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Human rights situations that require the Council's attention

Written updates of the Office of the United Nations High Commissioner for Human Rights on the Situation of human rights in Myanmar*

* Late submission is due to efforts to reflect properly the most recent information for the review of the Human Rights Council.

I. Introduction and methodology

1. In resolution 46/21, the Human Rights Council requested, inter alia, the High Commissioner for Human Rights to provide oral and written reports on the overall human rights situation in Myanmar, with a particular focus on accountability regarding alleged violations of international human rights and humanitarian law, as well as rule of law and security sector reform since 1 February 2021.

2. This update covers human rights concerns that my Office has documented since the seizure of power by the Myanmar military (Tatmadaw) on 1 February 2021 until mid-July 2021. Developments during this period are presented chronologically to illustrate trends and patterns of human rights violations. Supplementary material elaborating aspects of this report is available via a conference room paper. Findings will be further elaborated in a comprehensive report mandated by resolution 46/21 that is to be presented at the forty-ninth session of the Human Rights Council.

3. OHCHR currently does not have a presence in or access to Myanmar, despite a commitment made by the Government in 2012 to allow OHCHR to open a country office and repeated calls by the Human Rights Council and General Assembly. This has impeded independent in-country monitoring and reporting of the human rights situation, which has become further restricted since the military coup due to Internet restrictions (see Section IV), access and resource constraints, and threats of reprisals against human rights defenders.

4. Despite these challenges, OHCHR has relied on remote monitoring, and use of credible open sources, supplemented where possible by interviews conducted with individuals to obtain first-hand information on specific events. Notwithstanding challenges and risks, OHCHR conducted over 70 interviews with victims and witnesses to human rights violations and has held scores of meetings to collect information from a range of stakeholders. Information and sources have been assessed for credibility, with every effort undertaken to corroborate or verify information to the maximum extent possible.

II. Context

5. For decades, the Tatmadaw has committed gross human rights violations with impunity, including alleged international crimes against ethnic minorities that have been extensively documented for the Human Rights Council. Detailed recommendations have been made on accountability and security sector reform, but have not been implemented.[1] Following the February coup, the Tatmadaw has systematically unleashed a new level of violence and repression across the country against the people of Myanmar.[2]

6. On 1 February 2021, alleging electoral fraud in the November 2020 elections, Commander-in-Chief Min Aung Hlaing removed the civilian Government, detained Myanmar's political leadership and declared a state of emergency, vesting all legislative, judicial and executive power in himself. Myanmar's people met the coup with near universal rejection and launched a broad-based, sustained and peaceful civil disobedience and protest movement across the country. In succeeding months, a human rights crisis ensued, with a steady escalation of attacks against the civilian population as the Tatmadaw sought to suppress opposition and consolidate power. Military authorities abused the legal framework to stifle free expression, enable arbitrary deprivation of liberty, and strip away due process and fair trial rights as they detained thousands, particularly activists, journalists, and human rights defenders. When nationwide peaceful protests began, military authorities initially used less-lethal weapons in an unnecessary and disproportionate manner and conducted neighbourhood raids, creating an atmosphere of terror. This evolved into systematic targeted killings and mass arrests, with torture and ill-treatment causing additional deaths in custody. Progressively, armed resistance emerged, as people formed self-defence groups or started to organize to conduct attacks against the military. Simultaneously, armed conflict in

[1] See A/HRC/43/18, A/HRC/39/CRP.2.

[2] See also A/HRC/46/56.

Myanmar's border areas has continued and resurged. In both contexts, the Tatmadaw has conducted both targeted and indiscriminate attacks against civilians. Combined with a freefalling economy and worsening COVID-19 pandemic, the situation in Myanmar has become a human rights catastrophe.[3]

III. Rule of Law

7. Since 1 February, the Tatmadaw has attempted to legitimize its overthrow of the government by establishing a so-called State Administration Council (SAC)[4] led by the military and by unilaterally amending existing laws to facilitate military rule on an unyielding population. The SAC annulled the 2020 election results[5] in late July 2021, announced its transformation into a "provisional government" [6] with the commander-in-Chief as Prime Minister on 1 August, and further extended the initial year-long state of emergency until August 2023.[7]

A. Instrumentalization of Law

8. Within two weeks of seizing power, the SAC effected changes to the Penal Code (PC), Criminal Procedure Code (CPC), Ward and Village Tract Administration Law (WVTAL), and Law Protecting the Privacy and Security of Citizens (LPPSC), effectively (i) criminalizing both perceived intent and actual criticism of the authorities; and (ii) permitting warrantless searches, seizures, arrests, surveillance and interception of communications.

9. Following issuance of "section 144 CPC orders" in 129 townships on 8-9 February,[8] the SAC on 13 February suspended protections under the LPPSC[9] and amended the WVTAL.[10] Suspension of LPPSC provisions removed protections against detentions lasting more than 24 hours (section 7) and against warrantless searches, seizures, arrests, surveillance and interception of communications (section 8). Changes to the WVTAL required overnight guests be registered with the authorities (section 13(g)) – thereby limiting the protection available to journalists, activists, protest organizers and others who had left their homes and habitual places of residence for fear of arrest.

10. Additional amendments on 14 February 2021 to the PC[11] and CPC[12] expanded crimes of high treason and sedition (sections 121 and 124A, PC), established new non-bailable offences of hindering security forces[13] and civil servants (sections 124C and 124D, PC), and introduced new offences relating to public mischief that adversely impact freedom of expression and assembly (sections 505(a) and 505A, PC). Thereafter, broadened definitions of high treason, which now include preparations to alter by "unconstitutional means" the Union of Myanmar, have formed the basis of charges against leading members of the Committee Representing Pyidaungsu Hluttaw (CRPH) and ministers of the National Unity Government (NUG) (see Section IX). At least 992 individuals have been charged under

[3] See Chronology of Events in A/HRC/48/CRP.2.

[4] See: OHCHR Myanmar Team, *Myanmar in Crisis: Human Rights Situation, February 2021* (11 February 2021), para. 5, at https://bangkok.ohchr.org/5902-2/.

[5] Union Election Communication Notification No. 2/2021.

[6] SAC Order No. 152/2021.

[7] These actions led members of the Union parliament, elected in November 2020, to form the Committee Representing the Pyidaungsu Hluttaw (CRPH) and a National Unity Government (NUG) to act in opposition to military rule. (see Section IX). See A/HRC/48/CRP.2

[8] Prohibiting "unlawful assembly, talks, using vehicles or in persons in marching around, protests, destroying and violent acts", limiting public assemblies to less than five persons, and curfews between 8 p.m. and 4 a.m. See: Global New Light of Myanmar (GNLM), *Section 144 of Criminal Procedure Code imposed in Naypyidaw territory and townships in states/regions*, 10 February 2021.

[9] SAC Law No. 4/2021.

[10] SAC Law No. 3/2021.

[11] SAC Law No. 5/2021.

[12] SAC Law No. 6/2021.

[13] "Security forces" refers to both military and police forces.

section 505A, which permits warrantless arrests for criticizing the coup, supporting the CRPH and/or civil disobedience movement (CDM). Given the overly broad language, anyone deemed associated with armed resistance groups could potentially be held liable for sabotaging or hindering security forces in preserving State stability (section 124C, PC). Anyone encouraging government employees to join the CDM could be sanctioned under both sections 124D and 505(a) for hindering officials from carrying out their duties. Given the questionable manner in which these amendments have been imposed, as well as their vague and overbroad Legitimacy of their imposition aside, the overbroad and vague wording of the amendments raises serious concerns regarding their compatibility with the principle of legality under international human rights law.

B. Subversion of Judiciary and Due Process

11. By mid-March, SAC had declared martial law across six townships in Yangon Region.[14] This was extended to one township in Chin State on 13 May.[15] With the introduction of military tribunals in these areas, regional Commanders were authorized to try a range of criminal cases summarily and impose the harshest penalties for each crime – including death sentences – with no right of appeal, in violation of international fair trial standards. Cases against civilians have been tried summarily in military tribunals, with accused persons having no legal representation. As of 15 July, 65 individuals (including two children) have received death sentences, 39 of whom were tried *in absentia*.

12. In areas without martial law, judicial proceedings have been conducted within prisons, ostensibly to deal with "section 505 cases". In "prison courts", most detainees have no access to legal counsel and the small minority who do, face significant challenges consulting with their lawyers and presenting evidence and witnesses, raising grave concerns about due process and violations of other fair trial rights. As peaceful protests decrease in scale and incidents involving armed elements rise, these courts have begun trying broader ranges of crimes related to armed resistance.

IV. Freedom of expression

13. In seizing power, the Tatmadaw swiftly shut down telecommunications nationwide, including fixed and mobile telephone lines, and the Internet. Although this was temporary, the SAC has implemented periodic Internet blackouts and imposed increasingly draconian restrictions over time. These steps have been aimed at controlling and unduly restricting the right to freedom of expression and other human rights. It has additionally limited the flow of information about violations committed by security forces, complicating humanitarian needs assessments and documentation efforts.

A. Online Restrictions

14. Between mid-February and late April, the SAC moved to stifle online civic space by introducing legal provisions criminalizing online activity and sharply curbing access to the Internet, through a combination of nightly shutdowns and progressive suspensions on various forms of data services.

15. Following widespread criticism of a proposed (and thereafter discarded) Cyber Security Bill, military authorities amended unilaterally the 2004 Electronic Transactions Law (ETL) without any public notice or consultation on 15 February. Broadly worded provisions introduced several new offences criminalizing information sharing about "social punishment" (section 38b);[16] journalism deemed critical of military authorities (section 38c); utilizing private networks or encryption services (section 38d); and communicating information to the international community (section 38e). Separately, whilst ostensibly

[14] Martial Law Order 3/2021

[15] Martial Law Order 5/2021

[16] A 'name and shame' campaign targeting and publicly identifying families and relatives of high-ranking Tatmadaw officials.

providing a veneer for personal data protections (Chapter 10), amendments confer extensive powers to authorities, allowing them to intercept personal data without any corresponding safeguards. These modifications are overly broad raising serious concerns as to their compatibility with the principle of legality. Further, they fail to satisfy the requirements of necessity and proportionality. Such restrictions do not appear to pursue legitimate aims under human rights law, and as a whole impact not only an individuals' right to freedom of opinion and expression, but also to privacy.

16. As the scale of protests grew and military responses became more violent, SAC instituted nightly Internet shutdowns between 01:00 hours to 06:30 hours or 09:00 hours, depending on the day, until late April 2021.

17. Following violent crackdowns in Hlaingtharya and Shwepyithar townships, and declarations of martial law across six townships in Yangon Region, military authorities blocked mobile Internet access nationwide on 15 March. Three days later, they suspended public wi-fi services. On 2 April, SAC directives also blocked fixed wireless Internet, leaving only fibre-optic Internet connections open (covering less than 0.2 percent of the population, primarily in major urban areas).

18. Nightly Internet shutdowns ceased in late April when SAC adopted a different method of control, through blocking all access to the Internet, except for specific websites or applications, for mobile and fixed wireless Internet users. Those with fibre-optic connections maintained access except for blacklisted websites and applications. On 28 April, mobile Internet was restored for banking and other commercial applications; with fixed wireless service following eight days later. Given the ETL amendments, and suspension of LPPSC provisions (see above), significant risks of ongoing surveillance and interception of phone and Internet-based communications remain, even within the limited current access.

B. News Media and Journalists

19. Within seven weeks of the coup, five independent newspaper publications were closed.[17] By 5 May, the SAC had revoked the licenses of eight media outlets,[18] following the SAC warning media outlets against referring to it as "military government".[19]

20. As of 15 July 2021, at least 98 journalists have been arrested at some point since 1 February 2021, including Polish, Japanese, and American correspondents; another 33 had arrest warrants pending against them. Forty-six journalists remain in detention, 20 of whom have been criminally charged (mostly under Penal Code section 505). Six have been convicted, with sentences ranging from one month to three years.

V. Right of peaceful assembly

21. Following the coup, Myanmar's people responded with outrage. Exercising their rights to freedom of expression and peaceful assembly, broad-based demonstrations began throughout cities across the country starting with nightly campaigns of banging pots and pans from 2 February 2021. This show of peaceful dissent rapidly evolved into a "Civil Disobedience Movement" (CDM), led initially by doctors and nurses who refused to report to work. Drawing support from trade unions and people from all walks of life, the CDM grew in strength, culminating in a nationwide general strike on 21 February. Large numbers of civil servants joined, notably teachers and even government workers in the capital Naypyidaw. Dozens of peaceful demonstrations involving hundreds of thousands of people

[17] 7Day News, The Voice, Eleven, The Myanmar Times, and The Standard Time (San Taw Chain).

[18] Democratic Voice of Burma, Khit Thit Media, Mizzima, Myanmar Now, 7Day News, 74 Media, Myitkyina Journal, and Tachileik News Agency.

[19] "Warnings have been issued against the use of military government that staged a coup in news reports, and action will be taken against violators who continue to use such usage in their writings by revoking publishing licences." Global New Light of Myanmar, 23 February 2021 https://www.gnlm.com.mm/council-needs-to-put-energy-into-reviving-countrys-ailing-economy-senior-general

occurred in the first weekend after the coup. Protesters also engaged in musical and other artistic acts to peacefully express their dissent.[20]

22. Police initially relied on less-lethal weapons, including rubber bullets and water cannons, to discourage and disperse peaceful crowds as they grew in size, and spread nationwide during the second week of February. On 9 February 2021 in Naypyidaw, police used live ammunition to disperse peaceful protesters, resulting in the shooting of a young female protester who eventually died from a gunshot wound to the head.

23. In parallel, military authorities' severe restriction of online civic space made it much harder for protesters to assemble. Those leading and participating in demonstrations organized through online applications risked their mobile telephones being searched in random checks by security forces, leading to arrests.

24. Angered by Tatmadaw efforts to shut down rallies, mass protests intensified. Security forces escalated violence, relying increasingly on lethal force, even employing military tactics and combat-grade weaponry, including semi-automatic rifles, snipers, and live ammunition, to disperse peaceful assemblies. In March and early April, use of lethal weapons, alongside unnecessary and disproportionate use of less-lethal weapons, led to a dramatic increase in arbitrary killings and wounding of peaceful protesters, including many children. Four incidents are particularly illustrative: North Okkalapa, Hlaingtharya, Armed Forces Day, and Bago.[21]

25. Military authorities' repression of protests in North Okkalapa Township, Yangon, on 3 March 2021 marked a clear escalation in use of lethal force, which testimonies consistently indicate was deliberate and intentionally aimed at peaceful protesters. Victims of security forces often sustained wounds to their heads and torsos, indicating that they were targeted for maximum harm. Security forces attacked medical equipment and facilities and health workers, including those assisting protesters. On 14 March 2021, large-scale protests erupted in another Yangon township, Hlaingtharya. During the day, several Chinese-linked factories also suffered significant damage from arson and vandalism. Security forces responded to the situation with lethal force, reportedly firing weapons into homes, seemingly at random, conducting raids and arresting those perceived to be anti-military. This continued into the night and during the following days. Subsequently, over 100,000 residents fled the area over the next week.

26. On 27 March 2021, SAC-affiliated "Myanmar Alin" newspaper published a warning for young people to "learn from earlier ugly deaths that you are in danger of getting shot in the head and back". This echoed verbatim ominous statements made on a military-affiliated TV station the previous day.[22] Nonetheless, demonstrators organized further public protests throughout the country. By this point, opposition activists had adopted mitigation strategies to avoid violence by security forces, including using short, "flash mob"-style protests, and protesting when security forces were likely to be on breaks. While many demonstrators had no defences, some set up sandbags at protest sites or improvised protective equipment to shield themselves from ammunition. In a few cases, participants had rudimentary weapons, such as slingshots, catapults, firecrackers and, occasionally, Molotov cocktails.

27. Widespread attacks against protesters ensued on Armed Forces Day on 27 March 2021 in 12 of Myanmar's 15 states, regions, and union territory. In different parts of the country, the military used firearms without warning against peaceful demonstrations. Security forces shot at people who were running away or helping the injured. Multiple credible sources reported a minimum of 130 deaths, the highest daily toll, almost all apparently due to gunshot wounds, many to the head or torso, including at least 17 children. A person recounted how their relative's body, killed by security forces, was later cremated without the family's consent. Other individuals received calls and visits from police seeking the remains of the deceased – in one case even threatening to exhume a child's body. Warnings issued the day before, tactics used, high death tolls and widespread coordination of crackdowns across the country appear indicative of a strategy or planned operation by military authorities that

[20] See A/HRC/48/CRP.2 for details.

[21] Ibid.

[22] Myanmar Radio and Television broadcasts on 26 March 2021.

deliberately entailed the use of lethal force intended to dissuade further demonstrations and to consolidate their control nationwide.

28. In Bago on 9 April, security forces surrounded wards where demonstrators had erected roadblocks to protect themselves. Following drone surveillance, they launched attacks, employing grenade launchers and artillery to destroy roadblocks without apparent care for the impact of explosive weapons within a residential area, putting both protesters and residents at risk from blasts and shrapnel. Reportedly, these salvos killed at least 82 people. In one documented instance, soldiers fired upon an already injured protester who was being taken away for medical attention. It was widely reported that security forces occupied a pagoda, using the premises as a repository for dead and injured persons. Requests by monks and local medics to treat the injured were denied.

29. Peaceful protests should be respected and ensured. Should it become necessary, pursuant to a legitimate law enforcement purpose, to disperse such assemblies, all reasonable attempts should be made to have participants do so voluntarily and force should only be used if absolutely necessary and only to the minimum extent required. Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution, and non-discrimination. Firearms must not be used by law enforcement officials in the context of assemblies, unless it is limited to targeted individual(s) under circumstances strictly necessary to protect life or to prevent serious injuries against imminent threats and only against individuals representing such threats. Myanmar security forces' actions are in clear contravention of these standards and therefore amount to violations of the rights to life and to peaceful assembly. Many of the deaths reported, if found to be part of a widespread or systematic attack directed against a civilian population, may further amount to a crime against humanity.

VI. Prohibition against torture and ill-treatment, and the right to liberty of person and security of person

30. Between 1 February and 15 July 2021, the SAC detained at least 6,493 individuals: at least 655 in February; 2,023 in March; 1,025 in April; 826 in May; 430 in June; and 136 as of 15 July. As of mid-July, only 2,924 of those arrested were subsequently released.[23]

31. There is a discernible pattern to the ongoing arrests and detentions carried out by the SAC. In the first hours of the coup, the Tatmadaw detained the country's political leadership and hundreds of parliamentarians who had gathered for the opening of the new Parliament. Around the same time, members of the outgoing State and Regional Governments and other politicians were also targeted. Given the Commander-in-Chief's allegation of electoral fraud as pretext for seizing power, scores of Union Election Commission officials were also arrested, as were dozens of civil society activists.

32. As young people mobilized to demonstrate peacefully against the takeover, mass arrests of students soared over the following month. For six weeks between mid-April and end-May 2021, the SAC published daily lists of individuals wanted for arrest pursuant to section 505A of the PC, primarily Myanmar celebrities, artists, doctors, educators, nurses, and others for their criticism of the coup, support for CRPH or participation in the CDM – and clearly targeting those with influence in galvanizing protests and strikes. Journalists were consistently targeted by the SAC: over the first three months of the coup, around 30 media workers were either detained or named in lists of people wanted by the military authorities each month. Military authorities have also taken at least 93 family members into custody in lieu of wanted individuals, presumably to pressure those in hiding to surrender themselves.

A. Arbitrary Arrest and Detention, Torture and Deaths in Custody

33. From the foregoing, individuals have been deprived of their liberty for exercising their rights to participate in public life and to freedom of opinion and expression. Although the Tatmadaw has attempted to cloak mass detentions relying on newly promulgated legal

[23] See A/HRC/48/CRP.2.

provisions, proceedings in both military tribunals and "prison courts" have failed to meet due process or fair trial standards (see Section III.B.). A vast majority of the deprivations of liberty since the coup were carried out without respect for the rule of law and imposed in procedures which do not observe international human rights standards, therefore constituting arbitrary and unlawful detention.

34. In some cases, individuals were sent first to police stations upon arrest, before being transferred to military interrogation centres and/or prisons. Credible reports have been received in several cases alleging that security forces sexually assaulted detainees, both male and female, including an LGBT person, whilst being held at police stations.

35. Some detainees have been taken to military interrogation centres for varying durations before transfer to prisons. Credible reports indicate that security forces in these facilities have consistently used interrogation techniques that may amount to torture. Descriptions of treatment generally involve being blindfolded, handcuffed, beaten, and deprived of water, food and sleep for two to three days during interrogation. One individual was made to kneel for almost the entire period and suffered cigarette burns on the knees; another was made to kneel and asked to choose between a gun or a knife, which was then pointed at their head during questioning. Military authorities have also broadcast on military-controlled television footage of detainees with visible injuries, allegedly suffered whilst in detention.

36. Particularly during the first weeks of the coup, detainees' relatives received no information about the fate or whereabouts of their family members; it appeared that in most cases, there was not even any official acknowledgement by the SAC of those detentions. Such detentions may constitute enforced disappearances.

37. At least 50 detention-related deaths have been reported. Some individuals suffered injuries during arrests, raids or at checkpoints, thereafter they were reportedly denied access to medical treatment. Deaths in custody have occurred in various regions; however, at least six, reportedly occurred in Pyay District, Bago Region -- the highest number in a single district. Four of those who died in custody were reportedly members of the National League for Democracy (NLD). Several families stated they received telephone calls from police the day after the arrest of their relatives instructing them to go to a military hospital where they were briefly able see the body of their loved-ones prior to cremation. In other cases, authorities reportedly conducted cremations prior to informing families of the deaths. Where family members were permitted to receive or see bodies, many showed visible signs of injuries, including bruising, broken noses and ribs, head injuries, sewn-up incisions, and burn marks. Families received no information concerning any medical examinations conducted during detention or of any subsequent investigation into causes of death.

38. On 1 February 2021, military authorities began arresting and detaining elected officials, protesters, and journalists, before broadening their net to include anyone suspected of opposing the SAC. These arrests and detentions, in all appearance for the legitimate exercise of their human rights, are to that extent arbitrary, violating the right to liberty and security of person. If committed as part of a widespread or systematic attack directed against the civilian population, these detentions may further amount to a crime against humanity. In addition, ill-treatment in detention causing physical pain or mental suffering to the victim and in some cases leading to deaths in custody, are violations of the right to life and the prohibition of torture or other cruel or inhuman treatment, also potentially amounting to international crimes.

B. Children

39. Children have also been subject to arbitrary detention and processed through military interrogation centres. While some children were taken into custody at the same time as their parents, others were not. In these latter cases, parents do not discover their children's whereabouts until they are contacted by the police – typically following interrogation at military facilities – to present documents certifying their children's ages. Detention during this period, which often lasts days, combined with the concealment of the whereabouts of the child would amount to enforced disappearance. Children have also allegedly been subject to torture and ill-treatment whilst in SAC custody.

40. In Yangon Region, children charged with offences have been tried at the Juvenile Court, except for those from townships where martial law is imposed, and in South Okkalapa and Thingangyun townships where cases have been tried in Township Courts with judges sitting as Juvenile Court judges. These proceedings have reportedly focussed on securing convictions, with children pressured to confess. As part of a larger prisoner release on 30 June, authorities required children charged under penal code section 505 to sign personal undertakings prior to their release pledging not to reoffend. Some children remain in juvenile correction facilities.

41. In light of the foregoing, the children's detentions and the judicial proceedings against them are not compatible with international human rights law, including the Convention on the Rights of the Child, to which Myanmar is State Party.

VII. Growing insecurity and expanding armed conflicts

42. Myanmar has faced multiple armed conflicts for decades, and following the coup, armed violence exponentially increased around the country. Armed conflicts between the Tatmadaw and ethnic armed organizations (EAOs), which existed prior to the coup in different states and regions of Myanmar have continued, intensified, and reignited. Separately, armed resistance has emerged, including in urban areas, made up of numerous new armed elements. Tatmadaw responses to these groups have led to serious violence in areas that had not previously seen conflict between the Tatmadaw and EAOs. From April, increasing numbers of killings and explosions created insecurity in different parts of the country. There are several areas where EAOs and new armed elements are fighting together. Civilians continue to be targeted by the Tatmadaw through its long-held "Four Cuts" strategy which aims to restrict its enemies' access to funding, food, intelligence, and recruits.[24] By implementing such a policy against the population across many areas of the country, Myanmar is violating a range of human rights as well as international humanitarian law in certain situations (see below).

A. Emerging armed resistance and other retaliatory action

43. Use of lethal force against peaceful protesters and night raids on communities by security forces have prompted some opponents of the coup to take up arms. Armed elements began to form in many areas of Myanmar, some of which grew out of community-based neighbourhood watch movements or local formations that demanded detainee releases or tried to protect demonstrators. Others banded together to launch attacks against security forces to secure control of their local areas. Some members of these groups and other individuals have undertaken forms of military training – in some cases provided by established armed groups.

44. After CRPH declared that any responses to SAC's violence were legitimate self-defence, the NUG announced its People's Defence Force (PDF) in early May 2021, as a forerunner to "Federal Democratic Armed Forces". Thereafter a number of newly-formed armed elements throughout Myanmar publicly aligned themselves with the NUG. On 26 May, NUG issued a Code of Conduct for its PDF, including provisions on key international norms (see Section IX). To date, however, the NUG does not appear to have control over the multitude of groups, including those who have and have not declared their allegiance. These new armed elements differ in size, training, equipment, affiliation, levels of organization including command structures, and capacity to conduct attacks. From mid-May 2021, pro-military armed elements called Pyu Saw Htee also formed across the country, some of which the Tatmadaw reportedly trained.

45. Armed clashes between these groups and security forces have occurred in at least 12 states, regions, and union territory,[25] with particularly intense fighting in Sagaing Region, and Chin and Kayah states. In several instances, the Tatmadaw launched punitive reprisals

[24] See A/HRC/39/64, among others.

[25] See A/HRC/48/CRP.2 for related map.

against local communities after skirmishes with defence groups, or during searches, leading to killings or injuries and forced displacement.

46. In Sagaing Region, armed elements have launched attacks in several locations since early April, precipitating a steady deterioration in the situation. In early July 2021, Tatmadaw units deployed heavy weapons and guns in Kani and Depayin townships, killing scores of individuals, some after arrest, some of whom were alleged to be members of armed elements. Fighting has displaced 5,000 civilians to religious sites or jungle areas and neighbouring India.

47. In Chin State, the Chinland Defence Force (CDF) has attacked the Tatmadaw in several townships. In Mindat Township, after declaring martial law on 13 May 2021, Tatmadaw units assaulted the town using artillery and 15 people as human shields. At least five civilians were killed and more than 50 were injured along with damage to civilian buildings and displacement of thousands of residents. Security forces trapped other civilians in the town, after reportedly cutting their water and electricity supplies. In early June, fighting in nearby villages forced some internally displaced persons (IDPs) into secondary displacement. Reportedly, Tatmadaw also fired on IDP camps marked with white flags and restricted humanitarian access. Armed clashes have occurred in other townships resulting in at least seven reported civilian deaths.

48. Members of local defence groups and EAOs formed the Karenni Nationalities Defence Force (KNDF), and in late May 2021 they seized control of several police stations and Tatmadaw bases in Demoso and Loikaw Townships of Kayah State and Pekon Township in southern Shan State. Tatmadaw units deployed heavy weapons and conducted airstrikes in populated areas, resulting in over 55 reported civilian deaths. Remains found in school grounds and other locations after the fighting subsided in June 2021, included 22 bodies found with their hands bound, indicating they had been likely summarily executed. Tatmadaw troops occupied, destroyed, burned, and looted civilian objects, including schools and religious buildings, including one sheltering elderly people, resulting in eight reported deaths. Over 108,000 civilians fled to religious sites and the jungle with little food, medicine and shelter. Tatmadaw forces also restricted humanitarian access and allegedly burned rice intended for IDPs.

49. Rising criminality, targeted killings and use of explosive devices by unidentified actors have also exacerbated insecurity. Over 130 persons have allegedly been killed and others injured since May 2021, mostly resulting from shootings or stabbings. A majority of those targeted were said to have been current or former ward/village administrators or suspected military informants. Thus far, anti-military elements have publicly claimed responsibility in approximately a dozen cases. In several cases, unidentified perpetrators have killed NLD and other political figures using similar methods, some reportedly linked to Pyu Saw Htee.

50. Since April 2021, there have been increasing numbers of explosions occurring close to seemingly military-affiliated structures, including administrative buildings, checkpoints, and police stations, as well as education facilities in the lead up to reopening of schools by the SAC. Improvised explosive and incendiary devices of varying degrees of sophistication have been identified as the cause of these explosions, some of which were reported to have resulted in deaths or injuries.

51. In any situation amounting to a non-international armed conflict,[26] international humanitarian law applies, in addition to international human rights law. Particularly, common article 3 to the Geneva Conventions and applicable rules of customary international humanitarian law apply to military forces and to armed groups that are parties to the conflict. These incidents above involve violations and abuses of the rights to life, to liberty and security, of freedom from arbitrary arrest and detention, and to food housing, education and

[26] According to ICRC Commentaries of 2016 on Article 3 of Geneva Convention I, para. 425, "Non-international armed conflicts are *protracted armed confrontations* occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State. The armed confrontation must reach a *minimum level of intensity* and the parties involved in the conflict must show a *minimum of organisation*."

health, among others. Some incidents detailed above could be violations of international humanitarian law applicable in armed conflict and may amount to war crimes.

B. Armed conflict between Myanmar security forces and ethnic armed organizations

52. Pre-existing armed conflicts between the Tatmadaw and EAOs in different states and regions of Myanmar have continued or re-emerged since 1 February 2021. While Rakhine State saw significant violence throughout most of 2020, a fragile ceasefire from late-2020 between the Tatmadaw and the Arakan Army (AA) has continued to date. In other areas that have been less volatile in recent years, notably Kachin and Kayin states, hostilities have resurged. Regular, credible reports indicate that several parties to armed conflict have not respected their obligations to protect civilians in accordance with international human rights and humanitarian law. Particularly, the Tatmadaw has continued to conduct attacks apparently directly targeting civilians and civilian objects, or which were carried out indiscriminately, in flagrant disregard of civilian populations.[27] Landmines also continue to kill and injure civilians and affect livelihoods and humanitarian access.

53. As noted previously, wherever a non-international armed conflict exists, international humanitarian law applies in addition to international human rights law. As such, all parties to the conflict are required to take constant care to spare civilians and civilian objects, including by taking all feasible precautions to avoid and in any event minimize loss of civilian life and damage to civilian objects. Some violations of these obligations, including the deliberate targeting of civilians, using human shields, forced displacement, and attacking civilian objects unless required for the security of the civilians involved or justified by imperative military necessity, may amount to war crimes.

1. South-east Myanmar

54. In south-east Myanmar, skirmishes broke out in late 2020, following several years of relative peace after the Karen National Union (KNU) signed a ceasefire agreement with the Tatmadaw in 2012. By January 2021, 4,000 people were newly displaced, in addition to around 131,000 people in protracted displacement and nearly 97,000 refugees along the Thai-Myanmar border.[28] Sporadic armed clashes continued after the coup.

55. Significant escalation in hostilities occurred after 27 March 2021, when the Karen National Liberation Army (KNLA) captured a Tatmadaw base in Hpapun District, Kayin State. In apparent retaliation, the military carried out airstrikes in Kayin State and Bago Region for the first time in over two decades, killing and injuring civilians, triggering displacements, and damaging or destroying schools, civilian property and livelihoods. Some of these airstrikes were carried out in areas with no apparent military objectives.[29]

56. Hundreds of armed clashes were reported by mid-May[30] and Tatmadaw use of artillery reportedly resulted in civilian injuries, destruction of property, damage to a health clinic, looting and displacement. There are credible reports of two extrajudicial executions by the Tatmadaw. In June, SAC-affiliated media alleged the KNU's Karen National Defence Organization (KNDO) had abducted 47 civilians and killed 25 of them, while the rest managed to escape.[31] KNDO reportedly claimed they had released the civilians and that the remaining 25 individuals were soldiers, some of whom were shot. On 16 June, the KNU stated that it is investigating the incident.

[27] For previous examples, see A/HRC/39/CRP.2 and A/HRC/42/50.
[28] OCHA, "Myanmar Humanitarian Update No. 3", 27 January 2021. *See also* "OCHA Humanitarian Needs Overview Myanmar 2021", p.18.
[29] See A/HRC/48/CRP.2 for more details.
[30] OCHA, "Myanmar: Humanitarian Snapshot", 18 May 2021.
[31] GNLM, *KNDO abducts innocent 47 workers*, 14 June 2021.

57. As of mid-July, around 47,600 people were newly displaced in Kayin State[32] in temporary shelters or caves. Non-IDPs' livelihoods have also been affected due to travel restrictions, insecurity, COVID-19 or the Tatmadaw preventing humanitarian deliveries.

2. Northern Myanmar

58. While there had been relative peace in Kachin State since 2018, some approximately 95,000 people remain in situations of protracted displacement. After the Kachin Independence Army (KIA) attacked a Tatmadaw base in Hpakant Township on 11 March 2021, there has been fighting between the Tatmadaw and KIA across up to 14 townships of Kachin State, northern Shan State and northern Sagaing Region.

59. Fighting intensified from late March when the KIA regained a strategic mountaintop base near Momauk Township. Tatmadaw forces regularly launched airstrikes and artillery attacks from its bases near Myo Thit and Konlaw villages mostly towards KIA mountain bases. There were also indiscriminate attacks in populated areas causing civilian casualties, damage to civilian property including religious sites, and displacement. No advance warnings of these attacks appeared to have been given. In one incident on 11 April 2021, after KIA attacks on military bases near Myo Thit, the Tatmadaw carried out airstrikes and indiscriminate artillery barrages that killed three civilians and reportedly damaged many civilian objects. On 3 May 2021, the Tatmadaw and KIA reportedly exchanged artillery fire near Konlaw, with shells hitting a monastery sheltering civilians. A woman, man and monk were killed and four people seriously injured, including a child. Tatmadaw use of human shields and forced labour has also been reported in Kachin State, as have incidents of forced recruitment by the KIA, including of children. At least 7,800 people have been displaced across Kachin State since mid-March,[33] with most sheltering in monasteries and churches.

60. Armed conflicts across different areas of Shan State between EAOs, as well as with the Tatmadaw, have resulted in recurrent human rights violations over many years. In northern Shan, around 10,000 IDPs have been living in camps since 2011. Of 17,700 others displaced in 2021, around 3,350 people remain unable to return due to property damage, insecurity and landmines.[34] Violations and abuses include the Tatmadaw's alleged use of human shields and forced labour, abductions by the Restoration Council of Shan State (RCSS), the Shan State Army-North, and the Ta'ang National Liberation Army (TNLA), and forced recruitment and forced labour by the latter two groups. In one incident, RCSS abducted and possibly subjected Ta'ang men from Mansa village in Namtu Township to enforced disappearance, burned houses and food and animal storage buildings after villagers fled due to clashes between RCSS and TNLA. Reportedly, RCSS had stationed troops in the village.

3. Western Myanmar

61. While armed conflict between the Arakan Army and the Tatmadaw paused in Rakhine and Chin states since late 2020, landmines and other explosive devices have caused 12 civilian deaths and 30 injuries as of June 2021.[35] Furthermore, over 80,000 people remain displaced across northern and central Rakhine, unable to return home due to landmines, ongoing presence of armed groups, and fears of resumed conflict, exacerbating concerns for loss of livelihoods and food sources for the coming year.

62. Meanwhile, approximately 600,000 Rohingya in Rakhine State remain in dire circumstances. Previously reported human rights violations and abuses were not addressed and appeared to continue, including in areas where the AA has expanded its administrative presence. Allegations include unlawful killings, arbitrary arrest and detention, and reportedly high levels of extortion. Since February 2021, SAC reinstated a policy prohibiting travel without documentation within Myanmar, leading to about 80 Rohingya, the majority of whom are children, being sentenced for up to two years' imprisonment, and over 60

[32] UNHCR Myanmar Emergency Overview Map, 12 July 2021.
[33] Ibid.
[34] OCHA Humanitarian Update No. 8, 24 June 2021; 2021 figures include two southern Shan State townships.
[35] See UNICEF, Landmines/ERW Incidents information (2021) Factsheet (January – June 2021).

individuals currently undergoing trial. Due to entrenched and systemic discrimination, concerns about access to healthcare (see below) disproportionately affect the Rohingya, resulting in, inter alia, preventable deaths of children from Acute Watery Diarrhoea. Over 130,000 mostly Rohingya people remain detained in camps in central Rakhine where they have been since 2012. Ongoing attempts to close these camps under the national strategy, starting with Kyauk Ta Lone camp, failed to meet international standards and best practices, without meaningful consultations or efforts to address structural issues having taken place. Conditions conducive for the voluntary, safe, dignified, and sustainable return of Rohingya refugees from Bangladesh are clearly not yet in place.

VIII. Economic and social rights

63. Events following the coup have had an immeasurable impact on enjoyment of economic and social rights of the population. Myanmar's economy has been crippled, largely resulting from mass worker strikes across sectors, including banking, transport, and logistics. Banking has been virtually brought to a standstill, severely limiting people's access to cash and rendering businesses unable to make or receive payments. Disruptions in the banking system have also reduced domestic and international remittance inflows, which provided an important source of income for millions of households. Strikes by transport and logistics workers also disrupted essential imports and exports, triggering price increases for fuel and food. This has particularly hit poorer households, amplifying their vulnerability and food insecurity.[36] Internet restrictions have stifled the emerging digital economy, including mobile money, e-commerce, and online delivery services. Additionally, CDM supporters, and subsequently the NUG, called for boycotts of goods and services linked to military-owned conglomerates, which reportedly led sales to plummet by 80-90 per cent for some brands.[37]

64. Business and investor confidence collapsed with the coup, devastating employment and livelihoods for many, particularly internal migrant workers. Several major international companies withdrew or suspended sourcing from Myanmar, and many factories closed. By April 2021, around 200,000 garment workers, predominantly women, reportedly lost employment, as did 300,000-400,000 construction workers. Agricultural producers' livelihoods have also been strained as harvesting crop became difficult due to disruptions in transport and logistics and increased insecurity in conflict-affected areas, while prices of agricultural inputs, such as fertilizers and pesticides, increased by up to 52 per cent.[38]

65. Access to education, already severely disrupted by COVID-19-related school closures, was rendered out of reach for almost 12 million children and youth. In addition to mass sanctions and arrest warrants against teachers, educational facilities became the target of attacks, including arson and IED explosions, depriving children of a safe learning environment. Between 1 February and 31 May 2021, there were 102 incidents of violence or obstruction of education by different actors reported, including 15 incidents of military use of education facilities.[39] While the SAC forced schools to reopen on 1 June 2021, most students refused to attend, signalling the virtual collapse of the education system.

66. Similarly, the health system, already fragile due to lack of infrastructure investment and insufficient workforce, collapsed following the coup. Most public hospitals closed due to the absence of striking health workers, who thereafter became targets for arrest. Many people have been reportedly unable to access healthcare, as they were afraid to visit, or were refused treatment by military hospitals, and they could not afford private treatment. Furthermore, health facilities, personnel, transport, and supplies became subject to direct attacks by security forces, in grave violation of the right to health. WHO recorded 248 attacks

[36] WFP, "Myanmar: Analysis of the Economic Fallout & Food Insecurity in Wake of the Takeover", April 2021.

[37] See https://www.re-course.org/wp-content/uploads/2021/06/ALTSEAN-IFI-Watch-Recourse-Junta-Economy-0621.pdf, p. 3.

[38] International Food Policy Research Institute, "Monitoring the Agri-food System in Myanmar", July 2021, http://ebrary.ifpri.org/utils/getfile/collection/p15738coll2/id/134457/filename/134667.pdf.

[39] Insecurity Insight, "Violence Against or Obstruction of Education in Myanmar v. July 2021", https://bit.ly/MyanmarEducationJuly2021.

between 1 February and 30 June 2021.[40] Multiple sources attributed the vast majority of incidents to security forces, including instances of shootings targeting health workers and ambulances assisting injured protesters.

67. Collapse of the health system has had devastating consequences for Myanmar's COVID-19 response. It is ill-equipped to test, monitor, treat and prevent infections, and new cases have been rising alarmingly since May 2021. There were mounting reports of deaths due to lack of medical oxygen, as many patients were denied access to treatment at hospitals and the SAC reportedly restricted sales of oxygen to individuals.

68. In north, west, and south-east Myanmar, escalating hostilities between the Tatmadaw and EAOs and growing insecurity triggered significant increases in internal displacement (see above). Affected communities lacking access to food, healthcare, shelter, safe drinking water and sanitation facilities, have been at risk of disease, and in dire need of humanitarian assistance. Despite this, humanitarian actors faced considerable obstacles in providing vital assistance due to restrictions by the military on movement and access in many areas, and disruptions in the banking sector and supply chains. Due to displacement, some IDPs have been unable to plant crops, with attendant risk to future food security.

69. As a result of the coup, Myanmar is increasingly at risk of state collapse, with shattered economic, education, health, and social protection systems. Double shocks of COVID-19 and the coup are projected to almost double the poverty rate from 24.8 per cent in 2017 to 48.2 per cent by early 2022.[41] Impacts from the coup are estimated to put an additional 1.5 million to 3.4 million people at risk of food insecurity.[42]

IX. National Unity Government

70. Facing Tatmadaw's violence, people from all communities in Myanmar have near universally rejected the coup and demanded respect for their rights and the 2020 election results. Following the coup, nearly 300 NLD Parliamentarians who were elected in November 2020 established the CRPH. This group intended to act as the national parliament and to provide political leadership as the legitimately-elected representatives of Myanmar's people. While there is significant support for CRPH and its legitimacy, civil society criticized the interim cabinet as insufficiently inclusive.

71. On 31 March, CRPH published a Federal Democracy Charter elaborating its objectives and political road map, listing as Charter members elected Parliamentarians, political parties, CDM, general strike committees, women, youth, and other civil society organizations, and EAOs. In a significant departure from the 2008 Constitution wherein rights are tied to citizenship, it stated that "every person who lives in the Union shall be entitled to fundamental human rights", and ethnic minorities "have full rights… as an individual person and… as ethnic groups".

72. On 16 April 2021, the CRPH announced the formation of a National Unity Government (NUG) headed by President Win Myint and retaining Aung San Suu Kyi as State Counsellor, notwithstanding both still being in detention. Thereafter, NUG established ministries for Federal Union Affairs, Women, Youth and Children's Affairs, and Human Rights.

73. On 26 May, NUG issued a Code of Conduct for its PDF, which includes provisions on key international norms of non-discrimination and protection of civilians, including prohibition of attacks on civilian infrastructure such as schools, and barring torture of detainees, taking of civilian hostages, and sexual abuse against women and children. Other human rights aspects, however, are not addressed in the Code of Conduct, including such serious long-standing issues as forced recruitment, child recruitment, and landmine usage.

[40] WHO Surveillance System for Attacks on Health Care, extranet.who.int/ssa/LeftMenu/Index.aspx?utm_source=Stopping%20attacks%20on%20health%20care%20description&utm_medium=link&utm_campaign=Link_who.

[41] UNDP, "COVID-19, Coup d'état and poverty", April 2021, p. 14.

[42] WFP, "Analysis of the Economic Fallout & Food Insecurity".

74. Another notable NUG policy statement, issued on 3 June, is set out in its position paper regarding the Rohingya. While it acknowledges past gross rights violations perpetrated against them, pledges to seek justice and accountability for perpetrated crimes and undertakes to abolish the process for issuing National Verification Cards, the policy is mostly a statement of principles for addressing the situation in Rakhine State rather than addressing long-standing state persecution of the Rohingya.

X. Conclusions and Recommendations

75. **The coup has evolved into a human rights catastrophe that shows no signs of abating. This report has outlined numerous human rights violations and abuses, as well as** violations **of international humanitarian law, some of which may amount to war crimes. Some violations may also amount to crimes against humanity if they are found to have been committed as part of a widespread and systematic attack against the civilian population. There is no sign of any efforts by the military authorities to consider addressing these violations nor implement previous recommendations to tackle impunity and security sector reform. For this reason, the international accountability efforts that have been supported by the Human Rights Council must be pursued and enhanced.**

76. **Member States must act urgently to prevent a further disintegration of** Myanmar **into a nationwide armed conflict or state collapse. At the same time, the international community should support and foster inclusive politics that have emerged during this crisis that transcend Myanmar's historical cleavages of ethnic and religious differences.**

77. **The High Commissioner recommends that:**

(a) **Myanmar's military cease all violence and attacks immediately against the Myanmar population in all parts of the country, cease impeding humanitarian assistance, release all political detainees, and respect the results of the 2020 elections;**

(b) **Myanmar's military, armed organizations and groups fully respect human rights and comply with international humanitarian law, as applicable;**

(c) **The National Unity Government ensure its actions, policies and programmes are based on broad, inclusive consultation fully respecting international human rights law, especially its principles of accountability, equality and non-discrimination;**

(d) **The international community stand united against the coup and act in a coordinated manner to prevent sales of arms or provision of military assistance to Myanmar, ensure accountability for all international crimes and human rights violations, and work with all stakeholders towards national dialogue and respect for human rights and IHL; and**

(e) **Association of Southeast Asian Nations (ASEAN) members expedite effective and meaningful implementation of the Five-Point Consensus, including by deploying an observer team to Myanmar, potentially by empowering the ASEAN intergovernmental commission on human rights and/or in collaboration with the United Nations/OHCHR.**