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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Myanmar

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews, submitted in accordance with Human Rights Council resolution [46/21](#).

* [A/76/150](#).



Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews

Summary

The present report details human rights violations in Myanmar following the military coup against the civilian-led Government on 1 February 2021. Its focus is on the murders, torture and detention of human rights defenders, journalists, civil society members and people from all walks of life who have opposed the junta. It provides information on the junta's indiscriminate bombing and shelling of towns and villages, attacks against health-care workers during a pandemic, and the dismantling of civil and political rights including freedom of expression and association, the right to privacy, access to justice and a free press.

In the present report, the Special Rapporteur also examines the domestic and international response to these heinous acts. The Special Rapporteur warns that, without a change of course, the current trajectory of developments in Myanmar points to protracted authoritarianism, an even greater loss of life, a humanitarian disaster and a failed State that is a threat not only to the people of Myanmar, but to the region and the world.

Finally, the Special Rapporteur urges the United Nations and its Member States to apply targeted, sustained pressure on the military junta so that efforts to promote engagement and dialogue will have a greater chance of success. As a representative of a permanent member of the Security Council declared in a public meeting in July: "What are we waiting for? The longer we delay, the more people die."

I. Introduction

1. In the seven months since Senior General Min Aung Hlaing and his accomplices in the Myanmar military violently overthrew the Government in an illegal coup d'état, the people of Myanmar have endured widespread, systematic attacks at the hands of the Myanmar police and military. This includes the murder of more than 1,000 people, the arbitrary detention of over 7,000 and the displacement of over 200,000. The brutal campaign of the military junta likely meets the threshold for crimes against humanity and war crimes under international law, and the architects and perpetrators should be held accountable.

2. The present report details the human rights violations committed in Myanmar from March to August 2021. It focuses on the murders, torture and detention of human rights defenders, journalists, civil society members and people from all walks of life who have stood up to the junta. It provides information on the junta's indiscriminate bombing and shelling of towns and villages, attacks against health-care workers during a pandemic, and ongoing assaults on the fundamental rights to speech, assembly, association and health. Annex 1 provides additional details on human rights and the deepening crisis in Myanmar.¹

3. In the present report, the Special Rapporteur also examines domestic and international responses to these heinous acts. The people of Myanmar have demonstrated remarkable courage and tenacity in their opposition to the coup and the military's ongoing assaults and repression. Most are profoundly disappointed at how the international community has responded. As a representative of a permanent member of the Security Council said in a public meeting in July: "What are we waiting for? The longer we delay, the more people die. This Council is failing in our collective responsibility to safeguard international peace and security. And it is failing the people of Burma."² The Special Rapporteur could not agree more.

4. The junta's attacks on health-care professionals and the collapse of the health-care system in Myanmar described in the present report continue even as the coronavirus disease (COVID-19) pandemic spreads. Indeed, the deteriorating conditions in Myanmar are precisely those that enable the rapid spread of the virus and, with it, the opportunity for the development of even more contagious and deadlier variants, such as the Delta variant that continues to spread among the vaccinated and unvaccinated alike. More than a third of humanity lives in countries that border Myanmar, which means that not only are the junta's systematic attacks against its citizens a national security issue for Myanmar, but they also pose a threat to the peace and security of the region and, indeed, the world.

5. The mandate holder believes that the current trajectory and pace of these developments within Myanmar, and the response of the international community, will lead to the further deterioration of conditions for the people of Myanmar and an even graver threat to the region and the world. He urges United Nations Member States to conduct a critical reassessment of the international response and consider alternatives that can augment and complement formal United Nations mechanisms. Alternatives are outlined in the recommendations section of the present report.

6. The mandate holder is deeply grateful to those who provided information and insight for the present report, including many in Myanmar who did so at significant risk to themselves and their families. The Special Rapporteur engaged, primarily

¹ Annexes are available at www.ohchr.org/Documents/Countries/MM/GA76report-annex-SR-Myanmar.pdf.

² Jeffrey DeLaurentis, Senior Adviser for Special Political Affairs at the United States Mission to the United Nations, Arria-formula meeting on Myanmar, New York, 29 July 2021.

through teleconferences, with representatives of concerned Member States, international and regional organizations, national and international civil society organizations, journalists, trade unionists, activists and human rights defenders, the National Unity Government and members of the business community. The mandate holder also actively participated in various events organized by national and regional parliaments, national human rights institutions and civil society organizations.

7. In the present report, the Special Rapporteur draws on several verbatim accounts and statements provided by Myanmar witnesses and victims. The voices of those in Myanmar are often inaccessible or ignored, and too often the truth about conditions in the country is conveyed only quantitatively. It is vitally important to understand developments in terms of their impact on real individuals, families and communities.

II. The junta's human rights and humanitarian law violations

Murder

8. Since the coup began, the military junta has murdered at least 1,040 men, women and children in Myanmar, according to credible reporting.³ Junta-led police and military forces killed protesters in the streets and in homes, beat individuals to death and tortured people in detention in junta-controlled facilities, sometimes to death. The junta continues to systematically violate article 6 of the International Covenant on Civil and Political Rights, in which the inherent right of every person to life is recognized and which states that this right “shall be protected by law” and that “no one shall be arbitrarily deprived of ... life”.

9. The first victim murdered by the junta was a 19-year-old woman who was shot in the head at a peaceful demonstration in Nay Pyi Taw on 9 February, posing no threat to anyone. By the end of February, the junta had murdered at least 23 individuals and were soon engaging in systematic mass murder. By the end of March, the junta had murdered over 500 people.

10. On 14 March, junta forces murdered at least 58 people in Hlaing Tharyar, Yangon. Thousands of factory workers took to the streets in Hlaing Tharyar, home to numerous factories, to protest against the coup, chanting slogans and holding makeshift shields. Reports indicate that police and soldiers flanked the main protest encampment from the rear, firing on protesters with machine guns and sniper rifles.

11. A doctor who treated multiple gunshot victims recounted his experience treating his fifth gunshot victim from Hlaing Tharyar on 14 March:

He had a bullet gunshot injury to his chest and abdomen. We managed to put in the chest tube but there was a lot of bleeding. One litre of blood came out and there was a lot of blood in his abdomen, in every part of his abdomen. He had massive bleeding. He was in pain and I gave him many painkillers, but he still complained he had pain ... I held his hand. It was 2 a.m. We treated him since 9 p.m. He was waiting for the operation theatre and still in pain, so I gave him morphine. I held his hand. His aunts held his hand. We kept talking. At about 2 a.m. I could not control myself, because he was losing his breath. I left it to my junior and left the room and cried. I cried and cried a lot. As an emergency physician

³ See e.g. Assistance Association for Political Prisoners (Burma), <https://aappb.org/>; see annex 2 map for locations of junta killings.

for five years, I have lost many patients on my table, but I never cried, because people die. But this is inhumanity. This is different.⁴

12. Some were killed by police and military units simply for being on the street. For example, on the evening of 18 March, in North Okkalapa, Yangon, junta forces shot a 22-year-old woman on the side of the road after she went outside to get something from her father's shop. A relative recounted what followed when junta forces shot the woman:

It was 6.10 p.m. when they shot one bullet, and I don't know where it went. The second bullet hit [her] ... The bullet hit her, and in a low voice she said, "Oh, mother", and then sat down. The bullet hit her back on the left side, straight through her heart ...⁵

The woman was immediately pronounced dead on arrival at the hospital.

13. Junta-directed snipers have been responsible for murdering many in Myanmar. A 23-year-old who helped to organize protests against the coup described one such instance that he witnessed at a protest in Tamwe Township on 23 March:

We saw snipers shooting at the crowd. The police were also shooting at the people. We went down a street in the quarter. I was running and the sniper was shooting from behind. It was live ammunition. One man was hit directly in the head and fell down ... I went myself to collect his body. I saw the wound on the head ... as soon as he was hit, he died on the spot.⁶

14. In the lead-up to the 2021 Armed Forces Day celebration, with large-scale protests planned in opposition, the junta openly threatened the people of Myanmar. On 26 March the junta released a statement on military-controlled television stating, "You should learn from the tragedy of earlier ugly deaths that you can be in danger of getting shot in the head and back."⁷

15. The junta made good on its threat. Police and military murdered 140 people in 44 townships on Armed Forces Day.

16. As the junta opened fire on protesters, the junta leader, Min Aung Hlaing, hosted dignitaries from the international community to celebrate Armed Forces Day. The Armed Forces Day banquet included senior military leaders and representatives of eight Member States. Military-controlled television displayed pictures and video of Min Aung Hlaing and other senior military leaders celebrating in full military white dress uniform, even as civilians were being gunned down on the streets.

17. Children were not spared from the Armed Forces Day massacre. On that day, the junta murdered an 11-year-old boy, an 11-year-old girl, two 13-year-old boys, a 13-year-old girl, three 16-year-old boys and two 17-year-old boys.⁸ The 11-year-old girl was shot in the head in front of her house, as recounted by her relative:

After her father had cut a coconut, he was standing in front of our house. She was also standing there ... At that time, her mother came back from outside and said, "What are you doing outside the house? Don't you hear the noise of

⁴ Schell Centre for International Human Rights, Yale Law School and Fortify Rights, forthcoming study on crimes against humanity in Myanmar, interview with #13, Yangon, Myanmar, 16 March 2021.

⁵ Ibid., interview with #47, North Okkalapa Township, Yangon, Myanmar, 22 March 2021.

⁶ Ibid., interview with "Win Min", #63, Yangon, Myanmar, 9 April 2021.

⁷ MRTV broadcast, 26 March 2021.

⁸ United Nations Children's Fund, "Brutal violence by security forces in Myanmar leaves dozens dead, including multiple children", 29 March 2021. Available at <http://www.unicef.org/press-releases/brutal-violence-security-forces-myanmar-leaves-dozens-dead-including-multiple>.

violence out there? Go inside.” The child didn’t go inside right away but stood standing there looking outside. Then, while both she and her father were coming inside – her father was around three to four steps ahead of her – she got hit and fell down. Her mother, without knowing exactly what was happening, told her father, “The child fell down. Don’t you see that?” The father said, “Where is the child?” and looked back to find his child. He didn’t see his daughter at first because she was right at the back of him. When he found and picked her up, he found she was bleeding at her head. She was taken to the hospital right away. She was still alive when she arrived at the hospital. Fifteen minutes after arriving at the hospital she died.⁹

18. The junta continued murdering civilians throughout April, killing at least 200 people, including over 80 people in Bago on 9 April alone.¹⁰ Soldiers killed protesters using rocket-propelled grenades and automatic rifles. Protesters who were injured by gunfire were reportedly denied medical treatment and instead dragged into a Bago temple compound by junta forces and left to die.

When the crackdown happened on 9 April, I was right there in the centre of the group. The military had already taken position at the pagoda since before 9 April. By 4 a.m. on the 9th we knew we were surrounded. By 5 a.m. the artillery shells started to come and our sandbag defences fell one by one. They used not only artillery shells but also machine guns. They were firing in all directions. They shot people in the back running. They followed people into houses that took cover and in some cases shot them right there. Soldiers shot my brother in the back and killed him; they took his body. The next day they informed my family to come get the body. We wanted to do a funeral service, but they sent him straight to the cemetery. While we were burying him, police seized my brother’s home so his family could not return home.¹¹

19. Between 1 February and 16 July 2021, the junta killed at least 75 children.¹² They ranged in age from 14 months to 17 years, and their cause of death includes being hit by junta-driven vehicles, shot by junta forces, shot in the head on the streets, and killed by junta artillery shells.

20. A military officer who defected from the infamous Light Infantry Division 99 of the Myanmar military explained to the Special Rapporteur that, based on his experience, protesters “would not have been killed without Min Aung Hlaing’s command” and that the order to shoot protesters “must come from him”.¹³ Moreover, the murders are being conducted throughout Myanmar in a consistent, routinized manner and thus likely constitute crimes against humanity under international criminal law, for which Min Aung Hlaing and other senior leaders should be tried and prosecuted.

Torture

21. Since the coup, the junta has repeatedly violated article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which state: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Reports received by the Special Rapporteur demonstrate how the junta has used torture as a weapon to intimidate,

⁹ Schell Centre for International Human Rights, Yale Law School and Fortify Rights, crimes against humanity study, interview with #100, Mawlamyine, Mon State, Myanmar, 3 May 2021.

¹⁰ United Nations, “Myanmar violence ‘must cease immediately’: UN agencies”, 12 April 2021.

¹¹ Interview with Bago survivor, 20 August 2021.

¹² Office of the United Nations High Commissioner for Human Rights, “Myanmar crisis risks damaging entire generation of children, UN Child Rights Committee warns”, 16 July 2021.

¹³ Interview with Light Infantry Division 99 defector Hein Thaw Oo, 10 August 2021.

gain information on and murder opposition and pro-democracy activists, journalists, human rights defenders and politicians. Reported acts of torture include shooting rubber bullets at extremely close range; beatings all over the body resulting in broken bones; whipping with wires and cables; periodic hunger, thirst and sleep deprivation; forced sitting on chairs for several days; and sexual assaults and threats of rape.

22. Junta forces have tortured at least 50 people to death throughout the country, according to credible reports reviewed by the Special Rapporteur. These murders have occurred in Yangon Region, Chin State, Shan State (South), Sagaing Region, Mandalay Region, Bago Region, Magwe Region, Ayeyarwady Region and Taninthayi Division. The first reported incident of death by torture occurred on 6 March.¹⁴

23. At least three members of the pre-coup governing party, the National League for Democracy (NLD), have been subjected to torture resulting in death. The Special Rapporteur reviewed photographic evidence of one incident involving a Yangon-based NLD party member, a vocational training teacher, whom the junta detained on 9 March. On 10 March, his wife was told to go to a military hospital in north Yangon. Photographs show his lips melted off, skin peeling and teeth missing. He also had severe bruising to his body and a stab wound to his abdomen. Military officials reportedly told his wife, implausibly, that her husband fell 9 metres to his death while trying to escape custody.

24. The wife of another individual who was detained and then pronounced dead 24 hours later recounted the state of her husband when she took possession of his body:

At the hospital they gave me a death certificate that said he had a problem at the valve of his heart. Then they allowed me to take the dead body ... I checked his body. His bones on his face were broken; his face was swollen; and they also made stitches on his abdomen; and, on his thigh, his skin was burnt. His nose bone was broken. The left side of his forehead was swollen. His head was injured and it was still bloody ... And his ribs were broken, I could even see it ... [My husband] was a healthy man. There was no way that he would die with a heart problem.¹⁵

25. The junta tortured untold numbers of people while they were detained on the streets of Myanmar. The Special Rapporteur has viewed numerous videos of junta forces torturing detained protesters on the streets and spoke with the brother of a 22-year-old protester in Magwe Region who recounted how soldiers tortured his brother:

The soldiers placed him under arrest along with the group he was with. Soldiers ordered my brother to put up his hands and when he did, they said, “We just came from the front lines. Why do you want to protest? Raise your three fingers and see what happens. You will call out for your mother [a reference to Aung San Suu Kyi] and she can’t save you.” The soldier then fired from less than 18 inches away with a shotgun-like weapon to my brother’s arm, blowing off most of his hand. Another soldier then shot my brother’s remaining hand with rubber bullets at close range. Soldiers then began going through his pockets trying to steal his property and then they started to beat him, kicking and punching him in the face and shooting his legs – six shots in his left leg [with rubber bullets] and seven in his right. As he was being beaten, other protesters jumped in between the soldiers, shielding my brother from being beaten to

¹⁴ See annex 2 map.

¹⁵ Schell Centre for International Human Rights, Yale Law School and Fortify Rights, crimes against humanity study, interview with #107, Shwebo Township, Sagaing Region, Myanmar, 16 May 2021.

death. Soldiers stopped beating him and forced him to walk, but he couldn't. Because he couldn't walk, one hit him in the back of the head with his gun. My brother was taken to a military hospital for treatment and, instead of being released to his family, he was charged with incitement and remains in detention in need of urgent specialized medical treatment.¹⁶

26. Junta forces also committed acts of torture in detention facilities. A journalist who was tortured at a military prison told the Special Rapporteur:

The first four days were horrible. I was not allowed to sleep and was interrogated in rotating shifts every two hours. They asked a lot about funding sources for our publication, trying to show that foreigners backed us. I was handcuffed with my hands behind my back and sat in a chair for four days and four nights. I begged for food and water and [was] given only the tiniest amount of water on the second day and food only on the fourth day. The first three and a half days interrogators beat me and kicked my face. My legs were swollen. They hit me in my ears and on the back. The interrogation of my friend who was detained with me was much worse. He refused to give up his iPhone password so interrogators burned his skin with cigarettes, they took his shirt off and put ice on him for hours; they made him kneel down all night long. Finally, they stripped his clothes off and told them they were going to rape him. He gave them the correct passcode then. When they accessed his phone, they found pictures of him with Aung San Suu Kyi and Min Ko Naing, and then they beat him very badly.¹⁷

27. Children have not been spared torture. According to credible information, in Kachin State in April 2021, junta forces reportedly detained two boys, starved them for two days and interrogated them separately for five days. During interrogation, soldiers beat them, burned their legs with scalding iron rods, fired guns very close to the boys' ears and cut the ears of one of the boys with a scalpel. They were both finally released after 12 days in custody.

28. The junta's casual and widespread use of torture as a tool of oppression demands a strong international response, and those responsible must be investigated for the crime against humanity of torture.¹⁸

Large-scale attacks on civilians

29. Since the coup, junta forces have attacked villages through air strikes, sieges, mass arson and other forms of attack and used civilians as human shields. The junta also restricted medical and other humanitarian aid access and engaged in sexual violence. Myanmar civilians who once lived in regions typically free of armed conflict (e.g. Yangon, Sagaing and Mandalay Regions) are now experiencing the types of violence to which generations of ethnic nationals have grown accustomed in ethnic states, such as in Kachin, Kayah, Kayin, Rakhine, Shan and other conflict areas. This new reality, combined with a nascent, decentralized and poorly equipped resistance force, backed in some instances by ethnic armed organizations, has, in certain places, blurred the lines between where non-international armed conflict begins and ends in Myanmar and, accordingly, whether international humanitarian law, that is, the law of war, applies in certain locations or not.

30. Where international humanitarian law does apply, junta forces, ethnic armed organizations and the People's Defense Force (PDF) remain obligated to protect the health, dignity and lives of civilians. The Geneva Convention states: "The civilian

¹⁶ Interview, 14 June 2021.

¹⁷ Interview with Nathan Maung, 5 July 2021.

¹⁸ Rome Statute, art. 7 (1) (f).

population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.”¹⁹

31. Not only have junta forces failed to fulfil their obligation to protect the health, dignity and lives of civilians, but they have indiscriminately targeted civilians, which has resulted in dozens of deaths, approximately 200,000 forcibly displaced since 1 February, a humanitarian crisis and massive loss of property.

32. The Special Rapporteur focuses below on large-scale attacks against civilians by the junta in Chin, Kayah and Kayin States and Magwe Region. Unfortunately, the events below are not an exhaustive accounting of the junta’s large-scale attacks on civilians.

Mindat, Chin State

33. The junta’s attack on civilians in Mindat, Chin State, followed several clashes between junta forces and a local resistance group, the Chinland Defense Force (CDF), which was armed with homemade hunting rifles. On 13 May the junta declared martial law in Mindat. In response, the civilian-run Mindat People’s Administration declared the martial law illegitimate. For days, junta forces then launched an air and ground offensive, firing shells, mortars and rocket-propelled grenades into Mindat. By 17 May, the military had occupied Mindat town with 1,000 troops.

34. In connection with the occupation, the United Nations in Myanmar highlighted reports of “indiscriminate attacks by the security forces against civilians”; “houses and other civilian property damaged, destroyed or occupied by security forces”; “security forces using civilians as human shields”; “sexual assault perpetrated against women and girls”; and numerous individuals injured and killed.²⁰

35. The Special Rapporteur investigated these allegations and finds them to be credible. For example, sources told the Special Rapporteur that the junta used an estimated 10 to 14 civilians, including a pregnant woman, as human shields during the junta’s attack on Mindat.²¹ Sources also described the rape of a woman by junta personnel, the firing of shells at civilian locations, looting, and military helicopters dropping ordnance on the town.²² Sources also recounted that the military made life impossible for residents by blocking road access to the town, cutting off its water supply and breaking into houses to arbitrarily detain civilians.

36. As many as two thirds of Mindat’s population of 50,000 fled into the jungle or to makeshift camps in nearby villages in response to the attack. The military offensive continued against nearby villages. In early June, renewed attacks by the junta displaced thousands more, many of whom had already been displaced once. Sources told the Special Rapporteur that junta forces were also specifically targeting civilians and firing at camps for internally displaced persons.

37. On 20 June, junta forces and CDF entered into a ceasefire. During that time, local leaders who had established the Mindat People’s Administration focused on getting aid to internally displaced persons. However, in violation of international humanitarian law, the junta blocked such aid. At the time of writing, the military was reportedly still blocking and/or limiting the transport of food and medicine into Mindat and surrounding villages, contrary to the terms of the temporary ceasefire.

¹⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 13 (2).

²⁰ Statement by the United Nations in Myanmar on the situation in Mindat, Chin State, 21 May 2021.

²¹ Interview with Mindat residents, 18 August 2021.

²² Ibid.

38. Renewed fighting between CDF and the junta broke out in early August, and the general security situation in Chin State continues to deteriorate. Since the coup, junta attacks on civilians have killed at least 37 civilians in and around Mindat and displaced approximately 30,000 from 129 villages, according to local sources. The Office of the United Nations High Commissioner for Refugees (UNHCR) puts the number currently displaced in Mindat at 11,400.

Demoso and Loikaw, Kayah State

39. In Demoso Township, Kayah State, local residents banded together to form the Karenni People's Defense Force (KPDF), using largely handmade hunting rifles. Small-scale fighting between KPDF and junta forces escalated when the military attacked both Demoso and Loikaw Townships in late May. According to reliable information, on 21 May, military personnel entered the town of Demoso and arrested 13 people. KPDF responded by attacking police stations in the region, killing three police officers. The military promptly deployed at least more 100 soldiers and several tanks to Demoso and increased their presence in several towns of Kayah State and neighbouring Shan State.

40. In what seem to be retributive attacks against civilians, the junta then used fighter jets to bomb Demoso before following up with rockets and mortars, forcing tens of thousands of people to flee into the surrounding jungle.²³ Junta forces reportedly burned houses of suspected PDF and Civil Disobedience Movement (CDM) sympathizers. In Loikaw, the military also used helicopters, fighter jets and heavy artillery to attack the town. Ground forces then took control of Loikaw.

41. In Demoso and Loikaw, the junta looted civilian properties and destroyed non-military targets, including houses, schools, a monastery and churches. The junta also blocked the main roads into Kayah State, cutting off civilian access to food, water and medicine.²⁴ Within a week of the junta's offensive in these areas, nearly 100,000 people were forcibly displaced.

42. Between 21 May and 15 June, the military killed at least 65 civilians in attacks on Demoso and Loikaw Townships, according to local reports. Of those, at least two civilians were shot and killed by snipers, and the body of a person detained on 29 May was found dismembered near a market. Sources reported that, as of late July, junta forces were conducting house-to-house checks at night, entering homes without warrants and instilling fear in the local communities.

Papun, Kayin State

43. From late March to early May, junta forces conducted aerial bombardments and shelled civilian locations in Papun (Mutraw) District, Kayin (Karen) State. According to reliable information, junta forces conducted at least 27 air attacks, dropping 47 bombs and firing at least 575 mortar shells into civilian areas in Papun.²⁵ Each round of major attacks was ostensibly in response to attacks on junta forces by the Karen National Liberation Army Fifth Brigade.

44. On 27 March, the junta began a five-day aerial bombardment in Papun District, killing 16 civilians, injuring 20 and forcing 5,500 villagers to flee across the border

²³ Myanmar Now, "Three civilians killed as junta continues crackdown on Karenni resistance", 28 May 2021.

²⁴ Ibid.; Deutsche Welle, "Myanmar: UN warns of mass starvation in eastern Kayah State", 9 June 2021.

²⁵ See e.g. Karen Peace Support Network, "Terror from the skies: coup regime's escalated offensives cause mass displacement across Mutraw", May 2021, p. 8. Available at www.karenpeace.org/wp-content/uploads/2021/05/Terror-from-the-Skies_Briefing_KPSN_English.pdf.

to Thailand. In the first week of April, junta forces launched artillery attacks against villages and surrounding farmlands, forcibly displacing 7,600 civilians.

45. From 27 April to 7 May, junta forces conducted a second round of air strikes, dropping bombs and firing rockets on civilian areas in multiple villages in Papun. Those attacks displaced 3,000 villagers.

46. As at May 2021, Karen civil society organizations estimated that 70,000 civilians had been displaced in Papun as a result of junta attacks on civilians. UNHCR estimates that approximately 47,400 civilians were displaced in Kayin State as at 16 August.²⁶

Magwe Region

47. On 15 June, junta police set fire to Kinma village in Pauk Township, Magwe Region. Local reporting indicates that, earlier on 15 June, PDF forces ambushed junta forces. According to Kinma villagers, police then sought out PDF members in Kinma, but the PDF had already withdrawn from the village when the junta forces entered. Most villagers had already fled as well.

48. In apparent retaliation for the ambush, police reportedly set fire to the village, burning 200 of 230 homes.²⁷ The fire was so large that it was recorded by the satellite fire-tracking system of the National Aeronautics and Space Administration of the United States of America.²⁸ The Special Rapporteur viewed photos showing nearly the entire village burned. Junta forces reportedly fired on villagers who tried to extinguish the fires and retrieve belongings from their homes. While most of the village's 800 residents were forced to flee into the forest and to nearby villages, two elderly individuals were killed in the fires.

49. Junta leadership responsible for the attacks above should be investigated for multiple international crimes, including war crimes and crimes against humanity.

Internally displaced persons and humanitarian access

50. There are well over half a million internally displaced persons in Myanmar. The Myanmar junta is effectively blocking humanitarian aid agencies and civil society from gaining access to populations in need of humanitarian assistance, including internally displaced persons and civilians displaced since the coup. In at least Kayah and Chin States, the junta is directly to blame for the lack of humanitarian access to internally displaced persons, where its forces have deliberately blocked access roads and turned back aid convoys, including tons of rice to Kayah State. Local sources report that those displaced by junta bombing in Kayin State are in desperate need of food. Moreover, humanitarian actors are encountering considerable challenges delivering food in Chin and Kachin States due to the junta's new requirement for travel authorizations for humanitarian aid delivery, especially food commodities.

51. Since the coup, over 200,000 individuals have become displaced, according to information from local sources and UNHCR.²⁹ This includes the displacement of some 170,000 people in south-eastern Kayin, Kayah, Mon and Shan States and Bago Region. Of those, 101,000 people have been displaced in Kayah State alone. Since

²⁶ UNHCR, Myanmar emergency overview map, 16 August 2021. Available at <https://data2.unhcr.org/fr/documents/download/88244>.

²⁷ BBC, "Myanmar village of Kin Ma burns down after clashes", 16 June 2021.

²⁸ United States, National Aeronautics and Space Administration, "Fires: 15 June 2021", Fire Information for Resource Management System. Available at <https://firms.modaps.eosdis.nasa.gov/map/#t:adv;m:advanced;d:2021-06-15;@95.9,19.9,7z>.

²⁹ See e.g. UNHCR, Myanmar emergency update, 1 August 2021, available at <https://reporting.unhcr.org/sites/default/files/Myanmar%20Emergency%20Update-1August2021.pdf>.

mid-May 2021, UNHCR reports that a further 20,000 people are currently hosted in over 100 displacement sites in Chin State, Magway Region and Sagaing Region. Notably, local organizations in Chin State estimate that 30,000 displaced persons are in and around Mindat alone. The resurgence of armed conflict between junta forces and the Kachin Independence Army in Kachin State since mid-March 2021 led to the displacement of an estimated 7,800 people, while in northern Shan State clashes between junta forces and ethnic armed groups displaced a total of 2,700 people.

52. Prior to the coup, there were approximately 336,000 internally displaced persons in Myanmar. They remained displaced at the time of writing, and a majority of them were in situations of protracted displacement, including some 126,000 stateless Rohingya in Rakhine State internment camps established in 2012 and a further 130,000 in protracted camps in Kachin and northern Shan States and parts of south-eastern Myanmar. Another 100,000 were internally displaced across 10 townships in Rakhine State and 1 township in Chin State owing to the Arakan Army-Myanmar military conflict from January 2019 to November 2020.

53. Sources told the Special Rapporteur that host communities that had been keeping internally displaced persons alive were themselves running low on their own foodstuffs and medical supplies. Local aid organizations were incapable of feeding existing internally displaced persons and simultaneously resupplying host communities. Families in areas experiencing fighting were also deeply concerned that they would be unable to get their crops planted on time and face additional food shortages.

54. In addition to the displacement and growing humanitarian needs of internally displaced persons, tens of thousands of internal migrants have reportedly returned to their places of origin in Ayeyarwady Region and Rakhine State, where their needs reportedly include food, cash and access to health care. Untold numbers of others have fled the country.

55. Internally displaced women face significant challenges. A lack of basic supplies makes menstrual cycles a major challenge. Horrifically, pregnant women have been forced to deliver babies while on the run and without basic medical services for delivery. Sources in Kayah State told the Special Rapporteur of a 6-day-old baby who died in the jungles of Kayah State because of a lack of basic medicine.

III. The junta's violation of other political and civil rights

56. The junta has engaged in an all-out assault on political and civil rights, which culminated in the arbitrary detention of at least 7,660 people since the coup as at 31 August. The junta attempted to legitimize these detentions by criminalizing speech critical of the State Administrative Council and removing the right to privacy and assembly.

57. See annex 1 for details on violations of freedom of expression (including on the Internet), privacy, assembly and association.

Arbitrary detention and access to justice

58. The junta has, since the very first day of its illegal coup d'état, engaged in arbitrary detentions in violation of articles 9, 10 and 11 of the Universal Declaration of Human Rights, which, respectively, prohibit arbitrary arrest and detention, entitle everyone to "a fair and public hearing by an independent and impartial tribunal" and accord everyone charged with a penal offence "the right to be presumed innocent until proved guilty according to law in a public trial" with "all the guarantees necessary for ... defence".

59. The junta has steadily eroded the rule of law in Myanmar. Within two weeks of staging its coup, the junta manipulated changes to the legal framework, namely the Penal Code, the Ward and Village Tract Administration Law and the Law Protecting the Privacy and Security of Citizens, to give cover for their mass arbitrary detentions. In particular, the junta amended section 505 (a) of the Penal Code on 14 February to criminalize speech that “cause[s] fear”, spreads “false news” or “agitates directly or indirectly a criminal offence against a government employee”. Violation of the section is punishable by up to three years in prison.

60. Reports indicate that, as at 31 August, at least 7,701 people had been detained since the coup and 6,069 of those were currently detained and/or sentenced.³⁰ The junta’s prison release announcements have sowed confusion as to the total number of currently detained. Following the junta’s announcement on 30 June that over 2,000 detainees would be released, in fact only 370 had been identified at the time of writing. There are 1,984 outstanding arrest warrants for persons who have successfully eluded detention.

61. The junta has declared martial law across 13 townships in Yangon and Mandalay Region and in Mindat. Military commanders of the Yangon and North-West Commands are thereby authorized to try a range of criminal cases in summary fashion and impose the harshest possible penalties, including the death penalty, with no right of appeal. Senior General Min Aung Hlaing has the final say on the execution of death sentences in areas under martial law.³¹ To date, he has allegedly sanctioned the death penalty for at least 65 individuals, of whom 39 were sentenced in absentia.

62. At the time of writing, the junta had arbitrarily detained at least 15 attorneys in the course of their representation of clients, which not only prevents defence attorneys from providing legal representation but also creates a chilling effect on the willingness of lawyers to represent detained individuals.³² One prominent attorney who was arbitrarily detained was reportedly providing free legal support to over 120 people who themselves had been arbitrarily detained. The junta detained him while he was at court doing his job and subsequently charged him with incitement under section 505 (a) of the Penal Code.

63. Judicial proceedings in certain areas have been moved from courthouses to prisons, raising serious concerns about fair trial rights, including detainees’ access to legal counsel.

64. In the litany of egregious acts of the junta since the coup, its use of collective punishment and hostage-taking stands out as especially depraved. As noted, nearly 2,000 people are currently evading spurious arrest warrants. The Special Rapporteur spoke with a protest leader in Mogoke, Mandalay Region, whose wife and two daughters, ages 4 and 17, were detained by junta forces. He told the Special Rapporteur:

“On 13 June, junta security forces came to my house. It was a combined force of police and military – between 70–80 in total. They were blocking the road and were prepared to ambush me. At that time, my wife, two daughters and one son were home. My son was outside and hid during the raid. They had two warrants: one for my arrest and one to seize all of my property. My wife called me and I told her, ‘You should leave immediately.’ My wife said, ‘They came to

³⁰ See annex 2 map (persons arbitrarily detained and in detention).

³¹ State Administration Council, Martial Law Order 3/2021, 15 March 2021. Available at www.burmalibrary.org/sites/burmalibrary.org/files/obl/GNLM2021-03-16-red.pdf.

³² See American Bar Association, letter to Senior General Min Aung Hlaing re: Rule of Law, Independence of the Judiciary and Legal Profession, and Respect for Human Rights in Myanmar, 5 July 2021, available at www.americanbar.org/content/dam/aba/administrative/government_affairs_office/aba-president-letter-rule-of-law-myanmar.pdf.

look for you and you are not here. Why would they do anything to us? I did nothing wrong. I will face this.’ She started saying, ‘Many are coming in now—’; then the connection cut out. Then after a bit, my 17-year-old daughter called me and said ‘We’re being detained.’ I overheard someone say, ‘Why are you talking on the phone?’ then, again, the connection was cut.

“I learned subsequently that security forces detained my older daughter first. They handcuffed her. My wife said, ‘Why are you doing that? You can’t arrest her.’ And when she said that, they also handcuffed her. Both my older daughter and wife were then dragged onto a truck. Then, my 4-year-old started to cry out: ‘I’m not going to go with you military dogs and police dogs.’ A female officer grabbed my little girl and threw her into the truck as well. Relatives of mine tried to bring all of them food and other supplies, but the police and military denied that they were even in custody. No one received any updates on my wife or other daughter’s whereabouts or charges against them. My 4-year-old was finally released on 30 July, 17 days in custody. My girl was traumatized. My wife and daughter were sentenced to three years in prison under 505 (a). The only way I know this is because as my wife and daughter were transferred to the prison from the police station, my wife screamed out to passers-by saying, ‘We have been sentenced to three years in prison.’”³³

65. The Special Rapporteur has received credible reports that junta forces have arbitrarily detained at least 177 individuals as punishment and/or as hostages when the initial target of a raid had successfully eluded arrest.

66. The collective punishment against family members in which the junta is engaged is a violation of the right to liberty and security of person and the right to a fair trial.³⁴ These collective punishments and hostage-taking should be investigated as war crimes, as the Geneva Convention expressly prohibits “punish[ment] for an offence he or she has not personally committed”, and “collective penalties and likewise all measures of intimidation or of terrorism are prohibited”.

Press freedoms

67. “We are now at a point where continuing to do our jobs means risking being jailed or killed.”³⁵ This is how a journalist recently described current working conditions in Myanmar. On 8 March, the junta suspended the licences of five prominent, independent news outlets. At the time of writing, at least 44 journalists remained in detention, with at least 98 having been detained since the coup. As highlighted above, journalists were tortured in detention to extract information and contacts from them. Thirty-three journalists have gone into hiding after arrest warrants were issued against them. At least three journalists have now been sentenced to prison terms of two to three years under section 505 (a) of the Penal Code.

Continued human rights violations against the Rohingya

68. An estimated 600,000 Rohingya remain in Rakhine State. The military continues to deny them access to citizenship, freedom of movement and other fundamental rights. Since the coup, the junta has continued to deny the existence of the Rohingya while keeping them disenfranchised through their unresolved legal status, institutional discrimination, human rights abuses, restrictions on their movement and limited access to livelihoods and essential services.

³³ Interview with Mogoke father, 18 August 2021.

³⁴ International Committee of the Red Cross, “Rule 103, Collective punishments”, Customary IHL Database. Available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule103.

³⁵ Reporters without Borders, “Five media outlets shut down in Myanmar, one raided”, 9 March 2021.

69. Details of conditions faced by the Rohingya in Rakhine State are included in annex 1.

IV. The junta's violation of the right to health

70. The highest attainable standard of health is one of the fundamental rights of every human being, enshrined in article 25 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Economic, Social and Cultural Rights, and that right is being denied to most within Myanmar.

71. At the time of writing, a third wave of COVID-19 infections, led by the Delta variant, was ravaging Myanmar. The two-week average positivity test rate is 26 per cent, leaving only five countries in the world with higher positivity rates.³⁶

72. Local human rights organizations, operating clandestinely, reported to the Special Rapporteur that the junta's official death toll from COVID-19 of 14,737 as at 25 August³⁷ was low. According to junta figures, the seven-day average of deaths from COVID-19 hit its peak at 397 on 1 August. According to credible sources with contacts at crematoriums and morgues in Yangon, in late July at least 1,000 people were dying of COVID-19 each day in Yangon alone.

73. The junta has been completely unequipped to fight the third wave of the pandemic and, worse, has itself precipitated the near-total collapse of the country's health-care system. In protest against the military coup, as many as 90 per cent of health-care workers joined CDM and refused to work in public hospitals under junta control. Indeed, health-care workers were among the first to strike, leading to the organization of CDM.

74. Junta forces continue to kill and arbitrarily detain medical professionals. Credible reports reveal that the military actively conducted raids on charity and makeshift health facilities, destroying, damaging or confiscating health items and medical equipment, while abducting, beating and arbitrarily detaining health workers.

75. The junta attacked health-care workers or facilities in at least 260 separate incidents from 1 February to 25 August 2021;³⁸ 153 were against health-care personnel. The junta has outstanding arrest warrants for 600 health-care workers, including doctors, hospital administrators, nurses and public health officials, forcing them into hiding. Many continue to treat patients clandestinely.

76. At the peak positivity rate of the COVID-19 outbreak, junta forces began hoarding oxygen tanks, actively stopping people from purchasing them from private sellers and preventing charities from providing oxygen to people in need. The junta claimed that it was only ensuring that oxygen could get to public hospitals. However, a doctor currently treating patients in Myanmar explained to the Special Rapporteur on 30 July: "The junta is saying it is not allowing individuals to purchase oxygen privately so that it can be used in public hospitals, but many patients go to public hospitals and are told, 'You have to buy your own oxygen privately.'"³⁹

³⁶ Sky News, "Positive rate per country: average of the positive rate of the last two weeks", available at <https://interactive.news.sky.com/2020/covid-19-coronavirus/world-positive-country-rate-table/index.html> (accessed on 25 August 2021).

³⁷ "2,502 new cases of COVID-19 reported on 25 August, total figure rises to 380,879", *The Global New Light of Myanmar*, vol. VIII, No. 129 (26 August 2021). Available at https://cdn.myanmarseo.com/file/client-cdn/2021/08/26_August_21_gnlm.pdf.

³⁸ World Health Organization, Surveillance System for Attacks on Health Care. Available at <https://extranet.who.int/ssa/Index.aspx>.

³⁹ Interview with Yangon physician, 30 July 2021.

77. The lack of trust in junta-controlled health care has led many to conclude that they would not get vaccinated in a junta-run vaccination programme even if vaccines became widely available.

78. These conditions have an impact on the health and safety not only of the people of Myanmar, but of the region and, indeed, the world. The spread of COVID-19, the collapse of the health-care system and widespread distrust of anything connected to the junta is a perfect storm for the further spread of this disease. It also creates ideal conditions for the development of new highly contagious variants. More than one third of the world's population lives in countries bordering Myanmar, making this not merely a national security issue for Myanmar, but rather a threat to all.

79. The breakdown of the health sector under the junta has had horrific repercussions beyond the ability to treat COVID-19. As at July, at least 1 million children had missed necessary vaccinations, including those that prevent hepatitis B, tuberculosis, tetanus, measles, mumps, rubella, polio and influenza, according to the United Nations Children's Fund. Substantial gains in treating and containing HIV and tuberculosis over the past decade could be undone if those infected are unable to continue antiretroviral treatments.⁴⁰

80. The combination of the military coup, the collapse of the health-care system and the spread of COVID-19 have made life particularly dangerous, indeed lethal, for some members of the disability community in Myanmar. The coup and subsequent crackdown have significantly set back progress that was being made to advance the human rights of persons with disabilities in the country. See annex 1 for additional information on disability rights in Myanmar.

V. Response of the people of Myanmar to the junta's coup and crimes

Civil Disobedience Movement and peaceful protest

81. Within days of the military coup, peaceful protests against the junta began as people took to the streets and social media to exercise their rights to freedom of expression and peaceful assembly. A vibrant, diverse civil disobedience movement soon spread throughout the country. Civil servants, medical professionals, teachers, lawyers and others who left their jobs in protest against the illegal coup assumed leadership roles in CDM. Young people from Generation Z, including significant numbers of women, were quick to assume highly visible leadership roles in the protest movement, responding to evolving conditions with creativity and resilience. After junta forces began shooting directly into massive crowds of protesters, for example, leaders shifted to smaller "flash" demonstrations to save lives.

82. As at 30 July, at least 4,932 separate protests had taken place since the coup;⁴¹ 98 per cent of those protests were reportedly peaceful.⁴² The 2 per cent characterized as "non-peaceful" events reportedly consisted largely of protesters retaliating against attacks by junta forces by throwing stones, using crude weapons or throwing back tear gas canisters.

⁴⁰ ABC-CBN News, "Myanmar: 'The situation could become critical in weeks'", 18 July 2021.

⁴¹ Armed Conflict Location and Event Data Project (ACLED), "Myanmar protests, 1 February–30 July 2021", ACLED Dashboard. Available at <https://acleddata.com/dashboard/#/dashboard>.

⁴² ACLED, "Myanmar's spring revolution", 22 July 2021.

83. It is estimated that as many as 2,000 police and military personnel have defected from the junta and joined CDM and/or PDF.⁴³ The Special Rapporteur has spoken with numerous police officers who have defected, and they report a similar reason for doing so: “I joined the police force to enforce the rule of law, but we cannot do that anymore after 9 February ... I saw the police were carrying out operations with and under the control of the military; their actions, including detentions, were not in accordance with the law.”⁴⁴

84. The diverse protest movement in Myanmar has called for a nationwide boycott of products and services associated with the junta as well as the cessation of taxes to junta-controlled ministries. Boycott targets include military-owned beer products, mobile telecommunication services, payment of energy bills, and taxes. CDM and Myanmar civil society organizations have appealed to the international community to support them with targeted economic sanctions against the economic interests of the junta. A total of 462 civil society organizations signed an appeal for sanctions to be imposed on Myanmar Oil and Gas Enterprise to prevent the illegal junta from stealing the country’s natural resource wealth.⁴⁵

National Unity Government

85. Following the formation of CDM, members of parliament who had been elected in the November national elections but prevented from taking their oath of office by the junta established the Committee Representing Pyidaungsu Hluttaw. From the Committee emerged the broader and more inclusive National Unity Government in April, to provide leadership, build international support and serve as the legitimate representatives of the people of Myanmar.⁴⁶

86. The National Unity Government has a historic share of women and lesbian, gay, bisexual and transgender (LGBT) people in top leadership positions. It established, for the first time in the country’s history, a dedicated Ministry of Women, Youth and Children’s Affairs, led by women’s rights activist Daw Susanna Hla Hla Soe, and a Ministry for Human Rights, led by Aung Myo Min, a long-time human rights and LGBT advocate. The Minister of International Cooperation, Dr. Sasa, is an ethnic Chin medical doctor. Women hold 9 of the 36 cabinet positions of the National Unity Government, reflecting a 25 per cent representation of women; a remarkable step, considering that, in the entire history of Myanmar, only three women have occupied posts as Union ministers.

87. The National Unity Government is actively working to support CDM and tackle the many issues facing post-coup Myanmar. For example, in July, the Minister of International Cooperation, Dr. Sasa, sought vaccine support for Myanmar from the COVID-19 Vaccine Global Access (COVAX) Facility.⁴⁷ The National Unity Government is also working on accountability for past crimes. In August, it announced that it had

⁴³ The Irrawaddy, “2,000 Myanmar junta soldiers and police join Civil Disobedience Movement”, 23 August 2021.

⁴⁴ Interview with police defector, 20 August 2021.

⁴⁵ 462 civil society organizations, “While people of Myanmar demand sanctions on junta-run gas enterprise, Chevron and Total bankroll abuses”, press release, Progressive Voice, 2 August 2021.

⁴⁶ National Unity Government, announcement 23/2021 of 16 April 2021, on the formation of the National Unity Government. Available at <https://crphmyanmar.org/formation-of-the-national-unity-government/>.

⁴⁷ Letter dated 22 July 2021 from the Minister of International Cooperation and Spokesperson of the National Unity Government, Dr. Sasa, addressed to the Chief Executive Officer of Gavi. Available at <https://twitter.com/DrSasa2222/status/1418196659184443398/photo/1>.

formally lodged a declaration in July with the International Criminal Court to accept jurisdiction over crimes committed in Myanmar since 1 July 2002.⁴⁸

88. In addition, in June the National Unity Government released a policy statement on the Rohingya, affirming its intention to abolish the 1982 Citizenship Law, which resulted in the denial of citizenship to the Rohingya, and the use of national verification cards, which the junta continues to use to deny the very existence of the Rohingya and register them as foreigners.

Local defence and the People's Defense Force

89. As junta-commanded forces unleashed widespread, systematic attacks on the people of Myanmar and it became clear to most that the international community would not be applying the requisite pressure to try and stop them, calls intensified throughout Myanmar for an armed resistance that would be capable of protecting a people under siege.

90. On 14 March, the National Unity Government declared that the people of Myanmar had the right to self-defence in the face of junta attacks,⁴⁹ and on 5 May, it announced the creation of the People's Defense Force.⁵⁰

91. By the time of the announcement by the National Unity Government, multiple local defence forces were already being established, including CDF, the Kalay Civil Army and the Karenni National Defense Force. As at 30 June, approximately 40 local defence forces were actively engaged in some form of action against junta forces as other communities sought to form their own self-defence capacity. There is no evidence of a command and control relationship between the National Unity Government and these local operations.

92. These local militias are no match for a large, well-equipped military force. Most of these ill-equipped forces rely on improvised and homemade weapons, including "Tumi" rifles. Tumi rifles have a single-shot capacity and traditionally use gunpowder composed of animal dung and toxic plant leaves and are used for hunting animals. They have a range of 50–100 ft. The process of reloading the barrel with gunpowder takes approximately three minutes.

93. There have been numerous credible reports of extrajudicial attacks on local administrators alleged to be aligned with or sympathetic to the junta, as well as private citizens accused of being junta informers. Extrajudicial killings are unacceptable violations of fundamental rights, regardless of who carries them out, and must be investigated and prosecuted by an impartial and independent court of law.

Ethnic armed organizations

94. A truly federal opposition army composed of ethnic armed organizations and people's defence forces working under a unified command structure does not exist, nor is it likely. That said, several ethnic armed organizations have expressed support for the National Unity Government and have provided protection, including shelter

⁴⁸ Minister of Human Rights, Aung Myo Min (@aung_myo_minn), "The NUG accepts the jurisdiction of the ICC with respect to international crimes committed in Myanmar territory since 1 July 2002. The declaration was lodged in accordance with article 12(3) of the Statue of ICC on 17 July 2021.", 20 August 2021, available at https://twitter.com/aung_myo_minn/status/1428680811574972416.

⁴⁹ National Unity Government, declaration 13/2021 of 14 March 2021, informing the people of their right to self-defence according to the law as civilian population in case of violence. Available at <https://twitter.com/CrphMyanmar/status/1371361961452085250>.

⁵⁰ National Unity Government, announcement 1/2021, on the establishment of the People's Defense Force. Available at <https://twitter.com/CrphMyanmar/status/1389826485851103237>.

and food, for fleeing civilians, and in some cases – as the junta alleges – have provided military training to new recruits. On 27 August, a junta spokesperson asserted that “some [ethnic armed organizations] are providing arms to the terrorists so-called [People’s Defense Force], giving training to them, and recruiting them”.⁵¹ Indeed, ethnic armed organizations operating in Kayah, Kayin, Mon, Shan and Kachin States have provided varying degrees of support. Other such organizations, including the United Wa State Army and the Arakan Army, have avoided taking sides in post-coup Myanmar.

95. Ethnic armed organizations must abide by international humanitarian and human rights law. Credible reports highlight two senior commanders of the Karen National Defense Organization (KNDO) confessing that soldiers under their command captured and then summarily executed 25 unarmed men in plain clothes in Myawaddy Township, Kayin State, on 1 June 2021.⁵² The commanders claimed that the unarmed men were junta spies, while the junta reported that they were engineers. Regardless, international humanitarian law protects against the summary execution of spies and/or unarmed combatants or civilians while detained, and those responsible for this massacre should be investigated. The Special Rapporteur commends the Karen National Union, which controls KNDO, for agreeing to cooperate with international justice mechanisms on this issue.⁵³

VI. International response

96. While reactions to the coup by the international community and Member States have varied, the military junta has consistently sought to use actions by the international community as propaganda tools to create an appearance of legitimacy. Within hours of an April summit of the Association of Southeast Asian Nations addressing the crisis, for example, junta leader Min Aung Hlaing double-crossed participating Governments by cynically dismissing the “five-point consensus” to which he had just agreed, including the cessation of violence, as mere “suggestions”. He went on to use his appearance at the summit to project the false impression that he was being accepted in the region as a legitimate leader.

97. Forty-one Governments have established some form of targeted economic sanctions against junta leaders or their business interests. Embargoes of weapons, military equipment and dual-use technology have also been established to weaken the capacity of the junta to continue its attacks. While welcome, these steps have lacked coordination and strategic focus.

98. The Security Council has failed to adopt a resolution to take coordinated action on targeted economic sanctions or an arms embargo or to refer junta leaders to the International Criminal Court. Many have argued that seeking such a resolution would be futile, as it would require a consensus among the Council’s permanent members. Security Council resolutions and statements have been adopted, but action has remained a bridge too far.

99. Meanwhile, the danger that the junta poses to its neighbours and the world continues to increase. Its mismanagement of the COVID-19 crisis, even as it undermines the country’s health-care system and ruthlessly attacks health-care professionals, has led to the rapid spread of the disease and the cultivation of conditions that could generate new variants even deadlier and more contagious than

⁵¹ Aung Min Thein and Min Naing Soe, “SAC spokesperson warns EAOs not to support PDF”, Eleven Media Group, 28 August 2021.

⁵² Fortify Rights, “Myanmar: ensure accountability for massacre and other atrocities”, news release, 17 August 2021.

⁵³ Ibid.

Delta. This poses a threat not only to the people of Myanmar, but to the region and the world.

100. There have been well-publicized regional diplomatic initiatives to foster engagement and negotiation and seek consensus. However, the junta has failed to demonstrate any desire to meaningfully engage in dialogue to end the crisis. The Special Rapporteur believes that progress on this front will occur only when there is significant and sustained pressure exerted on the junta.

101. Without a change of course, the current trajectory of developments in Myanmar points to protracted authoritarianism, an even greater loss of life, a humanitarian disaster and a failing, pariah State that is a national security threat not only to Myanmar, but to the region and the world.

102. It bears repeating that a representative of a member of the Security Council spoke for many, including the people of Myanmar and the Special Rapporteur, when he publicly lamented, “What are we waiting for? The longer we delay, the more people die. This Council is failing in our collective responsibility to safeguard international peace and security. And it is failing the people of Burma.” A fundamental reassessment of how the international community is responding to the crisis in Myanmar is imperative. The people of Myanmar are running out of time.

VII. Recommendations

103. **The Special Rapporteur’s recommendations for the military junta remain to:**

(a) **Relinquish the power that it assumed through an illegal coup so that a legitimate, democratically elected parliament can convene and a government formed;**

(b) **Immediately stop murdering and torturing the people of Myanmar;**

(c) **Release, unconditionally, all who were illegally detained and end the persecution and prosecution of the people of Myanmar for exercising their human rights, and dismiss all politically motivated charges that contravene human rights, including the rights to freedom of expression, peaceful assembly and association;**

(d) **Immediately end the targeting of journalists, human rights defenders and members of civil society;**

(e) **Stop blocking communities in need from access to humanitarian assistance and guarantee all people in Myanmar the right to move without unnecessary restrictions, including unhindered access to services and livelihoods.**

104. **The Special Rapporteur’s recommendations for Member States are to:**

(a) **Organize a coalition of nations that are exerting, or are prepared to exert, strong, sustained pressure on the military junta; a strategy summit should be convened to establish coordinated, comprehensive economic sanctions and embargoes of weapons and dual-use technology; sanctions should target military-owned or controlled enterprises, including the Myanmar Oil and Gas Enterprise, which represents the single largest source of revenue to the State; actions should be coordinated to stop junta leaders from stealing the country’s natural resource wealth and prevent Governments and private sector interests from buying natural resources such as timber, gemstones, jade, pearl, rare earths and other such products where the funds are channelled to the military junta;**

(b) Refuse recognition of the illegitimate military junta of Myanmar, including by the United Nations, and disinvite junta officials from and/or avoid forums or functions that the junta can continue to manipulate to create the false impression of legitimacy and recognition;

(c) Investigate the junta leadership for the multiple international crimes that it is committing, including war crimes and crimes against humanity, utilizing national courts with universal jurisdiction laws and leveraging the resources of the Independent Investigative Mechanism for Myanmar;

(d) Fully fund the 2021 Myanmar Humanitarian Response Plan and establish a humanitarian aid distribution programme that works directly with international non-governmental organizations, civil society organizations, ethnic armed organizations and other mechanisms, avoiding junta-controlled entities, to secure funding to people in need, including cross-border support;

(e) Exert pressure on the junta to secure unfettered access to monitor the conditions of particularly vulnerable populations, including the Rohingya and other at-risk groups;

(f) Work with Member States bordering Myanmar to develop coherent, consistent and humane refugee policies and procedures that respect the principle of non-refoulement;

(g) Support efforts to hold perpetrators of mass atrocity crimes accountable in impartial and independent courts, including the International Criminal Court;

(h) Recognize the National Unity Government as representing the sovereign will of the people of Myanmar and as a trusted source and partner to engage in the distribution of humanitarian, health, education and other support for the people of Myanmar.

105. The Special Rapporteur's recommendations for the United Nations and its organs are to:

(a) Conduct an independent, critical assessment of the response of the international community to the crisis in Myanmar and consider options for a course correction;

(b) Adopt a Security Council resolution specific to Myanmar that mirrors the requirements of resolution [2565 \(2021\)](#), including (i) that all parties to conflicts engage immediately in a durable, extensive and sustained humanitarian pause to facilitate the equitable, safe and unhindered delivery and distribution of COVID-19 vaccinations in areas of armed conflict; (ii) full, safe and unhindered humanitarian access, without delay, for humanitarian personnel and medical personnel, their equipment, transport and supplies, in order to facilitate, inter alia, COVID-19 vaccinations, as appropriate; and (iii) the protection, safety and security of such humanitarian and medical personnel;

(c) Organize a COVID-19 emergency initiative that includes a "COVID-19 ceasefire" and facilitates the removal of all technical, legal and logistical obstacles to the urgent distribution of vaccines and treatment through an independently branded source;

(d) Recognize the National Unity Government as a trusted source and partner to address the crisis in Myanmar, including in the provision of humanitarian, health, education and other support for civilian populations;

(e) Investigate junta leadership for the multiple international crimes being committed, including war crimes and crimes against humanity, at the International Criminal Court, utilizing evidence collected by the Independent Investigative Mechanism for Myanmar.

106. The Special Rapporteur's recommendation for public and private sector donors is to provide robust funding for human rights advocacy that closely monitors, defends and supports the rights and security of all groups, including human rights defenders, journalists, lawyers, women's rights advocates, members of the LGBTQ community, the disability community and other at-risk groups throughout Myanmar.

107. The Special Rapporteur's recommendations for the National Unity Government are to:

(a) Promote and advance the National Unity Government-PDF code of conduct, which provides guidance on the laws of armed conflict and treatment of civilians, and take all measures necessary to stop extrajudicial killings and other rights violations;

(b) Continue efforts to secure the necessary resources to address the needs of the people of Myanmar, including COVID-19 vaccines, humanitarian aid and other vital resources;

(c) Continue efforts to hold perpetrators of mass atrocity crimes accountable by an impartial and independent court, including the International Criminal Court;

(d) Provide the international community, including Governments, with information, analysis and recommendations to support the people of Myanmar and to help generate the requisite pressure to free Myanmar from the scourge of its occupation by forces of an illegal military junta.
