such as challenges with urination and personal hygiene. Further, every individual interview shows signs of severe PTSD, anxiety and depression, including suicidal thoughts.

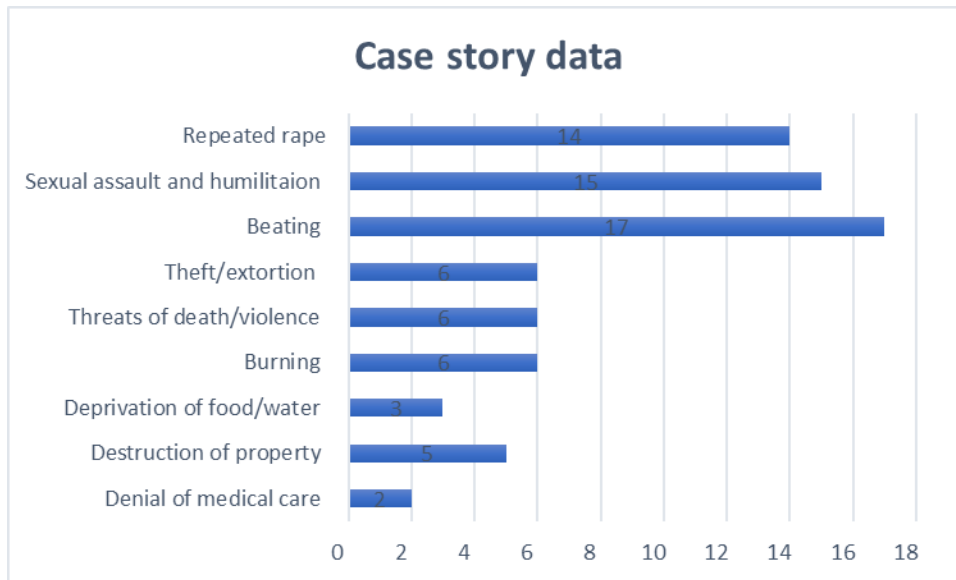
### **Arbitrary arrests escalating to human rights abuses**

**The incidents reviewed almost all escalated from arbitrary arrests, generally the results of raids on private homes, shops and salons, often without official warrants or justification. Typically, LGBTI survivors reported being accused of participating in protests or of association with the NUG, Civil Disobedience Movement (CDM) or People’s Defence Force (PDF).**

**There is evidence of security personnel targeting organised LGBTI groups specifically:** *‘The regime forces have been hunting the LGBT people in our group’* (Soe, Sagaing). However, the case study data does not evidence a systematic or top-down campaign against LGBTI communities by the Tatmadaw’s senior leadership. For the

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<sup>1</sup> All personal names are pseudonyms



most part survivors' LGBTI identities were tangential to their initial arrests and subsequently became a factor in the disproportionate violence they suffered.

When the news of the coup reached Tanintharyi, Thura, a transgender man and his wife were caught up in arrests after a peaceful protest, and Thura sustained serious internal

bleeding caused by being repeatedly kicked by police. Thura was placed in the women's prison block, and kept in unhygienic conditions and his family were forced to pay over 10 million Kyat (around 4700 USD) to ensure he was fed and had access to medicine. Detained for eight months, Thura now suffers chronic pain due to the beatings from security forces.

In Sagaing region, Soe is a member of an LGBTI protest group, where "from the middle of February to the 22nd April we continued to protest, not a single day off...after the 26th April, we couldn't gather all the members because of the shooting." Security forces raided his house, shot members of his group, including two young boys and a transgender woman. After 2 months, a protest by the LGBTI group was posted to Facebook. "Even though our faces were blurred, people noticed our voices...regime forces came and destroyed my house...The regime forces have been hunting the LGBT people in our group." Arrest warrants were issued for Soe and 4 of his group, and at the time of interview, 9 members have been arrested. In Ayeyarwaddy, Tin Maung, a gay man, joined the street protests as soon as he heard about the attempted coup; "It was so sad to hear the news of the coup...so I took to the streets to protest, the reason is that I am a citizen." In April 2021, he was beaten, sexually humiliated and threatened by military officers, when they discovered an NLD flag in his shop in a chance raid. Tin Maung recalls the incident with anger "I was kicked...with their military boots because I was not crying or replying...they even said 'They are gay. But the blood is bold.'

Su Su, a transgender woman from Yangon took part in the peaceful protests following the coup with her friends from the LGBT community. “I participated because I truly love the truth. So, I gathered the peers within my reach and took part in the protest. Later, I tried to provide support for the needs. As an LGBT person, politics is very important. The lives of LGBT people will improve only if the county is prosperous and in a good situation.” in April, she was tortured by security forces in the street in front of her shop, as police found a picture of Daw Aung San Suu Kyi on the phone of one of her employees. She and her friends were stripped naked and beaten in the street; “the pain was so excruciating.” Su Su recalls being forced to pick up feces on the street by security forces. In May, she was arrested and taken to the District Commander’s Office;

“I was arrested at 5am, they started tortured from 6 or 7am and lasted until 5:30 or 6am the next day. They did not stop...[I was] stabbed several times in my anus with the alcoholic bottles they were drinking. My face was covered with a cloth and stabbed several times into the anus. They forced me to take off my clothes and they found out that I had breasts. They swore filthily... “Should male have breasts?” and repeatedly touched my breasts with cigarette fire...Because I did not disclose what I was asked to, they said they would drown [me] in the pool. They tied a plastic rope around my neck and plan to dip [me] in the water until I am out of breath. Later, they stopped... It was not about a matter of pity. Because, [they said] the reason was the water will [become] dirty if the gay person enters the pool.”

The protests after the coup saw hundreds of community groups turn out in force, and in Magway, Aung mobilised his friends in the LGBT community to join the peaceful protests against the coup. In March, 50 soldiers surrounded the restaurant he ran with his family, and arrested four people, including two children. Taken to the interrogation centre, he was caned across the buttocks until he could no longer sit. “When my name was called, I was ordered to lie down on my stomach and was handcuffed. My eyes were blindfolded with a piece of gauze about three inches long, and my head was covered by a hood. I was ordered to walk after them. Once I arrived at the location, the soldiers interrogated me while forcing me to kneel down on the floor. I was forced to answer their questions no matter if I know the answer or not. If I did not know the answer to their question, they would crush my legs with their rubber boots and beat me.” Aung was interrogated and tortured for two days by police officers who were often drunk, then sent to prison, where he was kept in unhygienic conditions for seven months and five days. Kyaw (a pseudonym), a gay man from Mawlamyine, participated in the peaceful protests in March 2021 with his boyfriend. “I heard the gunshots about 4pm,” he recalled. He witnessed his boyfriend shot in the head by security forces, “he passed away at 8:40pm...there was no complaint about the death of [my boyfriend] to the relevant department because those who complained were afraid of being arrested.” The trauma of the incident, and the lack of legal redress, has left Kyaw devastated. “When he was shot, I lost my mind...when I lost someone who I love the most, I experienced that I wanted suicide...together we planned many things, decided to work hard, save money and travel. But [now] he is gone, nothing really matters to me.”

## Extreme, sexualised violence

**Very often, the survivors interviewed reported being singled out for particular or additional mistreatment compared to other prisoners on the basis of their perceived identities. While the majority of prisoners in Myanmar endure unhygienic conditions, lack of access to medical care, and abuse, LGBTI people are targeted for violence designed to humiliate and damage them.**

Most frequently, this abuse is sexual in nature, ranging from mocking, touching, invasive body searches, to assault, rape and sexual torture. Last year, Amnesty International found that LGBTI detainees in Myanmar ‘*report higher rates of sexual, physical and psychological violence in detention than the general prison population*’ (Amnesty International, 2022). Additionally,

In Bago region, Thandar, a transgender woman, was arrested by 12 police on arbitrary accusations of stealing. When she arrived at the police station, she found she had been arrested along with 4 other transgender women, and they were all stripped to the waist and sexually and verbally assaulted by police. Thandar spent 17 days in prison, however after her release, she reported five further incidents of rape, gang rape and torture at the hands of security forces in Bago. She recalls that the police were often drunk, and that their crimes were often accompanied by threats: “we can detain you and will not release you forever under the dictatorship.” Another transgender woman, Chit Chit, was arrested during a raid on her parent’s house by security forces in Sagaing region, ten months after the coup. Beaten across the buttocks until she bled, she faced sexual abuse and harassment “she wants to die of shame”. After 3 days in the interrogation center, police forced her to pose for sexually explicit photographs, which they then posted to her personal Facebook account, to publicly shame her on social media.

In Shan state, Myo has been forced to leave his family home due to repeated domestic violence, as his family did not accept his identity as a gay man. In December 2021, he went to stay with a friend, a transgender woman. Security forces arrested them both the same day, and they suffered verbal and physical abuse. In Yangon, Zaw, a gay man, joined a protest in May 2021, and was arrested along with fellow protesters. When he refused to disclose information about his friends, military officers pushed lit cigarettes into his ears and kicked him repeatedly in the face and ribs. Upon discovering that Zaw was gay, they threatened him with a gun in his mouth and stripped him naked. Later, he was repeatedly gang raped by soldiers and other prisoners, and suffered permanent physical damage as a result. Zaw took part in the protest in Insein prison in May 2021, and stayed in Insein for 6 months. Due to the injuries he sustained, his mental and physical health is permanently damaged. Zaw suffers permanent hearing loss, a broken nose, severe burns, internal bleeding and a damaged rib cage as a result of the torture.

## Signs of hope

Prior to the coup, **momentum towards grassroots, attitudinal change towards LGBTI individuals was sustained and civil society organisations were working to raise the visibility of these communities.** During the years of the NLD government, repeal of Section 377 appeared to be the legal reform agenda for the first time, and there was hope this would serve as a path to greater acceptance of LGBTI people in Myanmar overall (Colours Rainbow, 2017). In 2020, Myanmar's first openly LGBTI candidate for parliament announced his campaign, and pledged to use his position to tackle abuse, violence and wrongful arrest of LGBTI people by the Myanmar police (Myanmar Now, October 2020).

In June 2021, the NUG Ministries of Human Rights, and Women, Youth and Children, published a Situation Report of LGBTI after the Military Coup. The report highlighted findings of Myanmar LGBTI CSOs; that 73 LGBTQI people had been arrested and/or charged under section 505(a), with 12 recorded fatalities (NUG, June 2021). The NUG's Ministry of Human Rights is led by U Aung Myo Min, a lifelong LGBTI activist and pioneer of human rights education in Myanmar. The Human Rights ministry has pledged to develop the NUG's policies on inclusion of minorities in Myanmar, and support human rights and accountability mainstreaming across NUG policies and programs (NUG, May 2022).

**The coup and the subsequent anti-junta movement, as well as the formation of the NUG, is a pivotal moment in history for all of Myanmar's people,** including its LGBTI communities. In the first weeks of the protest movement in February 2021, hundreds of LGBTI people marched alongside fellow protesters openly, and a number of media outlets highlighted their visibility in the streets and in social media posts and evidence that *'an opening that has emerged to advance the long-term social acceptance of LGBTQI+ people'* (TIME, March 2021). Wider social **acceptance of LGBTI communities has gained considerable ground in the last decade,** highlighted by a 2020 survey by Colours Rainbow and &Proud, which found that more than four in five Myanmar people believed LGBT people deserve equal treatment and just under three quarters disagreed with criminalising LGBT identities (New Mandala 2020).

## Recommendations

The recommendations based on these findings are:

- **Section 377 must be repealed,** along with other legislation that has historically been used to abuse LGBTI people. Furthermore, **international treaties should be signed,** including the Convention Against Torture, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civic and Political Rights.
- Given the unlikelihood of the Tatmadaw taking steps to modify oppressive policy, **international actors are urged to pay attention to the failure of the 2021 coup** and, aligned with Hedi Hautala, president of the International Parliamentary Inquiry (IPI) *'to fully acknowledge the NUG as what it is, the legitimate Government of Myanmar, and support it accordingly with funding, capacity building initiatives, and diplomatic recognition'* (APRH, 2021).

- **A coalition of networks** focused on supporting and partnering with LGBTI grassroots organisations, within Myanmar and its border areas, is strongly needed. At the 51st session of the UN Human Rights Council, the UN Special Rapporteur called for a *'coalition or network to be convened'* to focus international efforts on coordinated action to support Myanmar. This coalition must emphasise LGBTI inclusion and mainstreaming as a matter of priority.
- **Evidence collection and coordination should be a key priority.** There is a dearth of LGBT- specific data across themes and geographies in Myanmar. Actors involved in the collection of this data are encouraged to systematise the process. Age and location data should be collected, and case records should note where individuals have been specifically targeted due to their identities and where these identities were a contributing factor in the severity of the abuse inflicted.
- **Equal rights protection for LGBTI individuals should be explicitly considered by all protection actors** prior to and during intervention and identify appropriate local organisations to which LGBT people can be referred for additional support where appropriate. It should be noted that individuals assigned male at birth and perceived to be presenting a trans identity are the most at-risk group and most in need of protection interventions.
- **Information briefings should be evolved to be LGBT-sensitive**, and include reference to LGBT- specific cases and data, where this is available. Several actors provide regular briefings on Myanmar at present, including OCHA, UNHCR, USAID and daily briefings from the Assistance Association for Political Prisoners. Redoubling efforts to mainstream the collection and reporting of LGBTI-specific data on these platforms will facilitate enhanced monitoring of violence directed at LGBTI people and, crucially, allow national and international monitoring for evidence of systematic anti-LGBTI campaigns by military authorities.
- Guarantees of the equal participation of LGBTs in the political process of building federal democratic union is to be a dedicated efforts of all political leaders and this is to be realized through inclusion of LGBTQI+ in drafting federal constitution as well as constitutions of each federal units. The bill of rights are also to be included as part of the federal constitution to specify the fundamental rights of the people including LGBTQI+.

## Background

The political and economic crisis that followed the February 2021 coup, in the midst of the Covid-19 pandemic, has severely destabilised Myanmar. The military attempted to re-establish the State Administration as the central power and in the months that followed, a strike movement (the Civil Disobedience Movement) coalesced, followed by a civilian opposition government (the National Unity Government or NUG), (MOWYCA) and armed civilian defence groups (People's Defence Force). Protesters and critics of the coup have been systematically targeted by the military over the last 21 months. Latest estimates list 2,336 people killed and 12,572 detained, with 84 on death row. (AAPP Daily Briefing, 5 October).

Colonial justice systems and attitudes have forced LGBTI people to the margins of Myanmar society (International Commission of Jurists, 2019). Section 377 of the Penal Code (1861), inherited from British colonisers, has been maintained by the junta and is used to persecute and stigmatise LGBTI people by criminalising *'carnal intercourse against the order of nature'* (Human Dignity Trust, 2022). Sentences include a maximum penalty of 10 years' imprisonment and there is some evidence of recent enforcement (Human Dignity



Trust, 2022). Section 377, alongside Sections 268 and 320 of the Penal Code, the Prostitution Act 1949, as well as the notorious “Shadow Laws” (Section 30 and 35 of the Rangoon Police Act 1899) provide security forces with ready-made justifications for arresting and mistreating those perceived to be LGBTI.

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