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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

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

Summary

The present report of the Special Rapporteur on the situation of human rights in Myanmar is submitted pursuant to Human Rights Council resolution 43/26. In the report, the Special Rapporteur reflects on the human rights situation before and after the military coup and makes recommendations to protect and promote human rights in Myanmar.

* The present report was submitted to the conference services after the deadline in order to reflect recent developments.

** The annexes are reproduced as received.

I. Introduction

1. The military coup, initiated by Senior General Min Aung Hlaing and senior military officers, had an immediate impact on the political, social, and economic landscape in Myanmar and on fundamental human rights issues. Given the gravity of the human rights violations associated with the military takeover and Resolution S-29/1, adopted by the Human Rights Council at the 29th Special Session on 12 February 2021, the main body of this report will primarily focus on events in Myanmar following the 1 February 2021 coup.

2. This document reports on the human rights situation in Myanmar as of 1 March 2021. Annex I describes the human rights situation throughout 2020 and up to the coup. If not for the coup, Annex I would have formed the substantial body of this report.

3. The Special Rapporteur's meetings in Myanmar have been, by necessity, virtual. He formally requested a visit to Myanmar by letter to State Counsellor Aung San Suu Kyi on his first day and was informed that, due to the pandemic, a country visit would not be possible. He has subsequently reiterated that request. While unable to undertake a country visit, he conducted extensive research on the human rights situation in Myanmar both pre- and post-coup, meeting virtually with a wide variety of sources, including members of civil society, journalists, human rights defenders, activists, members of parliament, international organizations, members of the diplomatic community, international human rights mechanisms and the business community. The Special Rapporteur appreciates the valuable information and analysis provided by all interlocutors and stresses that this report would not be possible without their support.

II. The Coup

4. On 1 February 2021, the Myanmar military overthrew the civilian government in an illegal coup d'état. After declaring itself the "State Administrative Council" (SAC), the junta began committing human rights violations, including murder, arbitrary detention, beatings, and probable enforced disappearances. The SAC also instituted laws and policies to suppress freedom of expression, freedom of peaceful assembly and association, and the right to privacy. The coup completely overturned the rule of law in Myanmar.

5. Despite the junta's threats, including a message delivered on national television that those participating in protests could "suffer loss of life," a nonviolent nationwide civil disobedience movement (CDM) emerged, transcending ethnicity, religion, and socioeconomic status. Millions have demonstrated in hundreds of townships opposing military rule.

6. Since 1 February, the junta arbitrarily detained over 1,200 individuals and killed at least twenty-three people. At the time of writing, violent confrontations and arbitrary detentions are increasing at an alarming rate. Facing an economy shrivelling under the weight of a powerful civil disobedience movement, Min Aung Hlaing threatened striking civil servants with "disciplinary actions" if they failed to return to work. The people are undeterred.

The election pretext

6. On 8 November 2020, national elections were held throughout Myanmar. The National League for Democracy (NLD) won an outright majority, winning 396 out of 476 seats while the military-backed party, the Union Solidarity and Development Party (USDP), won 33.

7. The USDP alleged massive fraud and the military demanded that the Union Election Commission (UEC) investigate allegations of voting irregularities, despite independent monitors not reporting any evidence. The Myanmar military alleged first 8.6 and then 10.5 million instances of irregularities in voter lists spread over 314 townships. The military argued these alleged irregularities could have changed the outcome of the election.

8. On 26 January 2021, a military spokesman warned it would "take action" if the election dispute was not settled, adding: "We do not say the military will take power. We do not say it will not as well." Commander-in-Chief Min Aung Hlaing then said the constitution could be "revoked," further raising fears of a coup. The military then deployed military vehicles, including armored personnel carriers, to the streets of Yangon, Naypyitaw, and other locations.

9. On 28 January, the UEC announced there was no evidence to support the claim of widespread fraud. It said it was investigating 287 complaints, acknowledged that duplication of names appeared in some lists, but stressed that voters could not cast multiple ballots with fingers marked in indelible ink. This finding cleared the way for the new Parliament to be seated on 1 February.

10. With tensions rising, the NLD and military reportedly held talks in the days leading to 1 February. Military representatives allegedly demanded delaying the convening of Parliament, disbanding the election commission, and re-examining votes under military supervision. Min Aung Hlaing publicly stated that the military's remarks regarding a coup and the constitution were misunderstood. Reports and subsequent actions indicate that the talks failed.

Overthrowing the elected government

11. Beginning at 3:00 am on 1 February, before newly elected parliamentarians could be sworn in, the military began its unlawful coup d'état. The military enforced a near-nationwide telecommunications shutdown, cutting voice, text, and mobile Internet services. The military then seized control over the legislative, judicial, and executive branches of government; arrested dozens of government officials, including State Counsellor Aung San Suu Kyi and President Win Myint; detained activists; and placed duly elected parliamentarians under house arrest in Naypyitaw.

12. On 1 February, the Myanmar military declared a state of emergency by invoking Article 417 of the Constitution, which permits a military takeover for one year in the event that the President declares a state of emergency that threatens the country's "sovereignty" or "dissolution" or preservation of "national solidarity." The junta announced the creation of the "State Administrative Council" with Min Aung Hlaing as Chairman. The junta then appointed new heads of government ministries, replaced UEC members, amended and instituted new draconian laws, appointed new justices to the Supreme Court, and set out five conditions necessary for stepping down: reconstituting the UEC, tackling COVID-19, improving the economy, restoring "eternal peace" with Ethnic Armed Organizations (EAOs), and holding democratic elections.[1]

13. Even if certain election irregularities existed, they would not justify declaring a state of emergency, seizing the levers of administration, and detaining the civilian leadership and members of civil society. When considering even the loose phrasing of Myanmar's Constitution, allegations of voter irregularities do not rise to the level of the constitutional conditions precedent for the lawful invocation of Article 417 state of emergency, which may be done only in situations that may "disintegrate the Union," "disintegrate national solidarity," or "cause the loss of sovereignty." Moreover, these situations must be caused by certain types of "acts" or "attempts," which are listed as: "insurgency," "violence," or "wrongful forcible means." Concerns over voter lists do not rise to this level.

14. Additionally, the military's seizure of power was procedurally unlawful under the Constitution. Under Article 417, only the President of Myanmar can declare a state of emergency and only after consulting with the National Security and Defense Council. However, because the Myanmar military had unlawfully ousted President Win Myint, he was unable to publicly declare anything, let alone a state of emergency. Military-appointed Vice President Myint Swe unlawfully declared a state of emergency. Under Article 421(a), the President is required to seek parliamentary consent ("submit the matter of transferring

[1] SAC, Notification No. 1/2021, 2 February 2021; Min Aung Hlaing Address, 8 February 2021.

sovereign power") in a regular or emergency legislative session. This, of course, did not occur because parliament had been dissolved.

15. Under the military-drafted 2008 Myanmar Constitution, this coup is illegal. The generals violated their own rules when they seized control of the government. The SAC and its actions are thus illegitimate.

III. People of Myanmar exercise their rights

16. The military coup d'état has united the people of Myanmar. Millions have taken to the streets throughout the country to demand democracy and human rights and an immediate end to the junta. Protesters include Buddhist monks and Muslim clergy marching side-by-side; civil servants from various sectors; doctors and nurses, workers and trade unions, bankers and educators; Karen, Chin, Shan, Kachin, and other ethnic groups; the very young and the very old. The people of Myanmar are rightly demanding the release of the State Counsellor, the President, and all political prisoners. Many are calling for a new constitution to remove the military from politics once and for all. The vast majority of the people of Myanmar are united in vehement opposition to the coup and embrace the CDM. Many ethnic-majority Burman protesters have also expressed regret over not previously recognizing the military's atrocity crimes against ethnic minorities, specifically referencing the Rohingya.

Civil disobedience movement

17. On 2 February, the day after the coup, people throughout the country banged pots and pans—a traditional practice to ward off evil spirits—in unison at 8:00 pm to protest the military takeover. By 6 February, a well-organized, though organic and nominally leaderless, civil disobedience movement took hold. Healthcare workers, celebrities, civil servants, professors, lawyers, religious leaders, and others participated early on in the campaign. "Generation Z" (those younger than 25-years old) assumed a prominent and leading role in the movement.

18. The Special Rapporteur received reports that public sector workers from at least 245 districts (out of 330) representing 21 ministries had gone on strike in the first weeks of the coup. The strike spread from healthcare workers to public-sector employees across numerous ministries, including Railway, Customs, Commerce, Electricity and Energy, Transport and Communications, and Agriculture, Livestock and Irrigation. Teachers, central bank employees, and other government officials joined. In the private sector, trade unions called on their members to strike and bank tellers, cooks, grocery workers, and others joined the CDM.

19. On 19 February, the "Anti-Military Dictatorship General Strike Committee" was formed with the goal of creating regional strike committees, supporting participants in the CDM, and sustaining and coordinating the CDM movement.[2] The largest street protests since the coup—and quite possibly ever in Myanmar—occurred on 22 February (dubbed "the five 2s"), with unconfirmed estimates of "millions" of people nationwide in the streets, despite the junta's threats of "loss of life" televised the day prior.[3] The people of Myanmar have held peaceful protests in at least 247 of 330 townships throughout the country.

20. The CDM has brought the functions of the State to a near halt. Strikes across almost all sectors of society, including banking, have reportedly brought physical cash circulation to a "trickle" and transactions at banks have mostly ceased. Myanmar's currency, the kyat, has depreciated, driving costs up while many employees go unpaid. Refined oil imports have stalled.

21. When asked how long the population could withstand the deprivations of a strike, one protester indicated as long as it might take, noting that most had already lived through deprivations and had learned how to go without. Several people reported fears the military

[2] Anti-Military Dictatorship General Strike Committee, Statement No. 1/2021, 19 February 2021.
[3] SAC Statement on MRTV, 21 February 2021.

would injure or even kill them during protests; however, all said a return to a military dictatorship is what they feared most.

22. A group of CDM leaders released five key demands and goals: (1) release all those detained; (2) abolish the military dictatorship; (3) achieve democracy; (4) establish a federal democratic union; and (5) abolish the 2008 constitution.

Committee representing Pyidaungsu Hluttaw

23. On 4 February, 390 duly elected NLD parliamentarians signed their oaths of office in Naypyitaw, defying the junta. The members of Parliament (MPs) argued this was in accordance with the 2008 Constitution, as they had already officially received their accreditation letters from the UEC. Moreover, as long as the 2008 Constitution remained valid, they argued, no one could revoke their status as MPs. The following day, on 5 February, 15 MPs formally created the Committee Representing Pyidaungsu Hluttaw (CRPH) to support the anti-coup movement. Two ethnic MPs from Kayah State Democratic Party and the Ta'ang National Party joined the CRPH on 10 February, making it a 17-member body. The CRPH's primary objectives involve ensuring the unconditional release of those arbitrarily detained, performing the duties of Pyidaungsu Hluttaw, and forming a government.

24. The CRPH refuses to recognize the SAC, declaring that the coup "does not revoke the legitimate authority entrusted to us by the people" and, on 1 March, designating the SAC a terrorist organization. The CRPH called on the international community to continue recognizing the NLD-led government as the legitimate leadership of Myanmar, with the CRPH in a supporting role. It appointed Dr. Sasa, a prominent ethnic Chin, as Special Envoy to the United Nations, as well as Htin Lin Aung to serve as the Special Representative for international relations.

25. Eleven state and regional assemblies, excluding Rakhine, Mon, and Kayah states, have convened and endorsed the CRPH. CRPH also garnered support from prominent members of the CDM, including the Myanmar Lawyer Association and healthcare workers.

26. On 15 February, the SAC issued arrest warrants for all members of the CRPH under Article 505(b) of the Penal Code, with Min Aung Hlaing referring to the CRPH as the "parallel government." All 17 members of the CRPH remain in hiding.

27. Addressing the UN General Assembly at an informal meeting on 26 February, Ambassador Kyaw Moe Tun, Permanent Representative of the Republic of the Union of Myanmar to the United Nations, unequivocally condemned the military and the coup d'état. In what he described as a message from the CRPH, he called for member states and the UN to, "take the strongest possible measures to stop the brutal and violent acts committed by the security forces against peaceful demonstrators and end the military coup immediately." Myanmar state television announced the following day that Kyaw Moe Tun had been fired, saying he "betrayed the country." As of 1 March, the UN continued to recognize Kyaw Moe Tun as Myanmar's Permanent Representative.

IV. The SAC's violation of rights

28. The junta has responded to the people of Myanmar's nonviolent and peaceful protests with murders, beatings, mass arbitrary detentions, intimidation (including a threat via state-run television that protesters could "suffer the loss of life"), and systematic repression of civil and political rights. Mass protests and strikes continue.

Murder

29. The Special Rapporteur received credible reports that as of 1 March, Myanmar security forces murdered at least 23 individuals. The Special Rapporteur stresses, however, that as this report goes to print, details of a nationwide-deadly crackdown on 3 March are emerging, with credible reports, yet to be confirmed, that at least 38 people were killed on

this day alone. All of these murders since the coup are in violation of international law and many, though not all are highlighted below in the context within which the junta's security forces conducted the murders.

30. Female teenager, murdered in Naypyitaw: On 8 February 2021, Min Aung Hlaing addressed the people of Myanmar on live TV for the first time since the illegal coup d'état. He stressed, "We are taking [over] State responsibility based on unavoidable reasons . . . we shall build a genuine and disciplined democratic system."[4] That same day, the junta invoked Section 144 of the Criminal Procedure Code in townships across the country, prohibiting public assemblies larger than five persons and imposing a curfew from 8pm to 4am.[5]

31. On 8 February, Myanmar police deployed water cannons against protesters and fired rubber bullets directly at protesters, including in Naypyitaw.

32. On 9 February, tens of thousands of people took to the streets in more than 300 towns and cities throughout Myanmar. A nineteen-year-old student was among the protesters in Naypyitaw that day demanding a return to the civilian government. As police fired a water cannon into a crowd of protesters, she and her sister took cover behind a bus stop. The Special Rapporteur has viewed video that shows the victim wearing a helmet, with her back turned to the police, suddenly collapse to the ground. Her sister removed the victim's helmet, revealing blood and what appeared to be an entry wound in the back of the victim's head.

33. Her sister and others quickly transported her to Naypyitaw's general hospital. According to the medical doctor who treated her, she was shot in the head with a live round, the injury would be fatal, and she was effectively brain dead. A doctor on the scene reported that the military attempted to transfer the victim to a military hospital in order to, in the doctor's belief, "try to conceal evidence of this incident," but the doctor successfully argued that the severity of her injury required she stay. The doctor is now in hiding, fearing repercussions from the junta.

34. In a statement, the junta denied responsibility, claiming police were only carrying anti-riot control weapons on 9 February and that the bullet in her brain was not consistent with ammunition the police use. The Special Rapporteur viewed photographs showing a member of the Myanmar police stationed in the vicinity of the victim aiming a Myanmar-produced version of an Israeli Uzi, debunking the claim that police only deployed anti-riot equipment.

35. Junta leader Min Aung Hlaing further dismissed her killing in a State Administrative Council meeting on 23 February. In published reports, Min Aung Hlaing appeared to blame her for her injury, saying that she "participated in the riots." He repeated the false claim that police only used rubber bullets.

36. Her birthday was two days after being shot, and her family removed her from life support a week later. She died on 19 February. Thousands attended her funeral procession.

37. Three adult males and one teenage male, murdered in Mandalay: On 19 February, as the CDM and general strike continued to gain momentum, civil servant dockworkers at the government-run Yadanarbon Shipyard in Mandalay went on strike, preventing a ship from departing. Myanmar police intervened, attempting to force the civil servants back to work. Residents in the surrounding area soon gathered to protest the actions by police, who then attacked protesters. The Special Rapporteur viewed video showing police charging at protesters and firing on them. Reports from Mandalay on 20 February indicate Myanmar security forces fired well over 100 gunshots at protesters, including live ammunition.

38. A sixteen-year-old boy was among those fired upon. He worked at a local market, where vendors called him "little boy," with the goal of earning enough money to purchase a mobile phone and motorbike. He joined in the protests on 20 February as the group reached the market where he was working. The Special Rapporteur viewed video and photos of numerous individuals sheltering from gunfire, and then moments later, the boy is seen lying

[4] Since-removed Facebook post from Myanmar State TV, originally at https://www.facebook.com/523763414336156/posts/3858998297479301/?sfnsn=mo.

[5] Global New Light of Myanmar, 10 February 2021.

on the ground with a large, fatal gunshot wound to his head. The Special Rapporteur also viewed video of the boy being transported to a makeshift triage center at a monastery where volunteer medics were simultaneously treating individuals with gaping bullet wounds. Medics quickly determined that the boy was dead and placed a red sheet over his face.

39. On the same day, security forces also shot a 36-year-old husband, father, and carpenter with live ammunition while he protested the security forces' efforts to end the dockworkers' strike. The Special Rapporteur viewed photos of the man immediately after he was shot in the abdomen. He died in an ambulance en route to a hospital.

40. Security forces shot a third man in the leg on 19 February in Mandalay. He died on 23 February while in junta custody. The junta insists he died of COVID-19, though the Special Rapporteur received credible reports that his death may have been due to a wilful denial of medical treatment of his leg wound while in custody. The man's death may constitute not only murder, but also torture. The Special Rapporteur on torture has previously highlighted, "It is well established by numerous decisions by the UN Committee against Torture and other relevant monitoring bodies that torture can be committed by omission."[6]

41. The Special Rapporteur has seen photographs showing soldiers of Light Infantry Division (LID) 33 involved in the security forces' response to protesters in Mandalay on 20 February, including soldiers with sniper rifles. According to security analysts, LIDs, including LID 33, can be deployed as mobile units directly subordinate to the Commander-in-Chief. LID 33 has a history of engaging in human rights abuses, including participating in extrajudicial executions, enforced disappearances, and sexual violence against ethnic-Rohingya civilians in Rakhine State in 2017, and against civilians in Kachin and northern Shan states.

42. According to medics on the scene in Mandalay on 19 February, security forces injured at least 40 individuals, most from gunshot wounds.

43. Adult male, murdered in Yangon: On 12 February, as part of a general amnesty, the SAC released more than 23,000 prisoners convicted of crimes. Following their release, the Special Rapporteur received numerous reports of assaults and robberies accompanied by unverified instances of arson and vandalism. In one instance recorded in video, residents of Yangon's Sanchaung township detained four individuals who said they had been paid to break into homes at night.

44. So-called "neighborhood watch" committees have sprung up throughout Myanmar based on the well-founded fear of assaults and criminal activity by suspected junta proxies and police-led night-time raids and arbitrary arrests. Neighbors share intelligence on movements of soldiers and police, as well as the presence of unknown individuals. When residents spot police or possible proxies in their neighborhoods, residents bang pots and pans to warn their neighbors.

45. A thirty-year-old male, married with a five-year-old child, was one such volunteer neighborhood sentry in a Yangon suburb. On 20 February, he was standing guard when police arrived following an argument between him and a group of individuals sympathetic to the military. According to witnesses, an unmarked police car arrived at the scene and the victim asked the police why they were in the neighborhood. The police then cursed at him and reportedly fired three shots, one to his head, killing him instantly. The Special Rapporteur has seen photographs of the victim with the fatal head wound. The post-mortem analysis reportedly concluded that the bullet entered the back of his head and exited from the right eye, indicating he had been shot from behind. The police have reportedly refused to open an investigation.

46. At least 18 individuals killed in Yangon, Dawei, Mandalay, Myeik, Bago and Pokokku, 28 February 2021: On 22 February, the junta publicly pronounced on state television: "Protesters are now inciting the people, especially emotional teenagers and youths, to a confrontation path where they will suffer the loss of life." On 25 February, military-backed counter-protesters engaged in violent attacks against protesters, most notably in Yangon, stabbing and beating unarmed individuals in chaotic scenes on city streets. Then,

[6] A/HRC/13/39/Add.5.

beginning on the evening of 25 February, Myanmar security forces began a stronger crackdown. Police in Yangon charged protesters without warning and used tear gas and rubber bullets, which to that point had been used in areas outside of Yangon.

47. On 28 February, Myanmar security forces dramatically increased the use of deadly force against protesters in at least six separate cities throughout the country. The Special Rapporteur received credible reports of murders, including those involving police and military forces firing into crowds of hundreds of protesters in the southeastern city of Dawei, shooting fleeing protesters in Mandalay and killing another woman seemingly at random while walking on the street, and lethally targeting protestors in Yangon.

48. These most recent killings demonstrate that Myanmar forces are now engaging in systematic murders throughout the country. Security forces in disparate locations are unlikely to have engaged in these murders on the same day without express approval of the senior-most leadership of the junta, including Min Aung Hlaing. As investigations are conducted, liability should extend to those highest in the chain of command in accordance with international law.

Disproportionate use of force

49. The Special Rapporteur viewed dozens of videos and images showing Myanmar security forces using excessive force, including brutally beating unarmed individuals, unlawfully using less-lethal weapons such as slingshots, rubber bullets, and water cannons, and shooting people with live ammunition while breaking up protests and detaining individuals. Violent acts against protesters and civil-servant strikers occurred in at least Myitkyina and Waingmaw, Kachin State; Naypyitaw; numerous locations throughout Mandalay Region; Mawlamyine, Mon State; Myawaddy, Karen State; Myaungmya, Ayeyarwady Region; and Yangon.

50. For example, from the near outset of the coup, Mandalay police sanctioned the use of excessive force. According to an authenticated Mandalay police memorandum dated 3 February, police officers were instructed to "fire" at protesters "with a 12-gauge anti-riot shotgun if the protester is just one person" and "with a 38-mm anti-riot gun if the protesters are in a crowd."[7] The memo fails to note anything with regard to protecting the right to peaceful assembly. Aside from the shooting deaths and injuries on 28 February and at Yadanarbon Shipyard, Mandalay police have engaged in numerous other attacks against individuals, including the brutal beating of a 21-year-old man with cerebral palsy. The incident, captured on video viewed by the Special Rapporteur, shows a gauntlet of Myanmar police officers brutally beating the unarmed man with clubs.

51. Military-backed counter-protest provocateurs have also engaged in attacks against protesters, most notably in Yangon beginning 25 February. The Special Rapporteur received credible reports that security forces and military-affiliated entities provided support to the violent counter-protesters. Specifically, police appeared to clear barricades from a protest site in Yangon, facilitating violent encounters with pro-democracy protestors. Some violent counter-protesters reportedly arrived in areas of Yangon in buses belonging to the military-owned conglomerate, Myanmar Economic Holding Limited. The Special Rapporteur received multiple reports, including in video and photographs, that provocateurs assaulted and stabbed pro-democracy protesters in broad daylight in Yangon on 25 February, with no police response.

52. The Special Rapporteur received video from 27 February showing security forces and plain-clothed individuals brutally beating unarmed protesters in Monywa, Sagaing Region. The mass killings perpetrated on 28 February including at least 30 injuries caused by excessive force, including non-lethal gunshot wounds.

[7] "Myanmar: Rescind Order to Use Force Against Protesters, Protect Basic Freedoms," Fortify Rights, 5 February 2021, https://www.fortifyrights.org/mya-inv-2021-02-05/.

Arbitrary detention

53. At the time of writing and, the junta has arbitrarily detained over 1,200 people since the beginning of the coup. Political prisoners include members of the NLD, Members of Parliament, UEC officials, political activists, civil society members, civil servants, journalists, lawyers, teachers, medics, students, and celebrities. The junta issued arrest warrants for at least 32 others who reportedly went into hiding. At the time of writing, the authorities convicted at least four of the 900 detainees and sentenced them to prison terms ranging from seven days to two years.

54. The police, military, plain-clothed authorities, and General Administration Department officers such as township and ward administrators have all carried out arbitrary detentions since the coup.

55. Security forces arbitrarily detained people during protests and from their homes during unlawful night-time raids without warning or warrant and sometimes blindfolded. Once detained, security forces confiscated phones, effectively cutting communications with family members, lawyers, or others. In the overwhelming majority of arrests, there is no indication of charges against detainees. The majority of the families of detainees received no information from the junta's forces as to the wellbeing or whereabouts of their family **members**. Many of these detentions may thus amount to enforced disappearances.

Specific Groups

56. The NLD: State Counsellor Aung San Suu Kyi, President Win Myint, and nearly the entire NLD Central Executive Committee are believed to be detained. Reportedly, both the State Counsellor and President appeared before a court via video link on 16 February and 1 March. Aung San Suu Kyi has been charged under the Natural Disaster Management Law for allegedly violating Covid-19 restrictions while campaigning, under the Import-Export Law for possession of walkie-talkies, possession of an unlicensed telecommunication device under Section 67 of the Communications Law, and under Section 505 (b) of the Penal Code for inciting unrest. Win Myint has been charged under the Natural Disaster Management Law and under Section 505 (b). The next hearing for both is reportedly set for 15 March. Numerous other NLD figures have been charged, some appearing at secret hearings before a judge without access to legal representation. Myanmar police have also carried out night raids on the NLD's offices and headquarters, including on 9 February, confiscating its computer system. The junta is working to systematically dismantle the NLD leadership and party.

57. Civil servants and protest organizers: Myanmar security forces carried out scores of arbitrary arrests of grassroots organizers of the CDM. Security forces detained civil servants including doctors, lawyers, police officers, teachers, officials with the Ministry of Foreign Affairs and Ministry of Planning, Finance and Industry, and others.

58. Union Election Commission: Security forces detained senior UEC officials as well as mid- and low-level officials across many States and Regions.

59. These mass arbitrary detentions violate 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, in the determination of his rights and obligations and of any criminal charge against him"; and require everyone charged with a penal offence "the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense."

60. At the time of writing, families of those detained on 1 February are nearing four weeks without any information of the wellbeing and whereabouts of detained family members. According to the Working Group on Enforced and Involuntary Disappearances, an enforced disappearance occurs when an individual is detained by or with the acquiescence of state actors and there is no official acknowledgement or information about the individuals' wellbeing and whereabouts. The extended period without communication or information on the whereabouts of detainees in Myanmar is creating a grave prospect of possible mass enforced disappearances.

Legal restrictions on civil and political rights

61. Since the military unlawfully seized power, the SAC has issued draconian decrees by amending existing law, establishing new regulations, and imposing its will on telecommunications companies, all illegitimately and in violation of the people of Myanmar's right to freedom of expression, freedom of peaceful assembly and association, and access to information.

Freedom of Expression

62. Article 19 of the Universal Declaration of Human Rights protects the right to freedom of expression. For restrictions on the right to freedom of expression to be lawful, they must be provided for in law, applied only in specific circumstances to protect the rights and reputation of others, or to ensure national security, public order, public health, or public morals, and be necessary and proportionate. Proportionality should be interpreted to mean, in part, the least restrictive means to achieve any of the above legitimate aims.

63. Since 1 February, the SAC has illegitimately imposed new laws on the people of Myanmar to greatly limit their freedom of expression. Even prior to the coup, several of Myanmar's laws infringed on the right to freedom of expression, and they are now being used at an alarming rate to justify detentions of individuals.

64. The new and pre-existing laws have not been written in sufficient precision for people to understand what is lawful and what is not; they are too vague and overly broad to achieve any legitimate aims for restricting freedom of expression; and they include disproportionate prison terms.

65. The Penal Code: The SAC amended without authority the Penal Code in numerous ways to provide grave consequences to anyone who criticizes the junta or expresses views that the junta has announced to be untrue. The junta amended Sections 121, 124, and 505 (a) of the Penal Code, introducing harsh penalties and longer prison sentences for the following acts: (1) incitement or action against the "Defence Services or Law Enforcement agencies" (maximum twenty-year sentence); (2) intending to cause a government employee to "lose respect for the government" or to "hinder the performance of their duty" (maximum seven-year sentence); (3) cause or intend to "cause fear to a group of citizens or to the public in general" (maximum three-year sentence); (4) cause or intend to "spread false news" (maximum three year sentence); (5) cause or intend to "commit or to agitate directly or indirectly criminal offence against a Government employee."

66. These new sections and amendments to the Penal Code stifle criticism of the junta and effectively criminalize the activities of protesters. Anyone who speaks out against the military junta can be held criminally liable. By design, changes to the code would capture civil servants who join the CDM, those who encourage civil servants to join, and those who provide support to them.

67. Moreover, the junta is using existing draconian provisions of the Penal Code to crack down on freedom of expression. For example, Section 505(b) of the Penal Code criminalizes speech that may cause "fear or alarm to the public" or that leads others to upset "public tranquility." The junta has used Section 505(b) to detain at least foty-five individuals since the coup.

68. Electronic Transactions Law: On 9 February, the SAC floated a draft Cyber Security Law (CSL) that was met with substantial criticism from telecommunication providers. Instead of instituting the CSL, on 15 February, and without warning, the SAC announced illegitimate amendments to the Electronics Transactions Law (ETL) of 2004.

69. These amendments include the problematic provisions of the CSL that were directed at individual users of electronic communication and they further threaten the people of Myanmar's freedom of expression and right to privacy. Specifically, one amendment to the ETL criminalizes creating online "misinformation" (alternatively translated as "false news") and "disinformation" (alternatively translated as "fake news") with "the intent of causing public panic, lost trust or social division," with a maximum sentence of three years in prison.

70. The law does not define the key terms "misinformation"/"false news,"

"disinformation"/"fake news," "public panic," "lost trust," or "social division," leaving the SAC to interpret as it sees fit. Thus, this provision could, in effect, allow the junta to convict anyone who writes or posts information online that it disagrees with or finds threatening. The ETL also criminalizes sharing personal information about other individuals online without their consent, carrying a maximum three-year sentence, and criminalizes unauthorized access to information with the intent of damaging foreign relations, with a minimum sentence of three years and maximum of seven years. These last two provisions could, for example, subject an individual to criminal sanctions for sharing information about suspected human rights violations by members of the Myanmar security forces or the SAC, or for documenting and disseminating to the international community instances of human rights abuses.

71. The ETL provides security forces with sweeping surveillance authorities and gaping exceptions to personal data protections when engaged in "detecting, investigating, organizing of information" related to cybersecurity and cybercrime matters concerning the "stability, tranquility, national security of the state." "Stability," "tranquility," and "national security" are not defined terms in the law, leaving total discretion and authority to the junta to obtain data on any individual in Myanmar at will. These provisions of the ETL require no warrant, nor do they specify limitations on the amount or type of data that security forces can collect, in violation of international human rights laws and standards.

Freedom of expression and the internet

72. Article 19 of the Universal Declaration of Human Rights protects the right to freedom of expression, including the right to "receive and impart information and ideas through any media and regardless of frontiers." The SAC is severely restricting the people of Myanmar's freedom of expression and attempting to disrupt the CDM and the flow of information to civil society through a series of Internet shutdowns.

73. The military began telecommunications disruptions early in the morning on 1 February, in conjunction with the coup maneuvers, and the Internet remained partially disrupted for most of the day. Subsequent directives from the Ministry of Transport and Communications (MoTC) instructed service providers to block Facebook, which in Myanmar functions as the Internet for much of the population. In the days that followed, other social media platforms, such as Instagram and Twitter, were blocked and the junta ordered nationwide Internet shutdowns.

74. Since 15 February, the junta has enforced curfew-style nationwide Internet blackouts from 1am to 9am daily. National connectivity during these nightly blackouts hovers around 12 to 14 percent of regular daytime levels, as some Mytel users and select virtual private networks (VPNs) report Internet access. These shutdowns provide impunity for security forces carrying out arrests and violent crackdowns throughout the night, and inhibit lawful community organizing. At the time of writing, the junta has disabled Internet access nationwide for the fifteenth consecutive night. While the Internet is typically restored in full after 9 am, daytime restrictions on social media and certain websites, such as Wikipedia, continue to increase.

75. For restrictions on the right to freedom of expression to be lawful, they must be provided for in law, applied only in specific circumstances to protect the rights and reputation of others or to ensure national security, public order, public health or public morals, and be necessary and proportionate. Proportionality should be interpreted to mean, in part, the least restrictive means to achieve any of the above legitimate aims. These blanket nightly internet bans, with the aim of disrupting a civil disobedience movement and concealing unlawful night-time detentions, is not proportionate, necessary, or legitimate.

76. The Human Rights Council has held that it unequivocally condemns measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law. The junta's blanket bans on Internet and the freedom of expression necessitate such condemnation.

Freedom of the press

77. Freedom of the press, which faced challenges prior to the coup, has come under assault since 1 February. Security forces arbitrarily detained at least thirty reporters since the coup.

On 11 February, security forces arrested a freelance journalist who has been held incommunicado since the arrest. In an incident in Kachin State on 14 February, the military detained five journalists from multiple different Myanmar news organizations. They were released the next day only after being forced to sign a paper stating they would not violate Article 144. On 26 February, security forces detained a Japanese journalist in Yangon and released him hours later. Security forces arbitrarily detained additional journalists on 1 March.

78. In addition to arbitrary detention, reporters have also faced intimidation and harassment from officials and plain-clothed officers. In Mandalay and Yangon, security forces and pro-military provocateurs attacked reporters with sticks and batons. In Naypyitaw and Yangon, security forces shot rubber bullets and live ammunition at protesters, including a journalist shot in the back with a rubber bullet. Numerous reporters have gone into hiding, are under junta surveillance, or are openly quitting reporting. The arrests, detentions, and intimidation of journalists risk creating a severe chilling effect.

79. Finally, the junta's restrictions on freedom of expression and assembly infringe on journalists' rights. The 8:00 pm to 4:00 am curfew imposed under Section 144 restricts reporters' freedom of movement and ability to report on late-night arrests. The forced Internet outage from 1:00 am to 9:00 am, restricting Facebook, Twitter and media websites, also restricts reporters' ability to receive and impart information.

80. On 11 February, the Ministry of Information issued a directive to journalists warning media to not to refer to the SAC as the "coup government," "military government," or "military council" as the SAC had legitimately taken power. The SAC stressed it would soon start taking legal action against those who continued to use the banned words. Forty independent media organizations in Myanmar issued a letter rejecting the demand on the grounds that it violated their right to "freely report and broadcast."

Right to privacy

81. Article 12 of the Universal Declaration of Human Rights stipulates that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence . . . Everyone has the right to the protection of the law against such interference or attacks." Through amendments to existing laws, the junta has ensured it has near-unfettered ability to engage in search and seizure, in violation of the right to privacy.

82. Law Protecting the Privacy and Security of Citizens Amendments: On 13 February, the SAC amended without proper authority the Law Protecting the Privacy and Security of Citizens, removing key provisions that provided, in theory if not always in practice, fundamental protections to the people of Myanmar from unreasonable searches, seizures, surveillance, and arbitrary and indefinite detention. With the removal of these protections, the junta gives security forces legal cover to: (1) detain people indefinitely without permission from a court (thereby suspending habeas corpus in Myanmar); (2) enter a person's private residence for the purpose of search, seizure, or arrest; (3) surveil, spy upon, or investigate any citizen as they see fit; (4) intercept communications; (5) demand or obtain personal telephonic and electronic communications data from telecommunication operators; (6) open, search, seize or destroy a person's private correspondence; (7) interfere with a person's personal or family matters; and (8) seize or destroy a person's property. The Myanmar Constitution and the Code of Criminal Procedure continue to prohibit many of these activities.

83. Ward or Village Tract Administration Law Amendments: On 13 February, the SAC instituted illegitimate amendments to the Ward and Village Tract Administration Law, reinstating a provision of law that the NLD Government had repealed requiring people to report "overnight guests" to their township's administration to authorize their guest's travel and visit. The reinstatement of that notification requirement, combined with the pre-existing authority for township administrators to search homes "to examine for prevalence of law and order and upholding the discipline," violate the right to privacy and afford the SAC great search and seizure powers. Additionally, the amendments added a provision allowing Township officials to request permission from the junta to replace elected Ward and Village administrators.

Right to peaceful assembly and association

84. As highlighted above, the SAC issued an emergency order on 8 February prohibiting marches, protests, and gatherings of five or more persons in public areas, as well as a curfew from 8 pm to 4 am. The junta issued the order pursuant to Section 144 of the Criminal Procedure Code of 1898, which permits a magistrate to issue an emergency order directing "any person to abstain from a certain act . . . if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray." Violation of the order is punishable by up to six months in prison under Section 188 of the Penal Code.

85. The junta's extremely broad ban on gatherings of more than five people and the nightly curfew violates the right to peaceful assembly and association enshrined in Article 20 of the Universal Declaration of Human Rights.

86. As with freedom of expression, the junta is also using overly broad authorities that were in place prior to the coup to detain individuals in violation of their right to peaceful assembly. From 1 February to February 25, the junta detained at least fifteen people under Section 19 of Myanmar's Peaceful Assembly and Peaceful Procession Law for staging a protest against the military. Section 19 criminalizes the failure to get prior permission for a protest, criminalizes behaving in a way that could "destroy the government, public, or private properties or pollute the environment," and criminalizes "say[ing] things or behave[ing] in a way that could affect the country or the Union, race, or religion, human dignity and moral principles." These overly broad, undefined terms violate the right to peaceful assembly given they are not sufficiently precise to allow members of Myanmar society to decide how to regulate their conduct, and the laws confer unfettered or sweeping discretion on Myanmar officials charged with their execution.

87. The junta further restricted freedom of assembly and association by banning most trade unions. Trade unions have become an important force in mobilizing worker participation in the CDM's general strike. On 26 February the junta announced it had banned (albeit without proper authority) at least sixteen trade unions for not being properly registered under the Labour Organization Law and threatened legal action against them if they did not follow the ban. The Special Rapporteur has received numerous reports that trade union leaders are in hiding, with police and military conducting door-to-door searches at their homes and residencies.

V. Armed conflict, protection of civilians, and displacement since the Coup

88. The Special Rapporteur received credible reports of clashes between the Myanmar Army and EAOs, and daily mortar and shooting attacks by the Myanmar Army against ethnic nationality civilians in Kayin (Karen), Shan, and Kachin states. On 20 February, the Peace Process Steering Team, which encompasses ten EAOs that signed the Nationwide Ceasefire Agreement (NCA), issued a statement collectively condemning the coup, calling for the freeing of civilian leaders and announcing a suspension of all political dialogue with the Myanmar military.

89. The Myanmar Army increased attacks on civilian-populated areas in Kayin (Karen) villages since the coup, and in the weeks before and since the coup, attacks forcibly displaced more than 7,000 civilians, including an estimated 5,000 in Butho, Dwe Lo, and Luthaw townships, Papun District and 1,500 in Mone and Ler Doh townships, Nyaunglebin District. Since the coup, the attacks by the Myanmar military have displaced an estimated 3,500 Kayin (Karen) civilians. Reportedly, frequent shelling and the threat of being used as forced labor have caused civilians to flee. The Special Rapporteur received reports that the Myanmar military was building up troops and supplies in the area, with over 100 truckloads of supplies arriving in northern Kayin (Karen) State.

90. Since the coup, the Special Rapporteur received information on armed clashes in several townships in Shan State, including Kyaukme, Hsipaw, Muse, and Namtu. This

fighting resulted in 2,290 newly displaced people since 1 February. These included clashes between the Myanmar military and the Restoration Council of Shan State/Shan State Army (RCSS/SSA) in Hsipaw Township, clashes between the Myanmar military and the Shan State Progress Party/Shan State Army (SSPP/SSA) in Muse townships, and between the RCSS/SSA and the allied forces of SSPP/SSA and the Ta'ang National Liberation Army in Hsipaw, Namtu, and Kyaukme townships. During fighting in Kyaukme on 15 February, a shell landed in a village killing one woman who was eight-months pregnant, one man, and injuring six other civilians.

91. On 5 February, fighting between the Myanmar military and the National Democratic Alliance Army in Lashio and Laukkaing townships in northern Shan State killed nine civilians and injured eight, including an unidentified number of children.

92. The Myanmar military has reportedly attacked the Kachin Independence Army (KIA)—which never signed the National Ceasefire Agreement—on multiple occasions in Muse District, Northern Shan State since the coup. The Special Rapporteur received reports of fighting including Myanmar Army mortar shelling and a ground offensive, including Light Infantry Division 99, on 10 February, 21-22 February, and 26 February. One man in Muse Township was reportedly killed on 21 February by mortar shrapnel.

93. Communities in Rakhine State reported concerns about violence related to nationwide protests, as small pro-coup protests were reportedly held in Sittwe and small anti-coup protests in Ann, Thandwe, Taungup, and other places. In early February 2021, representatives of the Myanmar military visited internment camps in Sittwe Township, where the authorities have confined more than 125,000 Rohingya civilians since 2012. Military representatives met with the Camp Management Committees and instructed them that internally-displaced people (IDPs) should not participate in any protests and that if they did, action would be taken against them. The military also instructed Camp Management Committees in Sittwe to ensure that COVID-19 stay-at-home measures were observed and to prevent outside access to the camps.

94. The Arakan Army (AA) has not taken a public position on the coup. After nearly two years of armed conflict between the AA and the Myanmar military, fighting between the armies mostly ceased following the 8 November 2020 general election. Nevertheless, incidents of civilian casualties, in particular deaths and injuries caused by landmines, continued. On 4 February, a fourteen-year-old boy was killed and another two injured due to an unexploded ordnance detonation in Buthidaung Township, and on 17 February, a man was reportedly injured due to a landmine explosion in Ann Township.

95. As of 7 February, over 101,000 people remained displaced in Rakhine and Chin States from fighting between the Myanmar military and the AA. Slightly over 24,000 of those are inaccessible due to security and access restrictions. Given the prolonged lull in conflict since early November, humanitarian partners are looking at possible opportunities to gain access to them.

96. The United Wa State Army—the largest EAO in the country—has been notably silent during the present crisis.

VI. Impact on humanitarian access

97. The military coup has hindered the delivery of humanitarian aid in ethnic states in numerous ways. At the time of writing, the military had not yet issued new instructions or additional requirements for humanitarian access. However, pre-existing access challenges continue to exist.

98. Humanitarian assistance to the displaced in Kayin (Karen) State is being carried out largely with local providers, and the Special Rapporteur received information that service providers need greater logistical support, especially in anticipation of an expected Myanmar military offensive against Kayin (Karen) villages.

99. Most humanitarian aid in northern Shan State's conflict areas is delivered through national nongovernmental organizations and civil society organizations (CSOs). Immediate

assistance continues primarily through local partners in response to new displacements caused by clashes between the Myanmar military and (EAOs). However, some aid workers report difficulties withdrawing cash from banks to provide cash transfers to new IDPs.

100. In Kachin State, most humanitarian organizations have temporarily limited in-person activities due since the coup. Aid workers report difficulties accessing cash from banks and slower or intermittent communication connectivity—telephone and internet—is also hindering remote management of activities. There are concerns that access to non-government-controlled areas will be further constrained and potentially blocked entirely.

101. Some organizations were able to maintain communications in their areas of responsibility, including in Rakhine, Chin, Kayah, and Kayin states and Bago and Tanintharyi regions. Aid workers achieved this through previously established community-based protection mechanisms, as well as with humanitarian partners present in village tracts, IDP camps, and displacement sites.

102. In Rakhine State, humanitarian organizations have gradually resumed lifesaving aid to Rohingya, Rakhine (Arakanese), and Chin civilians following a brief "wait-and-see" period. Food and health partners were among the first to restore services. An already onerous travel authorization process remains, and partners expect delays post-coup.

103. Several humanitarian CSOs in Rakhine State reported pausing their programmatic activities to assess risks and ensure the safety of their personnel since the coup. Since the onset of COVID-19, international humanitarian partners have shifted greater responsibility to national partners and CSOs. National aid workers and CSOs will be more exposed to risks.

104. Additionally, the impact of the growing civil disobedience movement is widespread, including on humanitarian operations. Civil servants of key government departments and ministries have joined the movement, slowing administrative processes, including the review of travel authorizations, issuance of visas and entry permissions, or approval of the passenger list of relief flights. The Ministry of Health and Sports and many hospitals are functioning with limited staff. Disruptions in the banking sector have also resulted in a liquidity crisis for organizations' operations and programming.

VII. Impact on right of return

105. At the Special Session of the Human Rights Council on 12 February, the junta claimed that they will continue repatriation efforts of the Rohingya from Bangladesh and that they will pursue the return of Rohingya IDPs in central Rakhine State in an "instant manner." In reality, ethnic Rohingya civilians displaced by mass atrocity crimes in 2012, 2016, and 2017 appear no closer to returning home to rebuild their lives. The same would apply to Arakanese (Rakhine) and Chin civilians displaced by armed conflict in recent years. Moreover, a quick repatriation of Rohingya to Rakhine State under current conditions would likely conflict with the principles of a safe, dignified, voluntary, and sustainable return.

106. The junta reportedly plans to close IDP camps in Rakhine State, starting with Kyauk Ta Lone which has long been slated for closure. This closure is not in line with international standards as it will not allow IDPs to return to their homes or their places of origin. Rather, the authorities will simply move residents to housing at the same location while barring them from work.

VIII. International response to the Coup

Member states and international organizations

107. Numerous countries and international organizations condemned the coup outright, though only a limited number have taken concrete steps to pressure the military junta and its

economic interests.[8] The United States, Canada, and the United Kingdom imposed initial sanctions targeting current and former military officials either directly responsible for the coup or associated with the junta, such as those serving on the SAC. New Zealand suspended high-level political and military engagement with Myanmar. At the time of writing, the European Union had announced it was poised to impose sanctions, but had not yet done so.

108. As of 2 March, the military's economic interests remain largely unchallenged by Member States, with the exception of the United States targeting two mining subsidiaries owned by the military conglomerate Myanmar Economic Holdings Limited (MEHL) and blocking access to $1 billion in Myanmar State funds held in the United States. The United Kingdom announced it was temporarily suspending all trade promotion with Myanmar as it launches a review of its approach to trade and investment in the country. Member states have also begun to investigate their training programs and development projects in Myanmar to determine their true beneficiaries. New Zealand, Switzerland, United Kingdom, and the United States have either suspended or redirected funding to ensure civil society receives assistance while the European Union suspended its police training program, which had been in place since 2016. Norway froze its bilateral aid to Myanmar, amounting to approximately USD 8 million for 2021. Japan is also considering suspending developmental aid.

109. The World Bank Group announced that it had halted disbursements on its operations in Myanmar and was putting in place enhanced monitoring of projects already underway.[9]

110. ASEAN released a unified statement on 1 February encouraging "pursuance of dialogue, reconciliation and the return to normalcy in accordance with the will and interests of the people of Myanmar." On 2 March ASEAN reiterated its position, with Malaysia separately calling for the "prompt and unconditional release of political leaders," including Aung San Suu Kyi and Win Myint. Singapore's Ministry of Foreign Affairs has called the security forces' violence against unarmed civilians "inexcusable" and noted that "there will be serious adverse consequences for Myanmar and the region" if the situation continues to escalate.[10] On 24 February, Thailand hosted the military-appointed Foreign Minister in meetings with the Thai Foreign Minister and Prime Minister, the junta's first overseas engagement since the coup. Indonesian Foreign Minister Retno Marsudi also met the junta's representative in Thailand. Foreign Minister Marsusi affirmed Indonesia's intention to communicate with all parties, including the CRPH.[11]

International business community

111. The CDM and international human rights organizations have initiated international campaigns for the imposition of sanctions on the SAC, the Myanmar military, and its business interests. Most organizations are urging that sanctions be tailored so as to have maximum impact on the junta and its economic interests while having minimal impact on the people of Myanmar, including access to food, water, clothing and medical care. Prior to the coup, the International Fact-Finding Mission on Myanmar was unequivocal in its finding that doing business with the Myanmar military, or any of the enterprises connected to it, was inconsistent with the protection or promotion of human rights.

112. A growing number of international companies have announced major changes in their Myanmar operations since the coup.[12] Kirin Holdings, a joint venture partner of MEHL,

[8] See Annex II for a chart outlining Member States' economic sanctions and suspension of aid since the coup.

[9] The World Bank, Statement, 19 February 2021, https://www.worldbank.org/en/news/statement/2021/02/01/developments-in-myanmar.

[10] "MFA Spokesperson's Comments on the Situation in Myanmar," Ministry of Foreign Affairs Singapore, 20 February 2021, https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2021/02/20210220-mfa-spokesperson-comment-myanmar.

[11] "Press Briefing on the Outcome of the Visit to Bangkok," Republic of Indonesia MFA, 24 February 2021, https://kemlu.go.id/portal/en/read/2192/berita/minister-for-foreign-affairs-of-indonesia-press-briefing-on-the-outcome-of-the-visit-to-bangkok.

[12] See Annex III for a chart outlining individuals' and international companies' disengagement from Military-related business since the Coup.

announced plans to terminate its joint ventures with MEHL. TRD Singapore, a company that sells anti-drone equipment, cancelled upcoming sales to Myanmar and announced it will no longer supply the military with anti-drone products. Vero, a public relations firm active in Myanmar, Thailand, Indonesia, and Vietnam, has confirmed it will no longer represent military-owned companies. Korean Air Cargo will move out of the MEHL-owned Myawaddy Bank Luxury Complex and into a new location. Puma Energy, which operates Myanmar's largest fuel import terminal and a jet fuel joint venture with state-owned enterprise Myanmar Petroleum Products Enterprise (MPPE), has suspended all operations, citing security reasons. Australian firm Woodside Petroleum announced a "de-mobilization" of its drilling crew in Myanmar, after initially calling the coup a "transitionary issue." Others, such as South Korean steel manufacturer Posco International, which has a joint venture with MEHL, have have expressed concern and are considering following the precedent of Kirin Holdings.[13]

113. Facebook has taken steps to limit the military's distribution of content by banning all state media, Myanmar military, and military-controlled pages from both Facebook and Instagram, as well as paid advertisements by military-linked businesses. The ban did not include the pages of military-linked companies, however.

IX. Conclusions and recommendations

Conclusions

114. **The people of Myanmar are experiencing the illegal overthrow of their government and the brutal repression of a military authoritarian regime. But they have risen up in opposition as a diverse yet powerfully unified whole. The nonviolent civil disobedience movement is proving to be remarkably effective, drawing its organic power from the unflinching and democratic desires of the people. Indeed, Myanmar appears to have never been more unified.**

115. **While the future of Myanmar will be determined by its people, the international community must act urgently and decisively to support them. The stakes could not be higher. The Special Rapporteur hopes that the international community will rise to the occasion of this moment in history by following the lead and the inspiration of the people of Myanmar. And that justice, dignity, and human rights will prevail.**

Recommendations

116. **The Special Rapporteur recommends the military junta:**

(a) **Stop the use of excessive and lethal force against the people of Myanmar;**

(b) **Respect the right of peaceful assembly and association of the people of Myanmar;**

(c) **Relinquish the power that it assumed though an illegal coup;**

(d) **Release, unconditionally, all who were illegally detained; end the persecution and prosecution of the people of Myanmar for exercising their human rights; and allow for the legitimate, democratically elected parliament to convene and a government to be formed;**

(e) **Grant immediate, safe, and unimpeded access to providers of humanitarian and development assistance to all communities in need and allow all the people of Myanmar, including ethnic minorities, to move without unnecessary restrictions, including unhindered access to services and livelihoods;**

[13] "Posco's Response," Business & Human Rights Resource Center, 15 February 2021, https://www.business-humanrights.org/en/latest-news/poscos-response/.

(f) **Allow unfettered access to human rights monitors including the Office of the UN High Commissioner for Human Rights, the UN Special Rapporteur on the situation of human rights in Myanmar, and the UN Special Envoy;**

(g) **Permanently end the persecution of journalists, human rights defenders, and others who exercise their right to freedom of expression and release all persons held in detention for legitimate activities. Dismiss all politically motivated charges that contravene human rights, including the rights to freedom of expression, peaceful assembly, and association. Ensure that redress is provided for any psychological or physical harm caused to them;**

117. **The Special Rapporteur recommends the Myanmar military and Ethnic Armed Organizations:**

(a) **Cease deployment of military forces to contested areas and observe a nation-wide ceasefire;**

(b) **End violations against civilians, including targeted and indiscriminate killings, rape, arson, forced displacement, forced labour, and damage to civilian objects and non-military targets; and**

(c) **Guarantee full access to humanitarian actors providing lifesaving support to people in need; establish a more predictable and efficient Travel Authorization mechanism for humanitarian aid workers; and allow for media and human rights monitors to freely access areas affected by conflict and violence and report on their findings.**

118. **The Special Rapporteur recommends the United Nations:**

(a) **Urgently convene the UN Security Council to assess the situation in Myanmar, including the escalation of violence by police and security forces against the people of Myanmar, and invoke Chapter VII authority under the UN Charter to:**

(i) **impose a global arms embargo,**

(ii) **impose targeted economic sanctions against the Myanmar military and its sources of revenue, and**

(iii) **refer the situation in Myanmar to the International Criminal Court to investigate and possibly prosecute atrocity crimes that have occurred, including genocide, war crimes, and crimes against humanity;**

(b) **Deny recognition of the military junta as the legitimate government representing the people of Myanmar;**

119. **The Special Rapporteur recommends Member States:**

(a) **Establish a multilateral, coordinated economic sanctions regime in which nations agree to impose targeted sanctions on both senior junta leaders and their associates, as well as their sources of funding, including against military-owned enterprises and the Myanmar Oil and Gas Enterprise, which is now controlled by the military junta and represents the single largest source of revenue to the State;**

(b) **Use domestic anti-money laundering and other financial authorities as appropriate to block or freeze all overseas accounts of all entities of the State of Myanmar until a legitimate government is restored to ensure that the junta does not divert the State of Myanmar's public funds;**

(c) **Join the 41 countries that have already imposed arms embargoes on the Myanmar military;**

(d) **Use all influence to encourage states without an arms embargo on Myanmar to enact one and consider options to hold those who continue to permit these sales accountable;**

(e) **Ensure that nations are not engaging in the illegal retransfer of arms to the junta, including dual-use technology; and**

(f) **Deny recognition of the military junta as the legitimate government representing the people of Myanmar.**

120. **The Special Rapporteur recommends that humanitarian and development donors, including the UN, international development banks, Member States, and civil society organizations work directly with local civil society and aid organizations whenever possible to directly support populations rather than through centralized mechanisms that are now controlled by the junta.**

Annex I

The Situation of Human Rights in Myanmar in 2020 and Up to the Coup d'état

Introduction

1. This report is submitted as an annex to the Special Rapporteur's main report. In this annex, the Special Rapporteur reflects on the human rights situation in 2020 and up to the military coup in Myanmar. If not for the coup d'état on 1 February, this annex would have reflected the main components of the Special Rapporteur's report to the Human Rights Council and recommendations to the Myanmar government, Ethnic Armed Organizations, and the International Community.

2. This annex also addresses the Special Rapporteurs mandate of conducting thematic research to assess compliance with the Independent International Fact-Finding Mission on Myanmar's recommendations. For purposes of this annex, the Special Rapporteur examines the extent to which international businesses and member states heeded the call to end business interests with Myanmar military-owned enterprises and to cease arms transfers to the military. See Annex IV for charts summarizing the findings.

I. Democratic space prior to the military coup

General elections

3. On 8 November 2020, Myanmar held multi-party elections. Those deemed eligible to vote could choose candidates from a wide spectrum of political parties in addition to the ruling National League for Democracy (NLD) and the Myanmar military-affiliated Union Solidarity and Development Party (USDP). Since 2015, the political landscape has developed with new political parties and merged ethnic parties competing in elections. The ruling NLD party had a decisive electoral victory, winning 71 percent of seats in both upper (Amyotha) and lower (Pyithu) houses of Parliament. This margin provided the NLD with a more than two-thirds majority in the Union Assembly (Pyidaungsu Hluttaw). Had the parliament been allowed to convene, the NLD would have had a greater capacity than in the previous parliament to pass new legislation that would meet the commitment that was made during the second Universal Periodic Review (UPR) cycle (the third cycle), to bring all relevant statutes in line with Myanmar's international human rights obligations.[1]

4. Although the general elections represented an important (and necessary) step in Myanmar's transition to a federal democracy, they were not flawless. The right to vote should extend to all regardless of ethnicity, race, and religion. Unfortunately, nearly the entire Rohingya community was disenfranchised.

5. Political party candidates were unable to engage in typical campaign activities due to COVID-19 restrictions. These restrictions presented the greatest challenge for new candidates who were seeking to introduce themselves to voters. Political parties and candidates with greater financial resources and presence on social media outplaced those with more limited resources. While the UEC provided political parties and candidates with access to state TV, only UEC-approved messaging was allowed to be broadcasted. During the campaign period, the Commission reportedly deleted parts of the speeches provided by at least two political parties, including a speech which reportedly contained reference to a UNICEF report on child poverty. Several candidates refused to participate under these conditions. This created a significant disadvantage for lesser-known candidates and political parties.

6. Additionally, out of seven Rohingya candidates who submitted nominations, only one Rohingya candidate in Yangon Region was permitted to stand for the 2020 election and no Rohingya could run in Rakhine State after all six candidates' nominations were rejected, despite appeals to the UEC. The rejections appear to have been undertaken in a discriminatory manner based on ethnicity, where the candidates were reportedly subjected to stricter conditions and burden of proof than other candidates.

7. The absence of any Rohingya electoral candidates in Rakhine State and use of the term "Bengali" or "Kalar," especially on social media during election campaigns, further perpetuated a hostile environment and discrimination against them. Two Muslim NLD candidates were elected to the Pyithu Hluttaw. The Special Rapporteur notes that this was a slight improvement from 2015 where no Muslim candidates contested the elections. He welcomed reports that the NLD resisted calls to replace Muslim candidates with Buddhists. When democracy is restored, he will urge the NLD to intensify efforts to ensure that Muslims and Rohingya, and all members of religious minorities in Myanmar, can freely enjoy their civil and political rights without discrimination or harassment.

8. Although there were more female candidates in 2020 compared to 2010, the proportion in this election remained at a low 16 percent.[2] This represents a significant

[1] The Universal Periodic Review is a unique process that involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations.

[2] Carter Center, Election Observation Mission Myanmar's Nov. 8 General Election, 10 November,

underrepresentation of women. Temporary special measures are therefore required to ensure that Myanmar allows for a 30 percent "critical mass" of women parliamentarians in line with recommendations by the Committee on the Elimination of Discrimination against Women.[3] Furthermore, the Myanmar military has not appointed any women to the unelected seats in the parliament that the constitution sets aside exclusively for the military. This means that women would need to win almost half of the seats elected democratically to reach this standard. Additionally, the UEC had no serving female commissioners or female staff in senior positions in its secretariat. Several political parties reportedly decided to implement special measures in the absence of a normative framework at the Union level and nominated several female candidates for lower house positions.[4] This is a notable step forward and underscores the need for similar measures to ensure full participation and representation of women.

9. Persons with disabilities faced widespread discrimination in the elections. Less than a third of all polling stations in Myanmar were reportedly accessible to persons with disabilities, for example, and there is no evidence that any form of accommodation was otherwise made. A comprehensive review and assessment of obstacles to the enfranchisement of persons with disabilities should be made in close consultation with persons with disabilities and organizations of persons with disabilities. This should include the right to vote, the right to seek political office, and the right to participate fully in the political process.

10. Elections were cancelled due to alleged security reasons in several townships in Rakhine and Chin States, and in parts of Shan, Kachin, Karen, and Mon States, and Bago Region, exacerbating the affected communities' distrust of Government. In Rakhine State, the government cancelled elections in nine townships (Pauktaw, Ponnagyun, Rathedaung, Buthidaung, Maungdaw, Kyauk Taw, Myebon, Minbya, Mrauk-U) and partially cancelled voting in four (Kyaukpyu, Ann, Sittwe, Toungup)—disenfranchising an estimated 1.2 million people or some 60 percent of eligible voters, most of whom were ethnic nationalities. Uneven information sharing on voter eligibility, rights, and procedures, as well as the non-posting of voter lists were obstacles that also reportedly prevented certain populations from exercising their political rights. There was a reported lack of transparency and consistency in the criteria of the UEC for cancelling polls due to security concerns, given that voting was also cancelled in townships in Shan State with no active armed conflict.

11. It is precisely in areas affected by hostilities that free, fair, and genuinely competitive elections are most important. For elections to be legitimately cancelled, authorities should apply the proportionality principle, whereby, in this case, security concerns were sufficiently great to offset the imperative of holding fair, inclusive elections. A ballot must always be preferable to a bullet. As in 2015, voting in non-government controlled areas (NGCA) in the north and some areas in the southeast of Myanmar reportedly did not take place. In Kachin and northern Shan states, internally displaced persons residing in government-controlled areas were generally able to vote in their areas of displacement; the National Registration and Citizenship Department (NRCD) made efforts to issue citizenship scrutiny cards (CSC) and household lists, and some flexibility was reportedly exercised around required documents and inclusion in voters' lists. Polls were, however, cancelled in 192 village tracts (11 townships) in Kachin State, including contested areas and NGCAs. Around a reported 21,000 internally displaced people of voting age (out of 39,000 IDPs) living in Kachin NGCA, as well as in Shan and Rakhine, could not vote and faced challenges travelling to government-controlled areas.

Freedom of expression, peaceful assembly and association

12. Notwithstanding the government's legitimate concerns about controlling the spread of COVID-19, the right to peaceful assembly during election periods is particularly

https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/myanmar-preliminary-statement-112020.pdf page 10-11.

[3] CEDAW, General Recommendation No. 23: Political and Public Life, UN Doc. A/52/38, para. 16.

[4] Carter Center, Election Observation Mission Myanmar's Nov. 8 General Election, 10 November, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/myanmar-preliminary-statement-112020.pdf page 10-11.

important. Although the right is safeguarded by Article 354(b) of the Constitution, it is undermined in practice by the Peaceful Assembly and Peaceful Procession Law. The law, which has a notification regime, includes broad legal provisions in which peaceful assemblies can be denied for vague, highly subjective reasons including that the assembly not cause "annoyance," the reciting of unapproved "chants," nor the "spread" of "rumors or incorrect information" (Article 11). Violations of these broad provisions are punishable by up to six months of imprisonment and/or a fine (Article 19).

13. During the pre-election period, the authorities detained several students who joined protest or sticker campaigns that were critical of the government or the Myanmar military, including specific government policies such as a mobile internet shutdown or the identification of abuses by the Myanmar military in Rakhine and Chin States. Convictions followed for at least 34 students, two of whom received multiple sentences of over six years' imprisonment. Two others were sentenced to more than one year. These laws and their enforcement violate the fundamental right to freedom of expression. Additionally, in November, the ILO Governing Body expressed concern over charges made against trade unionists in Mandalay for staging a protest in 2019 and the use of the law to restrict their right to freedom of assembly. [5]

14. Despite the informal ceasefire between the Myanmar military and the Arakan Army, the government instructed all mobile telecommunications operators to extend suspension of 3G and 4G mobile Internet services from the lead up to Election Day until the end of March 2021. Eight townships in Rakhine and Chin States were affected, specifically in Buthidaung, Rathedaung, Mrauk-U, Ponnagyun, Myebon, Kyauktaw, Minbya, and Paletwa. The Special Rapporteur notes that this arbitrary restriction, which has been in place for more than a year and half, represents one of the longest Internet shutdowns anywhere in the world. It is a continuing violation of the fundamental right to freedom of expression and it puts lives in serious danger. Without reliable mobile Internet access, people in Rakhine and Chin States are unable to obtain information and updates on issues that impact their lives and wellbeing, such as COVID-19 or information about the resumption of hostilities. It is also highly discriminatory, as it adversely impacts specific ethnic groups in Myanmar that live in those townships, such as Rakhine, Rohingya, Kaman, Mro, Daingnet, Khami, and Chin. Tellingly, the government announced that the suspension of Internet service would be lifted but then only permitted 2G connectivity. This allowed the claim to be made that Internet connectivity had been restored, while continuing to deny functional access.

15. States have an obligation to protect freedom of expression, offline and online, especially during election periods. Internet and telecommunications shutdowns prohibit access to, and the dissemination of, information. Restrictive policy measures formulated on the basis of overly broad justifications without due regard to the principle of proportionality runs contrary to international human rights law. For restrictions on the right to freedom of expression to be lawful, they must be provided for in law, applied only in specific circumstances to protect the rights and reputation of others, or to ensure national security, public order, public health, or public morals, and be necessary and proportionate. The broad Internet ban in Rakhine State does not meet that criteria. As of the time of writing, the Special Rapporteur had received reports that the Myanmar junta restored mobile Internet access in Rakhine State following the coup.

16. Hate speech, disinformation, and misinformation were prevalent before and after the election on social media. With the help of information classifier algorithms in the Burmese language, photo detection tools, country experts, and civil society, Facebook reported that they were able to address most hate speech on their site. Content demotions or page removals followed. It also reported that it proactively tackled disinformation and misinformation. It reportedly launched several actions against inauthentic behavior by actors and networks allegedly linked to military propaganda, as well as the manipulation of people. They also demoted reportedly fraudulent election content. Concerns have been raised about the inconsistency of Facebook's handling of fraudulent content, including the retention of pages

[5] Paragraph 35, Progress report on the follow-up to the resolution concerning the remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013), GB.340/INS/12 – considered by ILO Governing Body in November 2020.

run by the Myanmar military, as well as the amount of time that it takes to take action. Moreover, Facebook did not act on calls from human rights defenders to stop the Myanmar military from using Facebook to recruit members and to stop the Myanmar military from promoting its businesses, including subsidiaries belonging to Myanmar Economic Holdings Limited and Myanmar Economic Corporation on Facebook. These companies' profits from help fund the military, which engages in atrocity crimes. As of the time of writing, even post-coup, these businesses continue their presence on Facebook, including Innwa Bank, Royal Sportainment Complex, Hanthawaddy Golf Course, and others.

17. Military and state authorities targeted journalists and media professionals for prosecution during the election campaign. Legal actions brought against them were commonly based on vague sections in the Telecommunication Law or Penal Code, typically Sections 66(d) and 505(b) respectively. Interventions by the Myanmar Press Council[6] on some of the actions that the Myanmar military initiated against the media have led to charges being dropped. The same provision, Section 66(d) of the Telecommunication Law which outlaws the legally undefined action of defamation, is also frequently used to file charges against private citizens. In total, it is reported that during the current legislative period, 539 lawsuits have been brought against 1,051 individuals, 495 of whom are civilians, and 326 activists, and 67 journalists/media professionals. Significant reform will be required for Myanmar to meet international standards.

Political Prisoners

18. Regrettably, arbitrary detentions increased in 2019 and 2020. Throughout 2020, the increase in political prisoners was due primarily to peaceful protests and activism, land disputes, and armed conflict. As of December 2020, there were a reported 601 political prisoners. Forty-two were incarcerated while 559 were awaiting trial, 196 of whom remained in detention. This is a dramatic 74 percent increase from the 345 political prisoners at the beginning of 2019, which included 33 incarcerated persons, 78 awaiting trial inside prison, and 234 awaiting trial outside prison. The number of political prisoners rose steadily throughout the first half of 2019 and plateaued around 600 individuals until gradually decreasing to 507 individuals in the first half of 2020. The decrease in numbers was short-lived as the Government continued to abuse the restrictive colonial- and military-era sections 66(d) and 505(b) to arrest and convict journalists, student and labor activists, farmers, civilians with alleged ties to ethnic armed organizations, and others for the remaining duration of 2020. See Annex V for a chart showing the increase in political prisoners from 2016 to 2020.

19. The Government continued to grant amnesty to political prisoners throughout 2019 and 2020, though they made up a small fraction of total prisoners released. In 2019, three separate presidential pardons released 25 political prisoners along with approximately 23,000 prisoners. Among those 25 political prisoners were Kyaw Soe Oo and Wa Lone, two Reuters reporters imprisoned in 2018 for their investigation into the Inn Din massacre. In 2020, only 10 political prisoners were released in a group of 24,896 prisoners pardoned on 17 April 2020. Members of the Peacock Generation, a "thangyat" troupe imprisoned in 2019 for defaming the military in a satirical performance, and hundreds of others remain imprisoned for their political activities.

20. Arbitrary arrests and detentions significantly increased in 2021 following the military overthrow of the government. At the time of writing, reports of these detentions are increasing daily. There is a recurring pattern in which family members are not provided information on the location or well being of those detained, making these situations tantamount to enforced disappearances.

Filtering, interception, and surveillance of communications

21. Prior to the coup, worrying trends in Myanmar's surveillance efforts were emerging. Specifically, the Special Rapporteur received reports of filtering information and blocking

[6] The Myanmar Press Council is an independent media adjudication body which investigates and settles press disputes, compiles journalism ethics, and protects media personnel in Burma's media landscape.

websites, including ethnic media sites, that were critical of the government or the military, or otherwise unwelcome by the authorities. This constitutes a violation of the right to freedom of expression. Myanmar should take immediate steps to withdraw the legal provisions allowing for the blocking of websites without due process.

22. In September 2020, Justice for Myanmar, an organization publishing information on the business dealings and relationships of the country's military, had their website blocked, and mobile operators were reportedly requested to filter their name. The government relied on the draconian and overly broad legal provision in Section 77 of the 2013 Telecommunications Law to intercept, filter, survey or suspend communications. It was also used to control the use of telecommunication service and equipment without civilian oversight, due process, or judicial safeguards. This violates international human rights law. These provisions of laws should be stricken.

23. Even before the coup, plans were in place to increase the capacity for government mass surveillance and the interception of communications in Myanmar. Under a new policy, the government would be able to directly tap into the datasets of telecommunications companies without restriction or even a requirement that the company is informed which communications are being intercepted. This would significantly increase the government and Myanmar military's interception and surveillance capabilities without independent judicial oversight. This policy would create a powerful surveillance state that would make citizens vulnerable to government or military surveillance in a country with a manifestly poor legal framework to protect the right to privacy and freedom of expression. Once a democratically-elected government is restored, government leadership must cease all efforts at mass, unfettered digital surveillance.

II. Protection of civilians

Conduct of hostilities, killing, and maiming

24. Myanmar's security situation in 2020 was characterized by intensified armed conflict across Rakhine State and Paletwa Township in southern Chin State, in or near populated areas; ongoing fighting in northern Shan State; sporadic clashes in Kayin State (Karen State); and recently clashes in Bago East, with lingering impacts of conflict in Kachin State.

25. Since the conclusion of the general election on 8 November 2020, the intensity of armed clashes reduced significantly in Rakhine and Chin states, with no armed clashes reported between the Myanmar military and the Arakan Army (AA) since 12 November. The apparent thaw in relations between the warring parties and the discussions between them, however tentative, raises some hope for peace in the area.

26. Between January and October 2020, there was a marked increase in intensity of fighting in Rakhine and Chin states, with a discernible pattern of attacks against non-combatants, including the indiscriminate use of heavy weaponry in civilian areas. In 2020, at least 226 people were killed in armed conflict in Rakhine and Chin states with another 555 reported wounded. Throughout that period, the UN Human Rights Office documented a pattern of violations by the Myanmar military, including the targeted use of heavy weaponry on civilian areas, disappearances and extra-judicial killings, torture and deaths in custody, and the use of airstrikes and landmines. In September 2020, a report by the High Commissioner for Human Rights outlined that war crimes and crimes against humanity may have been perpetrated by the Myanmar military in the course of the conflict in Rakhine and Chin states and called for an investigation (A/HRC/45/5). The report outlined how attacks affected members of a wide range of ethnic groups, including Rakhine, Chin, Mro, Khumi, Kaman, Maramagyi, and Daignet people.

27. In northern Shan State, armed clashes continued between the Northern Alliance (Kachin Independence Army, the AA, Ta'ang National Liberation Army, and Myanmar National Democratic Alliance Army) and the Restoration Council of Shan State, a signatory to the National Ceasefire Agreement (NCA). The population continues to be subjected to forced recruitment, abduction, arbitrary arrest, and injuries due to landmine contamination, severely impeding movement, access to livelihoods, and compromising the civilian character of IDP camps. Despite fewer clashes during the reporting period, tensions between the Myanmar military and the Kachin Independence Army appeared to be mounting since mid-2020. Forced recruitment, however, continues in Kachin State, as well as killing, maiming, and assault.

28. The end of 2020 marked a visible change in relationships between the Myanmar military and Ethnic Armed Organisations (EAOs) in South East Myanmar. These organisations—notably the Karen National Liberation Army (also signatory to the NCA)—demanded the withdrawal of the Myanmar military's presence in the EAOs' controlled areas, citing Article 3 of the NCA. There were skirmishes between the Myanmar military and the KNLA in Kayin (Karen) State throughout 2020, which extended to the Bago East region at the end of 2020. Close to 4,000 civilians were displaced as a result. The Special Rapporteur echoes the concerns raised by many local civil society organizations regarding escalating tensions in Kayin (Karen) State and calls for the withdrawal of Myanmar military troops in these ethnic areas.

29. During the first 10 months of 2020, the Mine Risk Working Group reported 217 casualties. Rakhine State accounted for approximately 50 percent of the total number of casualties, where 108 casualties were recorded in 2020, compared to 45 in 2019, representing a 240 percent increase.[7] Shan and Kachin represented 26 percent and 10 percent of the total number of casualties respectively. In militarized and/or conflict-affected areas, arbitrary

[7] UNICEF, Myanmar Landmine/ERW Incidents Information Factsheet (January-October 2020), https://www.unicef.org/myanmar/reports/myanmar-landmineerw-incidents-information-0.

detention (short-term detention at military checkpoints, and longer-term detentions) was also reported, with some IDPs accused of association with unlawful organizations/terrorism.

30. Clashes increasingly took place in more populated areas and along main roads and waterways. As a result, there were hundreds of casualties from stray bullets, crossfire, landmines, and improvised explosive devices. Rights violations attributed to the Myanmar military and the AA were reported. The deployment of additional security forces and the setting up of new checkpoints along main roads in various townships have caused more anxiety among and difficulties for villagers, including delayed access to humanitarian aid. Use of civilian vehicles/transport and the occupation, damage to, and use of civilian properties (including schools and religious sites) by parties to the conflict were also reported. With continued restrictions on rights—Including freedom of movement and access to livelihoods and basic services—and ongoing reports of harassment, arbitrary arrest and detention, forced labour, physical threats, and violence, the conflict has heightened the longstanding vulnerabilities of the Rohingya and other ethnic groups, including the Rakhine (Arakanese), Chin, Mro, Khumi, Kaman, Maramagyi, and Daignet people.

Violating the International Court of Justice provisional measures order

31. An Order by the International Court of Justice on 23 January 2020 in the case of *The Gambia v. Myanmar* instructed Myanmar to take all necessary measures to protect members of the Rohingya community from acts proscribed by the Genocide Convention. From 23 January 2020 to 22 January 2021, at least 33 Rohingya civilians were killed as a result of the conflict, with at least 39 others injured. According to information received by the Special Rapporteur, in the year following the ICJ's Provisional Measures Order, 19 Rohingya men, women and children were killed as a result of targeted or indiscriminate attacks by the Myanmar military; one was killed in a targeted killed by police; ten were killed as a result of landmines or unexploded ordnance; and two were killed in targeted killings by other unidentified armed groups. The 33 killed included 15 children and three women.

32. The following incidents are illustrative of the attacks on Rohingya civilians in 2020:

(a) On 12 February 2020, three Rohingya—two children and a civilian—were killed when a shell fired from a security outpost at a nearby bridge landed on a home in Buthidaung township;

(b) On 29 February 2020, six Rohingya civilians were killed in Mrauk-U township when the Myanmar military fired indiscriminately for an hour and a half on a Rohingya village after a vehicle in their convoy was damaged in an explosion;

(c) On 5 October 2020, three Rohingya civilian who worked as vegetable sellers, were shot dead by the Myanmar military in Minbya township after they failed to stop a boat that they were traveling in;

(d) On 5 October 2020, two Rohingya teenagers were killed by bullet wounds that were inflicted in an exchange of fire between the Myanmar military and the AA. The two teenagers were among 15 abducted by the Myanmar military in two neighboring Buthidaung township villages that morning and incurred the injuries after being used as "human shields" by the Myanmar soldiers who abducted them.

33. See Annex VI for an accounting of reported killings and serious injuries against the Rohingya, in violation of the ICJ order.

34. In addition to the killings of Rohingya by the Myanmar military, scores more were injured as a result of incidents similar to those described above and Rohingya are among the thousands of people who have been internally displaced by the conflict. Those displaced have experienced severe food and other shortages during a time when Myanmar, like the rest of the world, is dealing with the Covid-19 pandemic. An internet blackout across most of the areas affected by the conflict prevented people living in these areas from receiving and sharing information during a critical time, while travel restrictions have prevented journalists and others from reporting on the conflict. At the same time, Rohingya continue to be subject to severe restrictions on movement within Myanmar and efforts continue to enforce members of the community to accept the National Verification Card, a form of identification which may preclude future efforts by individuals to access their citizenship; while a further 130,000

Rohingya IDPs—separate and distinct to those displaced by the ongoing conflict—continue to reside in camps in central Rakhine nearly nine years after those camps were established.

Arbitrary Arrests and Detentions, Torture, and Enforced Disappearances in Rakhine and Chin State

35. The armed conflict between the Myanmar military and the AA, recognized by the International Committee of the Red Cross as a non-international armed conflict, began in December 2018 in Rakhine and Chin states and expanded in scope and intensity until the general election in November 2020. The military's longstanding strategy for fighting ethnic armed groups EOAs such as the AA is known as the "Four Cuts Policy," so-called as it seeks to cut armed groups off from funding, food, intelligence, and recruits from the local population. Consistent patterns of attacks by the Myanmar military against non-combatants, including enforced disappearances, arbitrary arrests and detentions, torture and other cruel, inhumane or degrading treatment or punishment, and extra-judicial killings of civilians have been documented since the beginning and throughout the conflict. In keeping with the Four Cuts Policy, the Myanmar military's strategy is to target the support of the AA from the local population, relying on demonstrative acts of violence that do not appear to distinguish between AA fighters and Rakhine civilians. While the victims of targeted attacks were largely ethnic Rakhine, other ethnic minorities, particularly Rohingya, were also targeted. In cases of arrests, detention, and extrajudicial killing, the Myanmar military seemed less concerned by any link between the suspect and the AA, rather their main focus appeared to be to instil terror among the civilian population.

36. In more than two years of fighting between the Myanmar military and the AA, there have been dozens of cases of arbitrary arrest of civilians by the Myanmar military on accusations of ties to the AA. Arrests of large groups of men were routinely documented throughout the conflict and a pattern was observed whereby arrests were carried out in villages adjoining areas where AA attacks on the Myanmar military had been carried out in the days before. According to consistent witnesses' statements, those detained were often of fighting age and many were detained because they were not native to the village they were found in or because they had marks on their bodies consistent with crawling through vegetation, which the Myanmar military apparently interpreted as conclusive that the individuals were involved in AA manoeuvres. In several instances, entire male populations of villages were detained and questioned. In some cases, the men were blindfolded. Instances of arbitrary detentions increased markedly in frequency following the 23 March 2020 Presidential Order that designated the AA as a terrorist organization.[8] According to local civil society, the Myanmar military arrested more than 360 civilians who were convicted or are awaiting trial, while only 78 were released.

37. In the overwhelming majority of cases of arbitrary detention investigated, torture and other ill-treatment has been documented. Detainees, family members, and lawyers relayed detailed accounts of beatings and instances of burning detainees' flesh with metal rods, the extraction of fingernails, and electrocution. For the most part, arrests were carried out by Myanmar military soldiers and torture almost exclusively in military custody. Detainees are usually held in military barracks for a period of days or weeks, when they are eventually transferred to police custody and criminal cases are initiated against them. Torture usually stopped once detainees were handed over to police. Several individuals provided information concerning loved ones who died in custody. In many of these cases, the body of the detainee was not handed over to the family. In cases where families have seen the bodies of deceased relatives, they described marks that they believed were the result of beatings and electrocution. In 2019, detainees in one instance were shown the dead body of a man that was detained with them during interrogation.

38. Myanmar military units active in northern Rakhine State have an established practice of arbitrary arrests and deaths in their custody. Between 2019 and 2020, there were nine

[8] On 23 March, through a Presidential order co-signed by the Minister of Home Affairs and chairman of the Central Committee for Counterterrorism, the AA, its political wing, the United League of Arakan (ULA), and affiliated groups and individuals were declared as unlawful under the Section 15 (2) of the Unlawful Associations Act. The Minister of Home affairs also signed an order declaring the ULA and AA to be terrorist groups.

separate instances of deaths in military custody that resulted in 20 fatalities. Twenty-three others are missing and presumed dead following a series of enforced disappearances by Myanmar military Battalion 55 in Kyauktaw township in March 2020 (described below). Given the difficulties in gathering information resulting from an Internet blackout and the ban on media access to the conflict areas, it is probable that this figure does not reflect the full extent of deaths in military custody in Rakhine State over this period. On 26 February 2020, at least 20 people were arrested—13 women and seven men—near Taung Shay Daung Pagoda in Kyautaw township. All 13 women and one man were released shortly later, but three of the other six men died in custody. Three men were traders of small goods who had plied routes in the area for almost 20 years. One of the men was reportedly hung from a tree by his feet, beaten, and burnt with boiling water. Soldiers reportedly stabbed detainees with knives and forced them to drink noxious substances. In another incident in Mrauk U on 27 September 2020, soldiers of the military's battalion 377 stopped a taxi driver at a checkpoint and took him to the battalion base. His body was returned to his family the next day with visible wounds on his body, and with his hands and legs broken. He had been shot in the head.

39. Myanmar military Battalion 55 displayed a particularly clear pattern and practice of conduct that repeatedly amounted to serious human rights violations, including deaths in custody, enforced disappearances, and the use of torture. Three men died in custody after being detained at Taung Shay Daung Pagoda, as described above. Elements from Battalion 55 carried out a series of arrests in Tin Ma Thit and Tin Ma Gyi villages in Kyauktaw in March 2020. According to multiple eyewitnesses, soldiers took 21 individuals into custody and have since been unaccounted for. They are presumed dead one year later. Myanmar military Battalion 55 never acknowledged the detention of these individuals and never accounted for their presence. As a result, these cases amount to enforced disappearances.

Children in armed conflict

40. Violations of international humanitarian and human rights laws as well as impunity for violations in Rakhine State were pervasive during the reporting period. Serious incidents were reported, including the death of two children and the maiming of another by artillery fire in Myebon Township on 10 September, the killing of two children as they were used as human shields in Buthidaung Township on 5 October, and the death of a boy hit by an artillery shell in Mrauk-U Township on 22 October.

41. According to a UNICEF report, at least 121 incidents involving landmines, explosive remnants of war (ERW), and other explosive hazards took place in the country during the first 10 months of 2020. They killed at least 57 people and injured 160 more, indicating an upward trend in casualties in 2020 compared to 2019, when 57 people were killed and 170 injured in the course of the entire year. The highest number of casualties in 2020 was reported in Rakhine State, with 37 people killed and 71 injured. Rakhine State also accounted for the highest rate of child casualties, with 13 children killed and 34 injured, representing over 44 percent of the total number of people killed or injured across the state, compared to two children injured in Kachin State, and two killed and 18 injured in northern Shan State. Incidentally, in 2020, children represented 34 percent of casualties from landmines and unexploded ordinances (UXOs) countrywide with Rakhine State, accounting for the highest rate (44 percent) of child casualties.

42. In conflict-affected areas, armed conflict presents a significant obstacle to access to education. The majority of incidents in the reporting period took place in northern Rakhine State and Paletwa Township in neighbouring Chin State. The conflict regularly disrupted education for students in these areas.

43. While high schools briefly reopened for approximately one month between 21 July 2020 and 27 August 2020, nearly half the schools in Paletwa Township were reportedly unable to reopen due to the ongoing conflict, and experienced a shortage of teachers ahead of the new academic year, after nearly 200 teachers had applied for relocation due to insecurity in the region. After schools were forced to shut nationwide following the second wave of COVID-19, schools in Myanmar remained closed for the remainder of 2020. At present, the Ministry of Education was expected to roll out its home-based learning programmes in early 2021 to support students in continued learning for the academic year

2020/21. However, distribution of physical copies of home-based learning materials is limited to a relatively small number of townships nationwide, and it is anticipated that students from lower-income families, or living in conflict-affected and rural areas, may not be able to access home-based learning. As a result, the pandemic poses a significant risk of exacerbating existing disparities in access to education and learning outcomes.

Freedom of movement

44. The Rohingya remain cut off from livelihoods, education, and basic services due to ongoing, severe movement restrictions. Reports note impediments to accessing quality medical care were especially problematic during the COVID-19 pandemic. The inability of IDPs to temporarily return to their lands at harvest time has further undermined their self-reliance. Displaced communities have recently described being afraid of going back to their villages due to the presence of landmines within and around their villages. This creates substantial barriers to durable solutions for this oppressed community.

45. Virtually all Rohingya (excluding the very small number who hold citizenship cards) require authorization to leave Rakhine State and to travel outside of their villages or townships within Rakhine State. This time-limited authorization is exceedingly difficult to obtain, considering the administrative and financial requirements, making it unattainable for most. Permission and documentation are needed even to travel short distances from their township and/or village tracts (including to urban areas within townships), severely restricting access to livelihoods as well as basic and life-saving services. Further movement restrictions in some locations were observed with the introduction of new requirements for people to hold National Verification Cards, including for travel within townships. Rohingya can only obtain such a card if they identify themselves as “Bengali” and self-identify as non-indigenous to Myanmar.

46. As part of the Myanmar New Year presidential pardon in April 2020, authorities withdrew all charges against Rohingya arrested for travelling without documents and pardoned those convicted of the same charges. Over 880 Rohingya were consequently released from arrest or detention and returned to Rakhine State. Subsequently, it was observed that Rohingya intercepted en route within Myanmar without requisite documentation had been apprehended and then returned to Rakhine State. They were denied the right to freedom of movement and forcibly returned but charges were not filed. No official or publicly available statement was made by the authorities in this regard. The Special Rapporteur notes reports that treatment of those apprehended has also been inconsistent, ranging from timely release (in line with COVID-19 measures) to prolonged detention in police stations, prison, or quarantine facilities. But the right to freedom of movement is being consistently denied.

47. An estimated 600,000 vulnerable, stateless Rohingya still live in Rakhine State, including some 130,000 whom the government has confined to IDP camps in central Rakhine since 2012. The cumulative effect of the armed conflict, COVID-19, and attendant measures comprising curfews and other movement restrictions as well as mobile data/internet shutdowns, exposes already vulnerable populations (including IDPs in protracted situation and ongoing new displaced populations), to even greater risks, and significantly impacts access to livelihoods and essential services. While restrictions on movement affected all communities, the Rohingya faced additional obstacles/threats—for instance, when seeking safety or accessing life-saving services at night—due to pre-existing movement restrictions. The pandemic exacerbated longstanding prejudices and negative rhetoric against the Rohingya in Rakhine State (i.e. in relation to “illegal” cross-border movements) accompanied by increased calls for the Government to control the country’s borders.

48. In Rakhine State, Rohingya and other communities of ethnic nationalities, including Rakhine (Arakanese), Chin, Mro, Khumi, Kaman, Maramagyi, and Daignet are most susceptible to extortion by state security forces when attempting to access livelihoods, services, education, or health care, not least when permission is required from authorities. Limitations on movement and other COVID-19 measures aggravated incidents of extortion. Extortion not only impedes daily activities but also compromises the already precarious safety and security situation, and overall protection/wellbeing of individuals and their community. Beset by structural poverty and formal and informal movement restrictions

(including the frequent change in documentary and other requirements) that impede access to services and livelihoods, prolonged extortion erodes resilience, heightens risks of negative coping strategies (debt, gender-based violence, trafficking), and negatively impacts trust/confidence and community self-governance. Government authorities, such as local administrators, security forces (police, military), and Camp Management Committees (CMCs), have been the main perpetrators in the Rohingya camps. Incidents largely take place at checkpoints (both police and military) and in IDP camps, which includes distribution points. Those affected include men, women, and children passing through checkpoints. In IDP camps, families dependent on CMCs for approvals (to leave camps, visit clinics, or secure referral to hospitals) or for inclusion in household lists are prone to extortion perpetrated by the CMC members.

Humanitarian Access

49. Throughout 2020, humanitarian organizations had varying degrees of difficulties gaining access to crisis-affected people in targeted locations due to security challenges and government restrictions. Access constraints imposed by the government since 2016 frequently resulted in difficulties and delays in assessing needs and implementing and monitoring response activities.

50. In Kachin State, despite a lull in conflict since 2018, access for many humanitarian organizations continued to be challenging. International humanitarian organizations have had very limited access to camps in Kachin Independence Organization areas that have hosted some 40,000 displaced persons since early 2016. Local partners continued to respond in these areas, albeit in challenging circumstances, with closures of the border with China in response to the COVID-19 pandemic further complicating movement, programming, and access to markets. In addition to the government's non-issuance of travel authorizations for aid workers, poor infrastructure and monsoon flooding further complicated efforts to reach people in need in locations across Kachin State, undermining the quantity, quality, and sustainability of assistance and services provided to IDPs and host communities.

51. Permission for humanitarian actors to access areas in Southeast Myanmar remain limited, particularly in areas controlled by EAOs, impacting delivery of assistance to displaced communities.

52. In northern Shan State, sporadic outbreaks of fighting seriously impacted the civilian population, in addition to the many of challenges noted in relation to neighboring Kachin State. Securing travel authorization is particularly challenging for UN and INGO partners attempting to access locations hosting internally displaced persons. Organizations operating in these areas also faced challenges relating to poor infrastructure and military checkpoints.

53. In Rakhine and Chin states, national and international humanitarian organizations continued facing increasing challenges in reaching affected people despite an agreement reached with UNHCR and UNDP. Many areas were cut off due to restrictions including shifting travel authorization requirements, insecurity, landmines, or poor infrastructure. This has exacerbated already limited access in many parts of Rakhine State. Access to sites hosting people displaced by the armed conflict between the Myanmar military and the AA has been particularly challenging, especially in rural areas, with travel authorization often limited to particular sectors and granted for short periods of time, impeding the provision of quality, predictable humanitarian assistance and services.

Impact of COVID-19 on humanitarian access in Rakhine

54. The government imposed stringent measures in Rakhine State after the first locally transmitted COVID-19 case was diagnosed in the state in mid-August, which severely impacted the delivery of humanitarian aid. These measures included the full suspension of activities of humanitarian organizations whose staff tested positive, including activities such as mobile-clinic services, quarantine for primary and secondary contacts, and a requirement for frontline humanitarian staff to undergo testing before resuming their activities. The Rakhine State Government limited the humanitarian response to "essential assistance." which initially only included activities, such as health, food support, water and sanitation, and COVID-19 response. The State Government also imposed restrictions on the movement of humanitarian personnel into and between camps and displacement sites and instructed humanitarian actors to hand over supplies to camp management committees and/or local authorities. It is reported that around half of the activities were partially disrupted and one third fully disrupted.

III. Statelessness, internal displacement and the right of return

Statelessness

55. No tangible progress was reported in improving the situation of the Rohingya with regard to their legal status and right to a nationality, or restoring citizenship in line with the Government of Myanmar's endorsed Advisory Commission on Rakhine State recommendations. Without reform of the 1982 Citizenship Law, discrimination based on an applicant's ethnicity—in both law and practice—continues to impede the acquisition of citizenship documentation among minority groups, with the Rohingya being the most affected.

56. Citizenship remains inaccessible to almost all Rohingya. The citizenship process continues to lack transparency and involve prohibitively high unofficial fees and burdensome evidentiary and administrative requirements. Recent trends also indicate that the Rohingya are being issued Naturalized citizenship even when eligible for full citizenship. Access to civil and citizenship documentation remains challenging countrywide, with ethnic and religious minority groups being the most, but not exclusively, affected. Several reports have highlighted numerous barriers faced by different groups across Myanmar in obtaining nationality documents, including logistical, gender-based, administrative, and cost, as well as parallel administrative systems in non-governmental controlled areas (NGCA). Measures aimed at improving access to citizenship documents, such as streamlined procedures and mobile missions, apply exclusively to persons from the 135 officially recognized ethnic groups, despite that the origins and legal nature of the "official" list remain dubious. The burden of proof rests fully on the applicant, and officers mandated to determine nationality have a high discretion on the type and number of documents that they can request the applicant to submit. This results in a complex, lengthy, time consuming, and at times arbitrary and discriminatory, process preventing disadvantaged and vulnerable groups from realizing their right to nationality.

57. The Government of Myanmar had been planning to introduce a digitized identity management system (the e-ID system) to develop a digital population registry with biometric data of all individual residents. The plan would include the issuing of smart card IDs to registered individuals verified as citizens. While this would have advantages if implemented with critical protections in place, such a system has significant disadvantages under current conditions in Myanmar. The government, the military, and the private sector allegedly collect personal biometric data without comprehensive data protection legislation in line with international human rights law. This renders people in Myanmar vulnerable to abuse of their personal information without adequate independent oversight and protection of their rights. It is therefore necessary to ensure that personal biometric and identity information is adequately protected from undue interference or manipulation, including surveillance and interception of communications, and to guarantee effective civilian oversight and procedural safeguards of the population register. Developing a digital civilian-controlled population

register is corollary to adopting legislation that is in line with international human rights law. Advancing a digitized identity management system without first addressing the gaps in the laws and their implementation will not only fail to address the underlying issues, but risk entrenching existing discrimination and rights deprivations.

Internal displacement

58. Protracted and recurrent displacement, poor living conditions, dependency on humanitarian assistance, and the impact of COVID-19 on access to services and livelihoods have negatively impacted both displaced and non-displaced populations. In some cases, this has significantly exacerbated the existing challenges faced by marginalized communities. The Myanmar military-Arakan Army fighting contributed to the largest increase in displacement, with over 100,000 people displaced as of the end 2020. Humanitarian organizations project that one million people in Kachin State, northern Shan State, Rakhine State, southern Chin State, eastern Bago Region, and Kayin (Karen) State will continue requiring urgent humanitarian assistance in 2021; estimating 30 percent of IDPs as falling into the "extreme" severity of need, with close to 70 percent in the "severe" category.[9]

59. In Rakhine and Chin states, close to 50,000 people were forced to flee from their homes in 2020, and by the end of the year, around 100,000 people were displaced in over 194 sites in the two states. This increase in displacement compounded challenges faced by host communities that were in many cases also affected by the conflict, including growing landmine and unexploded ordnance contamination. Hostilities also hampered access to markets and livelihoods, with roads and waterway transportation regularly blocked by the parties, particularly in Paletwa Township in Chin State and the Dar Lett Village Tract in Ann Township in Rakhine, disrupting logistics and supply chains.

60. In central Rakhine State, 130,000 people, the vast majority of whom are stateless Rohingya, 54 percent of whom are children, were confined to what can best be described as desolate internment camps. Under the best of circumstances, they had extremely limited access to healthcare, even before the onset of the COVID-19 pandemic. In total, an estimated 600,000 Rohingya live in Rakhine State under highly repressive conditions that severely limit their ability to move or make a living, let alone access health care or education for their children. Conditions for Rohingya in Rakhine State appear designed to be destructive to the survival of the community.

61. In northern Shan State, clashes between the Myanmar military and Ethnic Armed Organizations (EAOs), especially with the Restoration Council of Shan State/Shan State Army (RCSS/SSA), led to the displacement of around 8,700 people throughout 2020. Namtu and Kyaukme townships registered the highest number of internal displaced persons, with 4,000 people displaced in Kyaukme in early October alone. Civilian casualties were reported in northern Shan State due to the armed clashes, as well as explosions of landmines and ERW. An estimated 9,700 IDPs remained in protracted displacement in sites in northern Shan State.

62. Despite a decrease in clashes between Myanmar military and the KIA in Kachin State since mid-2018, landmines and explosive hazards continue to pose a deadly risk to civilians. Nearly 96,000 people remained in IDP camps established after fighting broke out in 2011, roughly 40,000 of whom are in areas controlled by non-state armed actors.

63. Access barriers remain in Kachin and northern Shan states for some 105,000 IDPs in protracted displacement and who continue to depend on humanitarian assistance to meet their basic needs. Of particular concern was the impact of COVID-19-induced restrictions on the Chinese border, which limited access to cross-border livelihoods and provision of food assistance to IDPs in NGCAs in Kachin State. Fear of the pandemic and shrinking livelihood opportunities resulted in increased IDP movements to and from their villages of origin, including to villages in militarized and/or contested areas where armed actors' positions and explosive remnants of war contamination risks remain.

[9] UN Office for the Coordination of Humanitarian Affairs, 2021 Humanitarian Response Plan Myanmar, January 2021, pg. 17, https://reliefweb.int/sites/reliefweb.int/files/resources/mmr_humanitarian_response_plan_2021_final.pdf.

64. Implementation of the National Strategy on the resettlement of internally displaced persons remained problematic. Concerns remained around the Government's approach of prioritizing quick, visible gains and infrastructure-oriented intervention, leading to the premature closure of camps and/or return of IDPs without guarantees of voluntariness, safety, and dignity. Humanitarian landmine-clearance has yet to be undertaken as mines continue to be used, and efforts to clear mines remain dependent on the fledgling peace process and stymied by trust issues between parties to the conflict. The 2012 Farmland Law links citizenship to the right to register and acquire the right to use farmland, while the revised 2018 Vacant, Fallow and Virgin Land Management Law classifies land not being used as vacant and available for grants of use rights to other parties – compromising the housing, land, and property (HLP) rights of stateless and displaced persons.

65. The Government's approach toward the closing the Kyauk Ta Lone IDP Camp in central Rakhine State demonstrates the gap between the principles set out in the National Strategy and facts on the ground. Concerns center around possible undue influence being exerted on affected communities—mostly Rohingya Muslims—to accept the relocation plan without safeguards of rights and pathways for freedom of movement. Occupants allegedly remain confined to their sites without freedom of movement to access education, markets, or health services, including shelter and Water, Sanitation, and Hygiene interventions requiring immediate interventions in some locations.

The right of return

66. In 2020, the actual movement of IDPs to their villages of origin remained, at best, modest. In fact, rather than returning to live, many were only able to try to verify that the village continued to exist or try to undertake livelihood activities. Clearing landmines, engaging in meaningful consultations with IDPs about their interests and needs, addressing land rights, and promoting access to basic services and livelihoods remain key unresolved issues. The Special Rapporteur notes that in November and December, Government officials reportedly took steps to encourage populations displaced during the Myanmar military-AA armed conflict in several townships throughout Rakhine State to consider returning to their places of origin. These IDPs remain concerned about the resumption of clashes, the possible presence of landmines, access to services, and other relevant issues.

67. In Kachin State and, to a lesser extent, in northern Shan State, IDP movements from areas of displacement have been driven by a combination of self-initiated returns or relocations, local civil and faith-based organizations, and/or EAO arranged interventions, as well some local Government supported programmes. Displacement fatigue on the part of IDPs and host communities, capitalizing on modest opportunities for improvement, have reportedly motivated these efforts, even if the solutions have been less than ideal or more transitory in nature.

68. In northern Rakhine State, the right of refugees to return to their original places and recover their house, land, and property further deteriorated in 2020, with reports of bulldozing and the clearing of homes and land, encroachment and confiscation of the house plots/land left behind. Additionally, Rohingya villages were subjected to reclassification, in some cases being removed from official maps. As widely reported, including a report to the Human Rights Council by the Special Rapporteur, refugee land has been used by various actors for different purposes including the development of security compounds, government buildings, and development projects in new villages/settlements. Moreover, an apparent shift in policy was observed since the escalation of the COVID-19 cases, as "spontaneous" refugee returnees from Bangladesh previously processed under the Union Enterprise for Humanitarian Assistance, Resettlement and Development framework and permitted to return to their original or other places, instead faced charges and were sentenced for illegal entry. On the Thailand-Myanmar border, more than 120,000 refugees remained stranded in camps and unable to return, which has been exacerbated by the resumption of armed conflict between the Myanmar military and the KNLA.

IV. Ending business and arms trade with the Military

Business with the Myanmar Military

69. The Independent International Fact-Finding Mission on Myanmar (FFM) published its report on the economic interests of the Myanmar military to the Human Rights Council at its 42nd session in August 2019 (A/HRC/42/CRP.3). The FFM concluded that no business "should enter into an economic or financial relationship with the security forces of Myanmar, in particular the military, or any enterprise owned or controlled by them or their individual members, until and unless they are re-structured and transformed as recommended by the [FFM]."[10]

70. The Special Rapporteur can report that following the publication of the 2019 report, several companies took steps to follow the recommendations laid out by the FFM. That said, many companies continued to conduct business with military-owned enterprises and the Special Rapporteur will subsequently report his findings. The Special Rapporteur is encouraged to see many companies re-examining their business relationships following the coup. See Annex IV for a list of actions companies have taken since the August 2019 FFM report.

71. Newtec, now ST Engineering, a Belgian satellite communications company, was one of the first businesses to cut ties following the FFM report. In 2018, it supplied equipment and technology to Mytel—a network operator jointly owned by MEC and Viettel (part of Vietnam's Ministry of Defence)—through a deal with Com & Com to launch a mobile backhaul network. In August 2019, Newtec released a statement saying it would "follow the recommendations by the UN and stop commercial ties with Mytel" by refusing requests made by Com & Com to use Newtec products and services in the Mytel network.[11]

72. Maersk (Denmark), the largest shipping company in the world, announced in October 2020 that it would no longer use TMT Port, which is owned by MEHL.[12] TMT Port is jointly managed by a British company, Portia Management Services, and domestic company, KT Services.[13] Portia Management Services stated in June 2020 that it had no plans to renew its contract with the port past its expiration in 2021.[14]

73. In January 2020, Western Union (US) confirmed it would be ending its contract with Myawaddy Bank, which is owned by MEHL.[15]

74. Kirin Holdings, which once controlled 80 percent of Myanmar's beer market through its joint ventures with MEHL in Mandalay Brewery Ltd and Myanmar Brewery Ltd, began taking steps in line with the FFM's recommendations in February 2020, when it announced it met with MEHL management to discuss the issues identified in the 2019 report and requested that MEHL provide updated details on its financial and governance structures.[16] In June 2020, Kirin appointed Deloitte Tohmatsu Financial Advisory LLC to conduct an

[10] A/HRC/39/CRP.2, paragraphs 1708, 1716, and 1717.

[11] "Newtec Statement on the Findings of International Fact-Finding Mission on Myanmar," Burma Campaign UK, 6 August 2019, https://burmacampaign.org.uk/media/Newtec-Statement-on-the-findings-of-the-Independent-International-Fact-Finding-Mission-on-Myanmar.pdf.

[12] "Shipping Giant Maersk To Stop Using Military Ports in Burma," Burma Campaign UK, 8 October 2020, https://burmacampaign.org.uk/shipping-giant-maersk-to-stop-using-military-ports-in-burma/.

[13] KT Services is part of KT Group which donated Ks 60 million (USD $42,857) in September 2017 to the Myanmar military, A/HRC/42/CRP.3, pg. 86 (annex).

[14] "British Company Portia to Stop Managing Military Port in Yangon," Burma Campaign UK, 23 July 2020, https://burmacampaign.org.uk/british-company-portia-to-stop-managing-military-port-in-yangon/.

[15] "Western Union," Burma Campaign UK, 7 January 2020, https://burmacampaign.org.uk/take-action/western-union/.

[16] "Progress Report Regarding Kirin's Operations in Myanmar," Kirin Holdings, 6 February 2020, https://www.kirinholdings.co.jp/english/news/2020/0206_01.html.

independent review of said structures to determine the destination of profits from both joint ventures.[17] Kirin eventually suspended dividend payments from Myanmar Brewery and Mandalay Brewery to MEHL in November 2020, and on 5 February announced it would be ending the joint ventures with MEHL in light of the military coup.[18]

75. Rothmans Myanmar Holdings Singapore (RMHS) is a joint venture partner with MEHL in Virginia Tobacco Co. Ltd., which produces the two most popular cigarette brands in Myanmar, Red Ruby and Premium Gold. RMHS announced in December 2020 that it would be taking legal action against MEHL for "oppressive treatment" and a failure to meet its demands for greater transparency following the release of the 2019 report. Following the coup, RMHS major shareholder Lim Kaling announced he was exiting the joint venture.[19]

Transfer of Arms to Myanmar Military

76. The FFM also called for sanctions and a comprehensive arms embargo on the Myanmar military (A/HRC/42/CRP.3). In June 2020, the Human Rights Council expressed deep concern that illicit arms transfers were seriously undermining human rights (A/HRC/43/26). Several nations prohibit the sale of weapons and military equipment to Myanmar, including dual-use goods. See Annex VII for a list of countries with arms embargoes against Myanmar, which includes the United States, United Kingdom, Australia, Canada, and European Union member states.

77. From the release of the FFM report up until January 2021, numerous reports highlighted that the Myanmar military continued to purchase military infrastructure and dual use technology, including cargo aircrafts, air defence systems, drones, and radar. Moreover, international businesses continued to purchase information and communications technology from Mytel, a company run by the Myanmar military.

78. The FFM report identified sixteen state-owned and private companies that sold conventional arms and related goods to the military and seven private companies from which the military bought or attempted to buy dual-use goods and technologies from. Only two of these companies, Dejero (Canada) and Jotron (Norway), reported taking action. Dejero confirmed its newsgathering equipment had been resold to a television network in Myanmar in both 2017 and 2018. Following the recommendations of the 2019 report, Dejero instructed the reseller in August 2019 to end such business.[20] Internal investigation at Jotron revealed their Singapore-based subsidiary delivered air traffic control communications equipment to Myanmar, following Singaporean guidelines that had no restrictions on supplying dual-use goods to Myanmar at the time. However, Jotron instructed all subsidiaries to follow the guidelines set by the Norwegian Department of Foreign Affairs (which lists Myanmar as a restricted zone) instead of local jurisdiction moving forward.[21]

V. Ending Land and Labour Exploitation

Forced labour

79. Forced labour, the recruitment of children, and violence against workers continued to be reported during the reporting period. A significant rise was reported in both adults and children being forced to act as porters, guides, and human shields. In northeast Kachin and northern Shan states there were numerous reports of men and teenagers intercepted outside

[17] "Progress Report Regarding Kirin's Operations in Myanmar," Kirin Holdings, 5 June 2020, https://www.kirinholdings.co.jp/english/news/2020/0605_01.html.

[18] Statement on the situation in Myanmar," Kirin Holdings, 5 February 2021, https://www.kirinholdings.co.jp/english/news/2021/0204_01.html.

[19] "Statement by Mr. Lim Kaling on the Situation in Myanmar," Justice For Myanmar, 9 February 2021, https://twitter.com/JusticeMyanmar/status/1358922269024681984?s=20.

[20] "Response by Dejero," Business & Human Rights Resource Centre, 16 February 2020, https://www.business-humanrights.org/en/latest-news/response-by-dejero/.

[21] "Response by Jotron," Business & Human Rights Resource Centre, 16 February 2020, https://www.business-humanrights.org/en/latest-news/response-by-jotron/.

of the camps when returning home. Despite the commitment of the Myanmar military to engage with the Country Task Force on Monitoring and Reporting (CTFMR), the death of two boys in Buthidaung Township on 5 October demonstrated continued use of children. The Myanmar military denied any responsibility for the incident.[22]

80. Myanmar military-owned business conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), continued to be actively involved in business and commercial activities such as construction, mining, tourism, banking, pharmaceuticals, and insurance. After a long and devastating history of State-sponsored forced labour, the 2008 Constitution included a prohibition of forced labour in Article 359. However, the Article contains a broad provision allowing legal exception for the use of forced labor in cases of "duties assigned by the Union in accordance with the law in the interest of the public." The constitution should be amended in order to bring it into conformity with the Forced Labour Convention, 1930 (No.29), which Myanmar ratified in 1955, and to strengthen parliamentary oversight functions relating to forced labour.[23]

81. In June 2020, Myanmar ratified the Minimum Age Convention of 1973 (138). This represents a significant step forward for children, particularly in the midst of the COVID-19 pandemic. Child labour severely impairs the health, well-being, and development of an estimated 1.13 million children across the country. The Special Rapporteur echoes the need to adopt the ILO recommended hazardous work list along with enabling regulation, to prevent the worst forms of child labour. The Special Rapporteur notes that the National Forced Labour Complaints Mechanism Committee in Nay Pyi Taw continued to work on institution building and pending cases following its establishment in February 2020. He calls for a credible national mechanism in line with the comments by ILO supervisory bodies.

Development projects, forced evictions and land grabbing

82. There were reports of forced eviction and land grabbing that were allegedly used by the government and Myanmar military to expand development projects in Myanmar in violation of the rights of individual landowners and tenancy holders. The majority of residents in informal settlements endure tenuous forms of tenure security and the pervasive threat of evictions. Land confiscation, proliferating commercial/foreign agri-business investments, and landmine contamination further impact the ability of displaced persons to return to areas of origin and reacquire use of their land.

83. In May 2020, UN-Habitat published its rapid assessment of the impact of COVID-19 on informal settlements and found that 53 percent of respondents were afraid of being evicted from their homes during the pandemic.[24] More women respondents reported eviction-related insecurity (57 percent) compared to men (49 percent). COVID-19 has brought a renewed threat of mass eviction to informal settlements, which compounds the increasing number of reports of domestic violence during lockdown and susceptibility to infection. Evictions or the threat of evictions have been related to a range of negative health outcomes, including high blood-pressure, depression, anxiety, and forms of psychological distress.

VI. Conclusion and Recommendations

Conclusion

84. **These recommendations remain relevant when democracy is restored in Myanmar and the Special Rapporteur includes them herein.**

[22] Statement from the Co-Chairs of the UN Country Taskforce on Monitoring and Reporting on Grave Violations against Children in Myanmar, 14 October 2020, https://www.unicef.org/myanmar/press-releases/ctfmr-expresses-grave-concern-over-circumstances-two-children-killed-fighting.

[23] Paragraph 176(c) Draft Minutes, Institutional Section, ILO Governing Body, 340th Session, October – November 2020

[24] UN Habitat, Rapid Assessment of Informal Settlements in Yangon, May 2020, pg. 22, https://unhabitat.org.mm/publications/un-habitat-rapid-assessment-of-informal-settlements-in-yangon/.

85. **This annex demonstrates that even prior to the military coup, the Myanmar government and military violated people's rights to freedom of expression, assembly and association, and right to life, liberty, and security of person. Individuals were disenfranchised because of their ethnicity and unable to attain citizenship. Myanmar security forces engaged in arbitrary arrests, torture, and enforced disappearance just as in post-coup Myanmar. The next democratically elected government must address these glaring violations of human rights.**

Recommendations

86. **The Special Rapporteur's recommendations after the restoration of a legitimate government include:**

(a) **Initiate a process to consider fundamental changes to the constitution whereby the military is fully accountable to a legitimate democratically elected government;**

(b) **Ensure the rights to freedom of opinion and expression, peaceful assembly and association, and repeal any law that criminalizes or unduly restricts their enjoyment, online or offline, or that is used as an instrument of repression, including against land and environmental activists, artists, journalists, human rights defenders, civil servants, civil society organizations, ethnic nationalities, and displaced people. Suspend the enforcement of these laws until they can be stricken;**

(c) **Protect the right to information to ensure rapid and practical access to information of public interest;**

(d) **Urgently address the situation of armed conflict in various parts of Myanmar by ensuring a continuation of formal and informal ceasefire agreements, ending armed conflict with Ethnic Armed Organizations, taking all possible measures to avoid civilian casualties and cease the use of, and damage to, homes, schools, and religious facilities;**

(e) **Address the unresolved issues involving ethnic minority states and communities including justice for the Rohingya ethnic community;**

(f) **Ensure full cooperation with the proceedings at the International Court of Justice and other justice initiatives by international and domestic courts or tribunals, including the Office of the Prosecutor at the International Criminal Court, to address allegations of gross violations of international human rights and humanitarian law;**

(g) **Lift all restrictions arbitrarily imposed and enforced on Rohingya that, taken as a whole, create conditions that are destructive to the Rohingya, including, but not limited to, restrictions on freedom of movement, health, education, livelihoods, and equal access to citizenship;**

(h) **Invite the Office of the United Nations High Commissioner for Human Rights to open an office in Myanmar with a broad mandate to monitor and investigate human rights violations and to provide technical support as needed;**

(i) **Welcome the UN Special Rapporteur on the situation of human rights into the country, providing full cooperation and unfettered access;**

(j) **Engage with persons with disabilities and organizations of persons with disabilities to fully implement the Law on the Rights of Persons with Disabilities that provides the legal framework for implementing the Convention on the Rights of Persons with Disabilities;**

(k) **Ensure that the use of information technology that includes biometric data to register citizens for elections, and the use of new voting technologies, are established by law and in accordance with international standards, including the principle of non-discrimination, the right to privacy, and the rights of ethnic nationalities;**

(l) **Develop a legal framework required to ensure data protection through a transparent, inclusive, and participatory consultative process with all stakeholders;**

(m) **Restore full Internet and mobile connectivity in Rakhine and Chin states, repeal provisions in the 2013 Telecommunications Law that allow for arbitrary disconnection, and ensure its compliance with international law;**

(n) **Undertake broad and comprehensive legal reform of laws and provisions that unduly restrict and criminalize legitimate activity, such as the Penal Code, the Official Secrets Act, the Unlawful Associations Act, the Telecommunications Law, the Law on Protecting the Privacy and Security of Citizens, the Electronic Transactions Law, the Counter-Terrorism Law, and the News Media Law;**

(o) **Urgently amend the Penal Code to include a definition of torture, violence against women and other forms of sexual and gender-based violence, and of serious international crimes, including genocide, crimes against humanity, and war crimes, and include provisions for compensation and redress for victims, and for protection of witnesses;**

(p) **Adopt legislation on the Prevention of Violence Against Women that covers conflict-related violence and accords adequate support to victims and witnesses. Amend or repeal laws that are not compatible with the Convention on the Elimination of all Forms of Discrimination Against Women, including with regard to gender stereotypes inconsistent with the promotion and protection of women's rights to equality and non-discrimination. Take decisive steps to put an end to conflict-related sexual violence, including violations committed by the Myanmar military and Ethnic Armed Organizations, and develop policy measures to expressly prohibit rape and other forms of sexual violence, and to bring perpetrators to justice through fair trials;**

(q) **Ensure that freedom of religion and belief can be exercised and guarantee that any advocacy for or incitement to hatred and violence is effectively addressed and countered, including in print, broadcast, and social media, in line with Human Rights Council resolution 16/18 and the Rabat Plan of Action. Publicly counter dangerous nationalist and populist narratives and actively promote pluralism, tolerance, and inclusion;**

(r) **Permanently end the persecution of journalists, human rights defenders, or others who exercise their right to freedom of expression and release all persons held in detention for legitimate activities. Dismiss all politically motivated charges that contravene human rights, including the rights to freedom of expression, peaceful assembly, and association. Ensure that redress is provided for any psychological or physical harm caused to them;**

(s) **End arbitrary detention, including incommunicado detention, of people suspected of being associates of Ethnic Armed Organizations and ensure the right to a fair trial and judicial guarantees in all cases. Address torture or ill-treatment in prisons and detention settings and undertake independent and impartial investigations into any allegations of torture, ill-treatment, and deaths in custody, including those during the riot in Shwebo prison in May 2020;**

(t) **Take decisive steps to improve and strengthen the justice system, including by countering political influence and corruption in the judiciary, guaranteeing civilian jurisdiction over crimes committed by the military and related personnel, and guaranteeing the independence of judges and prosecutors. Undertake reforms to strengthen justice-sector capacity and guarantee full access to justice and legal aid for all people, including ethnic nationalities; and**

(u) **Implement the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, and amend the founding law of the Myanmar National Human Rights Commission to bring it in line with the Paris Principles.**

87. **The Special Rapporteur recommends the Government of Myanmar and Ethnic Armed Organizations:**

(a) **Cease deployment of military forces to contested areas and observe a nation-wide ceasefire;**

(b) **End violations against civilians, including targeted and indiscriminate killings, rape, arson, forced displacement, forced labour, and damage to civilian objects and non-military targets;**

(c) **Guarantee full access to humanitarian actors providing lifesaving support to people in need; establish a more predictable and efficient Travel Authorization mechanism for humanitarian aid workers; and allow for media and human rights monitors to freely access areas affected by conflict and violence and report on their findings; and**

(d) **Immediately stop laying landmines, ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, clear landmines and unexploded ordnances from contaminated areas in accordance with international mine action standards, properly mark and fence contaminated areas prior to clearance activities, and carry out systematic mine-risk and education activities, and permit humanitarian mine-action organizations to engage in mine clearance activities.**

Annex II

Member States imposition of economic sanctions and suspension of aid to Myanmar since the coup (as of 1 March 2021)

No.	*Country or union*	*Actions*
1	Canada	Imposed sanctions against nine military officials, bringing the total number of individuals sanctioned by Canada to 54. The previous trade embargo on arms, related material, and technical and financial assistance still stands. [1]
2	European Union	Has announced it is ready to adopt sanctions targeting those directly responsible for the coup and their economic interests. Suspended the Mypol program, [2] which has trained and equipped Myanmar's military-controlled police since 2016, [3] as well as the EU-funded Myanmar Sustainable Aquaculture Program.[4]
4	New Zealand	Suspended all high-level political and military contact with Myanmar. All current and future aid programs will not include projects that are delivered with, or benefit, the military. A travel ban on military leaders is also in the works.[5]
5	Switzerland	Temporarily suspended aid payments to investigate if their projects are managed by the military or benefit it in any way.[6]
6	United Kingdom	Imposed sanctions against nine military officials, bringing the total number of individuals sanctioned by the United Kingdom to 23.[7] The UK suspended all aid directly or indirectly involving the Myanmar government and will temporarily suspend all trade promotion with Myanmar as it launches a trade and investment review.[8]
7	United States	Designated 12 individuals responsible for the coup and or associated with the military regime. These former and current military officials along with three military-owned subsidiaries are under sanctions.[9] USAID redirected US $42 million of assistance away from projects that would have benefited the Myanmar government to civil society.[10] Blocked access to ~$1 billion in Myanmar government funds held in the United States.

[1] "Canada imposes sanctions on Myanmar military officials in response to coup d'état," Government of Canada, 18 February 2021, https://www.canada.ca/en/global-affairs/news/2021/02/canada-imposes-sanctions-on-myanmar-military-officials-in-response-to-coup-detat.html.

[2] "EU Statement on MYPOL," MYPOL, 18 February 2021, http://www.mypol.eu/eu-statement-on-mypol/.

[3] "EU suspends training of military-controlled Myanmar police force," Burma Campaign UK, 7 February 2021, https://burmacampaign.org.uk/eu-suspends-training-of-military-controlled-myanmar-police-force/.

[4] "EU-funded MYSAP aquaculture program suspended following Myanmar coup," *Seafood Source*, 18 February 2021, https://www.seafoodsource.com/news/aquaculture/eu-funded-mysap-aquaculture-program-suspended-following-myanmar-coup.

[5] "New Zealand takes measures against Myanmar following military coup," Government of New Zealand, 9 February 2021, https://www.beehive.govt.nz/release/new-zealand-takes-measures-against-myanmar-following-military-coup.

[6] "Switzerland temporarily suspends aid payments to Myanmar," *Swiss Info*, 18 February 2021, https://www.swissinfo.ch/eng/switzerland-temporarily-suspends-aid-payments-to-myanmar/46381184.

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Annex III

Non-exhaustive list of individuals and international companies disengaging from Myanmar and from military-affiliated enterprises since the coup

No.	*Company or individual*	*Country*	*Background*	*Action*
1	Axiata Group	Malaysia	Subsidiary edotco Group owns 3,150 towers in Myanmar, some of which are leased to MEC-owned Mytel.[1]	Axiata put off plans to sell US $500 million stake in edotco.[2]
2	Coda Pay	Singapore	Provided cardless payment services to Mytel.	Coda removed Mytel from its portfolio of payment channels.[3]
3	HAECO Xiamen	Hong Kong, China	Signed a US $4.8 million contract with Aero Sofi Co. Ltd. for VIP luxury refurbishment of an Airbus A319-112 once used by Myanmar Airways International.[4]	After the coup, HAECO informed OCCRP that the contract had been terminated in January 2021.[5]
4	Kirin Holdings	Japan	Joint venture partner in Mandalay Brewery and Myanmar Brewery with MEHL.	Kirin will terminate both ventures by the spring or within a year.[6]
5	Korean Air Cargo	South Korea	Rented office in Myawaddy Bank Luxury Complex, which is owned by MEHL.[7]	Korean Air will move its office to a new location.[8]
6	Lim Kaling	Singapore	Owned a one-third stake in RMH Singapore Pte. Ltd., which operates joint venture Virginia Tobacco Company with MEHL.	Decided to dispose of his stock in the company and exit the investment in response to the coup.[9]
7	Posco International	South Korea	Joint ventures partner with MEHL in Myanmar Posco C&C Company Ltd. and Myanmar Posco Steel Company Ltd.	Posco has suspended dividends until MEHL proves previous dividends were not used for purposes that violated human rights. If proven otherwise, Posco will consider a thorough review its joint ventures and might follow the precedent of Kirin Holdings.[10]
8	Transworld Group Singapore	Singapore	Used Ahlone International Port Terminal 1, which is owned by MEC.	Transworld Group will no longer use military-owned ports in Yangon.[11]
9	TRD Singapore	Singapore	Sold Orion-7 drone signal disruptor to the Myanmar police.	TRD Singapore cancelled a deal to sell anti-drone products to Yangon International Airport and will not supply Myanmar with anti-drone products while under the regime.[12]
10	Vero	Thailand, Vietnam, Myanmar, Indonesia	Public relations firm.	Vero will no longer represent military-owned companies.[13]

11	Woodside Petroleum	Australia	Has one of the largest offshore petroleum acreage holdings in Myanmar. Partners with Total and MRPL E&P in a joint venture developing A-6, Myanmar's first ultra-deepwater gas project.	Woodside will de-mobilize its entire offshore exploration drilling team and halt any business decisions until the situation has improved.[14]

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Annex IV

Non-exhaustive list of international companies disengaging from Myanmar military-affiliated entities following the Independent International Fact-Finding Mission on Myanmar's August 2019 report (Aug. 2019 - Jan. 2021)

No.	*Company*	*Country*	*Background*	*Action*	*Date*
1	Dejero	Canada	According to FFM, the Tatmadaw procured dual-use Dejero data streaming equipment. Dejero confirmed its equipment was resold to a Myanmar "television network" in 2017 and 2018.	Instructed the reseller to suspend further sales of their products to Myanmar.[1]	August 2019
2	Esprit Holdings	Hong Kong, China Germany	Ordered from Perfect Gains Garment Manufacturing, a factory inside Ngwe Pinlae Industrial Zone that is owned by MEHL.	Halted all future orders made to the factory.[2]	August 2019
3	Jotron	Norway	According to FFM, Jotron supplied nearly US $45,000 in air traffic control communications equipment to the Tatmadaw. Jotron confirmed its Singapore-based subsidiary delivered the equipment to Myanmar.	Instructed its subsidiaries to comply with guidelines set by the Norwegian Dept of Foreign Affairs (Myanmar is under an arms embargo) instead of local jurisdiction.[3]	February 2020
4	Kirin Holdings	Japan	Operated joint ventures Mandalay Brewery Ltd and Myanmar Brewery Ltd with MEHL; partner companies of Myanmar Brewery donated Ks 17.9 million (US $12,785) to the Tatmadaw.	Appointed Deloitte to conduct review of joint ventures to determine destination of their profits; suspended dividend payments; announced ending on 5 February.[4]	June 2020
5	LafargeHolcim	France, Switzerland	Lafarge (now LafargeHolcim)'s cement repacking subsidiary had leadership links with SinMinn Cement, an MEHL subsidiary.	Liquidated subsidiary.[5]	July 2020
6	Maersk	Denmark	Used TMT Port, which is owned by MEHL and managed by a subsidiary of crony conglomerate KT Group of Companies.	Announced it will no longer use TMT Port.[6]	October 2020
7	Marks & Spencer	United Kingdom	Used Myanmar Wise-Pacific Yangon Co., an MEHL joint venture, as a supplier.	No longer sources from Wise-Pacific.[7]	August 2019
8	Newtec (ST Engineering)	Belgium	Supplied equipment and technology to Mytel through a contract with Com & Com.	Announced it would stop all commercial ties with Mytel and refuse requests made by Com & Com to use Newtec products in the Mytel network.[8]	August 2019

9	Pan-Pacific	South Korea	Joint venture Myanmar Wise-Pacific Yangon Co. with MEHL.	MWY was renamed to EO Yangon Co. Ltd. and MEHL is no longer a joint venture partner. EO Yangon is now wholly owned by EO Co. Ltd.[9]	September 2020
	Portia Management Services	United Kingdom	Operated TMT Port in Yangon jointly with crony company KT Services. The port is owned by the military controlled Myanmar Economic Holdings Ltd.	Decided to not renew contract with KT Group (set to expire in 2021).[11]	June 2020
11	Rothmans Myanmar Holdings Singapore	Singapore	Joint venture Virginia Tobacco Co. Ltd. with MEHL.	Taking legal action against MEHL for failure to meet demands for greater transparency following FFM report.	December 2020
12	Western Union	United States	Contract with Myawaddy Bank, which is owned by MEHL.	Ended contract with Myawaddy Bank.	January 2020

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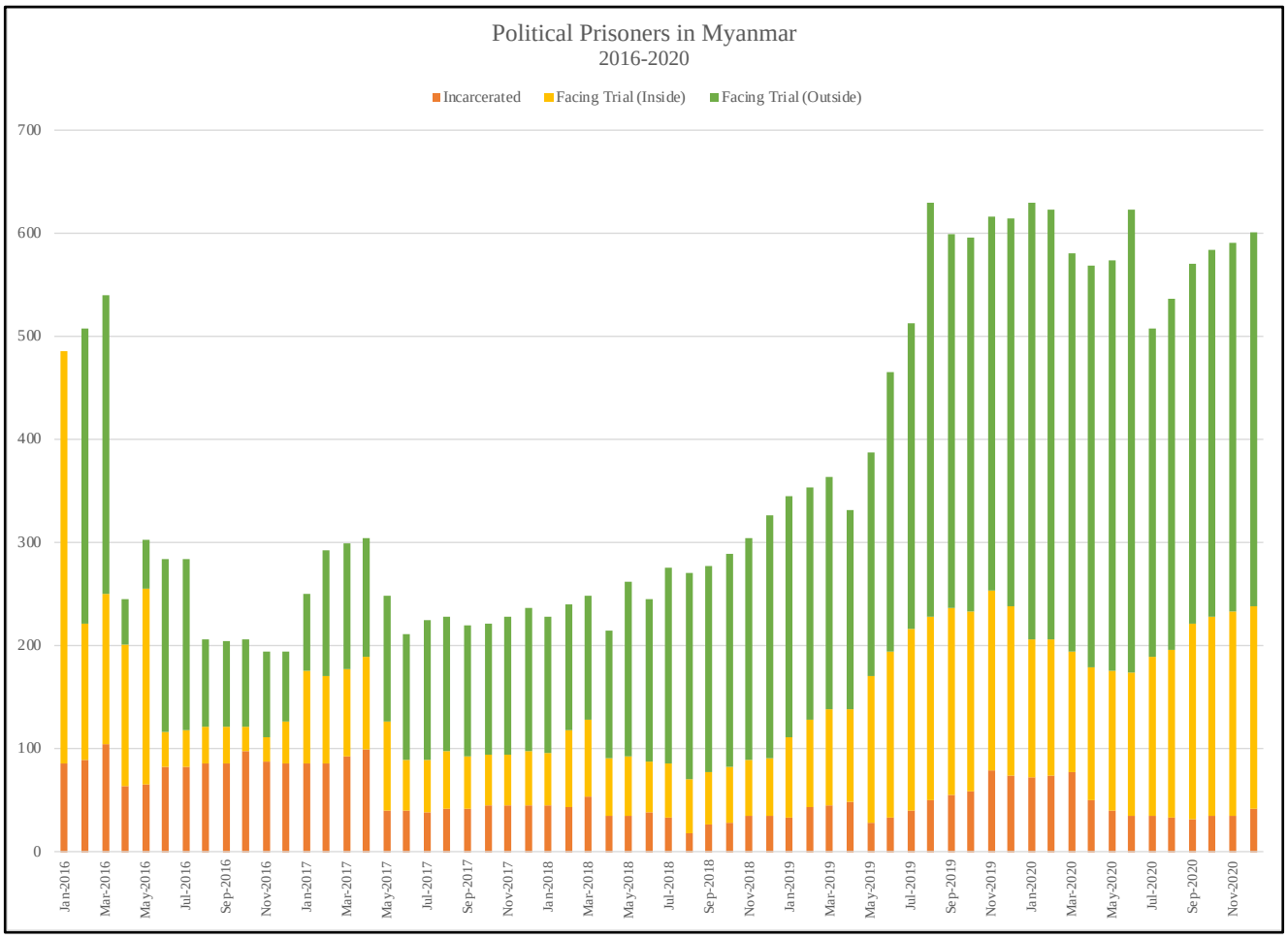
Annex V

Political Prisoners in Myanmar, January 2016 - December 2020[1]



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Annex VI

Reported killings and serious injuries of Rohingya civilians (January 2020 – January 2021)*

Targeted killings

Date	*Type*	*Summary*	*Civilians killed*	*Civilians injured*	*Alleged perpetrator*	*State/Township*
18 February 2020	Execution	A Rohingya civilian was executed by an identified armed group.	1	-	Other armed groups	Rakhine State/Mrauk-U
29 February 2020	Small arm fire	The Arakan Army ambushed a convoy of 18 Myanmar military vehicles near the village which led to a clash. Afterwards, the Myanmar military fired into a nearby Rohingya village for an hour and a half, killing six Rohingya civilians.	6	-	Myanmar military	Rakhine State/Mrauk-U
2 August 2020	Execution	The Myanmar police shot two Rohingya civilians. One died and another was injured.	1	1	Police	Rakhine State/Sittwe
5 October 2020	Execution	The Myanmar military entered into two adjoining villages and detained 14 villagers to be porters and guides. Some of those detained were Rohingya cattle herders. The detainees fled and one person was injured. 12 villagers out of 14 detained villagers returned to the village. Two missing civilians were found dead with gun wounds on the next day, having been used by the Myanmar military as “human shields.”	2	1	Myanmar military	Rakhine State/Buthidaung
5 October 2020	Execution	On 5 October 2020, in Minbya Township the Myanmar military shot three Rohingya civilians to death.	3	-	Myanmar military	Rakhine State/Minhya
9 October 2020	Execution	A Rohingya civilian was detained by the Myanmar military in Maungdaw township and later died in custody.	1	-	Myanmar military	Rakhine State/Maungdaw
11 January 2021	Execution	A Rohingya civilian went to the paddy fields at the night. His body was found the following day having been killed by an identified armed group.	1	-	Other armed groups	Rakhine State/Minbya

Civilian Causalities

Date	*Type*	*Summary*	*Civilians killed*	*Civilians injured*	*Alleged perpetrator*	*State/Township*
25 January 2020	Shelling	An artillery shell landed in a bed of a house and killed two Rohingya civilians and injured 7 others.	2	7	Myanmar military	Rakhine State/Buthidaung
10 February 2020	Landmine/ UXO	On 10 February, four Rohingya civilians were killed and six were injured in Buthidaung township as a result of a landmine/UXO.	4	6	Unidentified	Rakhine State/Buthidaung
10 February 2020	Shelling	A Rohingya civilian was killed and three were injured by an artillery shell fired from the Myanmar military navy ship on Kaladan river.	1	3	Myanmar military	Rakhine State/Kyauktaw
12 February 2020	Shelling	An artillery shell landed into a house killing three Rohingya civilians and injuring two others. Relatives of the victims state that the artillery shell came from a security outpost where Myanmar military border guard forces are stationed.	3	2	Myanmar military	Rakhine State/Buthidaung
18 February 2020	Landmine/ UXO	A Rohingya civilian was killed by a landmine blast.	1	2	Unidentified	Rakhine State/Buthidaung
26 February 2020	Small arm fire/Landmine/ UXO	A Rohingya civilian who was tending the cows near a border police checkpoint was hit by stray pieces of artillery shell and killed. However, it was unclear whether he was hit and killed by the artillery shell or he stepped on a landmine and the explosion killed him.	1	-	Myanmar military	Rakhine State/Buthidaung
6 March 2020	Landmine/UXO	A landmine exploded while five Rohingya civilians were herding livestock in a pasture near the village. One was killed, four others were injured.	1	4	Unidentified	Rakhine State/Mrauk-U
9 March 2020	Landmine/UXO	A mine killed one Rohingya civilian and injured five others.	1	5	Unidentified	Rakhine State/Mrauk-U
10 March 2020	Landmine/UXO	A landmine went off as two Rohingya civilians were herding cattle. One died on the way to the hospital.	1	-	Unidentified	Rakhine State/Rathedaung

22 April 2020	Small arm fire	A Rohingya civilian was killed in a crossfire between the Arakan Army and the Myanmar military. Six others were injured.	1	6	Unidentified	Rakhine State/Minbya
12 May 2020	Landmine/UXO	A landmine explosion killed two Rohingya civilians and injured one.	2	1	Unidentified	Rakhine State/Buthidaung

* Non exhaustive.

** Total: 33 killed, including 15 children and 3 women, and 38 injured.

Annex VII

Countries with arms embargoes against Myanmar

No.	*Country*	*Description*
1	Albania	Aligned with EU sanctions and embargo.
2	Armenia	Aligned with EU sanctions and embargo.
3	Australia	Australia bans the direct or indirect sale or transfer of arms and related materials, as well as the provision of services related to the supply, manufacture, maintenance, or use of arms and related material under the Autonomous Sanctions Regulations of 2011.[1]
4	Bosnia and Herzegovina	Aligned with EU sanctions and embargo.
5	Canada	Since 2007, Canada has imposed an arms embargo, which includes the prohibition of exporting or importing arms and related material, or related technical and financial assistance, to and from Myanmar, under the Special Economic Measures Act.[2]
	European Union	The EU has maintained an embargo on arms, munitions, and military equipment since 1991.[3] In recent years, the EU has expanded the embargo to include an export ban on dual-use goods, monitoring communications equipment, and prohibitions on military training and cooperation.[4]
6	Austria	EU member state—sanctions, arms embargo applies.
7	Belgium	EU member state—sanctions, arms embargo applies.
8	Bulgaria	EU member state—sanctions, arms embargo applies.
9	Croatia	EU member state—sanctions, arms embargo applies.
10	Cyprus	EU member state—sanctions, arms embargo applies.
11	Czech Republic	EU member state—sanctions, arms embargo applies.
12	Denmark	EU member state—sanctions, arms embargo applies.
13	Estonia	EU member state—sanctions, arms embargo applies.
14	Finland	EU member state—sanctions, arms embargo applies.
15	France	EU member state—sanctions, arms embargo applies.
16	Germany	EU member state—sanctions, arms embargo applies.
17	Greece	EU member state—sanctions, arms embargo applies.
18	Hungary	EU member state—sanctions, arms embargo applies.
19	Ireland	EU member state—sanctions, arms embargo applies.
20	Italy	EU member state—sanctions, arms embargo applies.
21	Latvia	EU member state—sanctions, arms embargo applies.
22	Lithuania	EU member state—sanctions, arms embargo applies.
23	Luxembourg	EU member state—sanctions, arms embargo applies.
24	Malta	EU member state—sanctions, arms embargo applies.

25		Netherlands	EU member state—sanctions, arms embargo applies.
26		Poland	EU member state—sanctions, arms embargo applies.
27		Portugal	EU member state—sanctions, arms embargo applies.
28		Romania	EU member state—sanctions, arms embargo applies.
29		Slovakia	EU member state—sanctions, arms embargo applies.
30		Slovenia	EU member state—sanctions, arms embargo applies.
31		Spain	EU member state—sanctions, arms embargo applies.
32		Sweden	EU member state—sanctions, arms embargo applies.
33	Iceland		Aligned with EU sanctions and embargo.
34	Liechtenstein		Aligned with EU sanctions and embargo.
35	Moldova		Aligned with EU sanctions and embargo.
36	Montenegro		Aligned with EU sanctions and embargo.
37	North Macedonia		Aligned with EU sanctions and embargo.
38	Norway		Aligned with EU sanctions and embargo.
39	Switzerland		Aligned with EU sanctions and embargo.[5]
40	United Kingdom		Following its exit from the EU, the UK adopted various restrictions on the trade of military and dual-use goods as well as prohibitions on the provision of monitoring communications equipment and military-related services to Myanmar. These regulations under the Burma (Sanctions) (EU Exit) Regulations 2019 work to the same effect as the current EU sanctions and regulations on military goods.[6]
41	United States		On June 9, 1993, the United States issued Public Notice 1820 suspending all export licenses and other approvals to export or otherwise transfer defense articles or defense services to Burma, and since 1999, the US has designated Myanmar as a "Country of Particular Concern" under the International Religious Freedom Act of 1998, enacting the arms embargo in 22 CFR 126.1(a).[7]

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