



General Assembly

Distr.: General
12 October 2022

Original: English

Seventy-seventh session

Item 72 (c) of the provisional agenda*

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report of the Special Rapporteur on the situation of human right in Myanmar

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews, submitted in accordance to Human Rights Council resolution A/HRC/49/23*.

* A/77/150.

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

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

Summary

In July, Myanmar's military junta executed four political prisoners, including a prominent pro-democracy activist and a former member of parliament. These unconscionable acts are consistent with the junta's unflinching embrace of violence against the people of Myanmar. In recent months, military forces have systematically bombed and burned villages and massacred innocent civilians, including eleven children in Sagaing Region who were shot and killed when junta forces attacked their school in September. These forces have killed thousands and displaced nearly one million people since the coup. Many of the more than 12,000 political prisoners have been tortured and an unknown number have died in custody.

In the midst of this darkness, however, Myanmar civil society is a shining light and inspiration. Activists, human rights defenders, aid workers, community leaders, journalists, health care professionals, and educators are among those who are taking great personal risks to document atrocities, deliver humanitarian assistance, and respond to the needs of displaced and traumatized communities. Human rights organizations, women's associations, professional networks, trade unions and labour activists, and grassroots groups are adopting strategies to remain safe and effective in a deadly environment. In many cases, individuals and organizations are operating with little international support and few opportunities to communicate with the outside world.

In this report, the Special Rapporteur outlines the human rights and humanitarian catastrophe in Myanmar. He also describes the essential and awe-inspiring work being done by Myanmar civil society in the most challenging of circumstances. He calls on the international community to view Myanmar civil society as a vital partner in addressing the crisis in the country, working with grassroots networks to deliver aid and increasing financial and technical support to civil society organizations.

Myanmar's fate depends on the activists, organizations, and networks that have risen up to defy military rule, defend human rights, and prepare for a free and democratic future. They need and deserve a significant increase in support from the international community.

Contents

I.	Introduction.....	4
II.	Myanmar civil society: resolve and resilience.....	5
III.	Documenting and responding to attacks on civilians.....	7
IV.	Responding to a growing humanitarian crisis	10
V.	Defending and supporting political prisoners.....	11
VI.	Resisting attacks on fundamental freedoms and digital rights.....	12
VII.	Supporting and defending women.....	14
VIII.	Standing up for the rights of persons with disabilities.....	15
IX.	Defending the rights of the Rohingya.....	16
X.	Reporting on environmental devastation, land grabbing, and human rights violations by extractive industries	16
XI.	Myanmar civil society implores the international community to change course, strengthen its response to the crisis	17
XII.	Recommendations	18

I. Introduction

1. On 25 July 2022, Myanmar's military junta announced that it had executed four political prisoners, including 88 Generation activist Kyaw Min Yu, aka Ko Jimmy, and former National League for Democracy (NLD) member of parliament Phyo Zeya Thaw. These unconscionable acts punctuated a year-and-a-half of atrocities perpetrated against the Myanmar people since the 1 February 2021 illegal military coup. They were also a grim reminder of the junta's relentless attacks on the leaders, organizations, and networks that are courageously defending the people of Myanmar.

2. This report describes the worst, but also the best, of humanity, which is being manifested every day in every corner of Myanmar. It provides Member States with an updated account of the atrocities the junta continues to commit against the people of Myanmar, which include crimes against humanity and war crimes. But, it also shines light on an often overlooked aspect of developments in Myanmar: the courage, tenacity, and success of the individuals, organizations, and networks that have stepped forward to protect and defend the rights and lives of a people under siege.

3. At least 84 political prisoners remain on death row and at risk of imminent execution. More than 12,000 remain arbitrarily detained in deplorable conditions. The junta has intensified its attacks on civilians, using fighter jets, helicopters, and heavy artillery to bomb villages and camps for internally displaced persons. An estimated 28,000 homes have been destroyed in an ever-widening campaign of arson and attacks targeting civilian populations the junta perceives to be aligned with opposition groups.

4. A growing humanitarian crisis has become catastrophic in many areas of Myanmar. The number of internally displaced people now exceeds 1.3 million. Nearly 1 million have become so since the coup. Millions in desperate need of humanitarian assistance are being denied food, medicine, and essential services by the junta. An effort by ASEAN to address this crisis has proven inadequate. A new approach by UN Member States to address this crisis is literally a matter of life or death for millions.

5. The junta's assault on human rights has been felt more acutely by groups that have historically suffered from marginalization, discrimination, and violence. Women and girls have often borne the brunt of Myanmar's economic collapse, and some have suffered sexual and gender-based violence by soldiers and police officers. Persons with disabilities have been cut off from support networks, and soldiers have in some cases killed or tortured disabled persons when they have been unable to flee military attacks. There has been no accountability for the genocidal attacks on the Rohingya, who continue to be systematically deprived of basic rights.

6. The junta has intensified its attacks on those who are standing in its way: civil society organizations, activists, journalists, and human rights defenders who are risking everything, every day, to protect and serve the people of Myanmar.

7. If junta leaders believed that these attacks would intimidate, weaken, or incapacitate human rights defenders and their organizations, they made a serious miscalculation. Just the opposite has occurred. Highly motivated civil society groups and grassroots networks are documenting grave human rights violations, providing lifesaving assistance to displaced and traumatized populations, organizing non-violent resistance to the junta, and advocating for a stronger international response to the crisis. Lawyers are risking their lives and careers to represent political prisoners. Doctors are launching mobile clinics to fill the gap left by the collapse of the state health care system. Teachers are setting up alternate education systems.

8. Since his last written report to the Human Rights Council, the Special Rapporteur has spoken with more than 100 representatives of Myanmar civil society. They told him about the challenges they face, their shifting priorities in the post-coup environment, and their resolve to oppose the junta, fight for human rights, and serve vulnerable populations. A veteran woman human rights defender told the Special Rapporteur:

In my life, this is the time that we see the most people power and people joining and sacrificing for the movement. This is the time to end all the impunity and seek justice and uproot the military from Myanmar politics. If it is not now, then when will be the time? No matter what, we all have to invest and contribute from wherever we are

and for however long it will take. ... This is our responsibility. We have to continue holding our hopes high, and the victory days will come.

9. This report highlights the work done by civil society and grassroots networks to address key human rights challenges, drawing heavily from the Special Rapporteur's conversations with activists and human rights defenders, as well as publications by local human rights organizations, humanitarian groups, and others.

10. As they step up to protect and defend their nation from the junta's escalating attacks, many leaders and advocates in Myanmar have become frustrated by the halting response of the international community. They shared their anger over UN Member States that are continuing to provide weapons, training, and technical support to the junta and invest in projects that channel revenues to the military. They expressed their frustration with Member States that have voiced their support for those under siege in Myanmar but are failing to match rhetoric with meaningful action.

11. The positive actions taken by some Member States, including the imposition of sanctions against the junta and their enablers, lack a clear strategic focus and fail to add up to an effective, coordinated whole. Member States, aid organizations, and donors have too often lacked the flexibility and vision necessary to ensure that humanitarian assistance reaches displaced and vulnerable populations. Many civil society leaders within Myanmar expressed frustration with ASEAN's accommodation of the junta's blatant disregard for the Five-Point Consensus and its failed attempt to address the rapidly deteriorating humanitarian crisis.

12. The Special Rapporteur implores the international community to consider the unacceptably high cost of the failed response to the crisis in Myanmar, as evidenced by the deteriorating conditions described in this report. He urges UN Member States to act in a coordinated manner to deprive the junta of the funds, weapons, and legitimacy it uses to continue its assault on the rights and democratic aspirations of the people of Myanmar. He urges ASEAN, and indeed all Member States, to heed Malaysian Foreign Minister Saifuddin Abdullah's call for a fundamental "re-think" of the response to the junta-driven crisis in Myanmar. Governments, UN agencies, and international donors should view Myanmar civil society as a vital partner in addressing the crisis in the country, working with grassroots networks to deliver aid and increasing financial and technical support to civil society organizations.

13. The Special Rapporteur concludes this report by providing specific recommendations to the Security Council, UN Member States, ASEAN, UN agencies and international donors. He highlights the need for stronger, sustained international support for the courageous civil society organizations and regional NGOs that continue to work tirelessly for the people of Myanmar.

14. The Special Rapporteur is deeply grateful for the immense contribution of local activists, journalists, and human rights defenders to his work, without which he could not fulfill his mandate. He continues to be awed and inspired by their bravery and tenacity in the face of unspeakable brutality.

II. Myanmar civil society: resolve and resilience

15. The junta's relentless attacks and human rights violations have caused great hardships for civil society but have also strengthened the resolve of activists, journalists, and human rights defenders. The coup has spurred to action thousands of Myanmar's young people, who are playing key roles in the pro-democracy movement. A woman human rights defender told the Special Rapporteur:

In this situation, we can't find hope, so we create our own hope. As long as we keep going, we generate hope. ... We are seeing more and more people standing up and becoming human rights defenders. We have not experienced anything like this in the last 10 or 20 years. This makes us feel we are on the right track. That's how I can keep on going.

16. Other human rights defenders and aid workers told the Special Rapporteur that they draw strength from working with communities that are experiencing great suffering and

hardship. A human rights researcher told the Special Rapporteur about her experience working in conflict zones:

When I was there, the [military] plane came, and we had to go into the bunker. ... [P]eople ask me, why did you go there? It's very dangerous. When I went there, I got courage from them. When I'm [not with them], I don't feel safe because my people are not safe.

17. A doctor who joined the Civil Disobedience Movement and provides medical services to displaced populations told the Special Rapporteur:

I am alive and I still have my hands. We have done a lot of amputations. A lot of people are suffering. They have lost their families and homes. For us, we are still alive. Whenever I feel disappointment and depression, I feel that we need to do something for the people that suffer more than ourselves.

New roles and ways of working

18. In order to continue their important work, civil society organizations have adapted their structure, operations, and security protocols. The constant threat of arrest, detention, and violence has forced many organizations to close their offices in major cities. Many activists, journalists, and human rights defenders have left Myanmar and are continuing their work from neighboring countries or other countries offering visas, resettlement, or asylum.

19. Many organizations have taken on new roles to address the needs of communities impacted by the military's violence and human rights violations. Some groups—including those traditionally focused on human rights documentation or advocacy—have devoted considerable financial and human resources to the delivery of humanitarian assistance. Civil society organizations are providing psychosocial support to traumatized communities, responding to the needs of survivors of gender-based violence, and giving financial assistance to the families of political prisoners and participants in the Civil Disobedience Movement.

20. Many individuals whose lives have been upended by the coup are choosing to use their professional skills and experiences to serve others. A representative of a prominent women's rights organization told the Special Rapporteur:

Despite the considerable risks, women human rights defenders in all areas have continued to be vocal, brave, and visionary. In addition to demonstrating, protesting, and organizing, women have supported people on the ground with food, water, campaign materials, relocation, transportation costs, and communications. Women have also used their professional skills at great personal danger. Women medical professionals and volunteers have served as medics, providing treatment to injured protesters. Women journalists have reported on the protests and social justice issues inside the country and along the border. Women lawyers are offering those arrested and detained pro bono legal services. The international community ... must recognize the strength, bravery, and resilience of democracy activists, especially women, and take affirmative action to support them.

Crackdown on civil society

21. The remarkable work of activists, human rights defenders, and community networks described in this report comes in the wake of a ruthless crackdown on Myanmar civil society following the coup and continuing attacks by junta forces. At the outset of the coup, the junta rounded up prominent civil society leaders—including 88 Generation leader Mya Aye and filmmaker Min Htin Ko Ko Gyi—in an attempt to preemptively head off opposition. These activists, along with more than 100 senior NLD officials, formed the first wave of political prisoners arrested by the junta.

22. Throughout 2021 and 2022, the junta has systematically detained hundreds of activists, journalists, and human rights defenders. Many were arrested during crackdowns on peaceful protests, which were often coordinated by civil society organizations or newly formed strike committees. Officials also issued arrest warrants for activists and protest leaders while military-controlled television stations and newspapers published lists and photographs of "wanted" individuals.

23. The junta has also taken steps to target organizations that report on human rights violations, organize pro-democracy activities, or provide humanitarian assistance to vulnerable populations. Security forces have raided the offices of media and civil society organizations. Junta officials have designated many groups as “unlawful.” Individuals who support or affiliate with these groups risk being charged with violations of the Unlawful Associations Act and imprisoned. The junta has required banks to collect information on the financial activities of civil society organizations and ordered them to freeze the accounts of certain groups. Proposed amendments to the 2014 Associations Registration Law, including to make organizational registration mandatory, could further strengthen the military’s control over civil society and expose activists to additional criminal liability for their affiliation with civic groups.

24. The junta has stepped-up surveillance of civil society organizations. Two weeks after the coup, the junta amended the Ward and Village Tract Administration Act to restore a provision requiring the registration of overnight household guests, a measure that has enabled police and military officials to conduct warrantless nighttime household searches, often aimed at locating and arresting activists. The military has also offered financial rewards to individuals providing information about “terrorist organizations and social media users who spread fake news.” In March 2022, coup-leader Min Aung Hlaing said that the junta was “systematically scrutinizing” the role of civil society organizations.

III. Documenting and responding to attacks on civilians

25. Local civil society organizations and community networks are on the front lines of the military’s intensified attacks on civilians, documenting abuses and responding to the immediate needs of displaced and traumatized populations. Because of the withdrawal of international media and human rights monitors, international actors now rely even more heavily on information collected by local human rights defenders, journalists, and others. A doctor providing life-saving medical care to conflict-affected communities told the Special Rapporteur that he began collecting evidence of the military’s crimes against humanity out of necessity. “If I don’t collect it, it will disappear,” he said.

26. Civil society and grassroots networks of activists and professionals have also become first responders. Doctors and nurses who left jobs in state-run hospitals have quickly formed networks that are providing medical services to displaced and conflict-affected populations. The Special Rapporteur spoke to a doctor who is part of a new medical group that has conducted more than 2,000 operations and provided outpatient services to more than 33,000 people. Other organizations help villagers to flee violence, provide landmine awareness training, or deliver psychosocial support to traumatized populations.

27. Traveling to conduct research, provide services, or deliver aid exposes civil society actors to checkpoints, bodily searches, and inspection of computers and mobile devices. The documentation of human rights violations is also impeded by the threats to victims, internet blackouts, and the military’s destruction of evidence.

28. The courageous actions of these organizations and individuals have been made necessary by the military’s expansion of attacks on civilians to nearly every part of the country.¹ While longstanding patterns of violence repeat themselves in Kachin, Shan, and Kayah States, new hotspots have emerged in Sagaing and Magway Regions, Chin and Kayah States, and elsewhere.² In these areas, the military and pro-junta militias have targeted civilians with airstrikes, heavy artillery, light weaponry, executions, landmines, and arson.

29. A youth activist working in Sagaing Region told the Special Rapporteur:

In the villages and rural areas, the conflict and fighting keeps on going. There are a lot of IDPs. This is sort of a normal thing in the villages. When the conflict started ... the troops ... attacked and they left. Now, they are attacking the village, then after

¹ Network for Human Rights Documentation – Burma, “Resisting a Coup: Human Rights Violations in Myanmar Between January – June 2022,” 23 July 2022, <https://nd-burma.org/wp-content/uploads/2022/07/NDB%20BAR%20Eng%20Final%2023.7.2022.pdf>.

² Karen Peace Support Network, “SAC Regime Unleashes War across the Southern Dawna Range,” July 2022, https://www.karenpeace.org/wp-content/uploads/2022/07/Briefing_SAC-regime-unleashes-war-across-the-southern-Dawna-Range_-Eng.pdf.

that, they burn the entire village. Now they are using more air force. They are using jet planes to attack the villages. When they use the jets there are more casualties. When they attack the villages, the elderly cannot flee. And the babies or sometimes the women are left behind. The old people are often burned alive. We have one case with the babies burned.

30. The military's attacks on civilians violate international human rights and humanitarian law. The evidence makes clear that they also constitute probable war crimes and crimes against humanity. Civilian casualties are the direct result of military policies that sanction the targeting of civilians. Military officers throughout the chain of command up to commander-in-chief Min Aung Hlaing are likely responsible for these crimes either because they were directly involved in their commission or because they exercised command responsibility over the perpetrators of the crimes. They must be held to account.

Killings

31. According to the Assistance Association for Political Prisoners (AAPP), more than 2,200 civilians have been killed as part of the military's crackdown on the pro-democracy movement.³ This figure likely does not reflect certain categories of civilian casualties—such as killings by opposition forces or pro-junta vigilante groups—nor does it fully capture the extent of civilian deaths linked to fighting in ethnic areas.⁴

32. The military has killed hundreds of civilians in shelling by heavy artillery and airstrikes by helicopters and fighter jets.⁵ It has frequently bombed camps for internally displaced persons or temporary hiding sites inhabited by people that fled previous attacks.⁶ Soldiers have also opened fire on unarmed civilians, a tactic that local human rights organizations identify as the continuation of the military's longstanding "shoot-on-sight" policy in areas controlled by opposition armed groups.⁷ On 16 September 2022, helicopter gunships fired on a school in Sagaing Region before soldiers entered the village and opened fire. 11 children were reportedly killed in the attack, which was widely condemned by Myanmar civil society groups as well as UN officials and international organizations.

33. Soldiers have repeatedly executed unarmed persons in their custody, including in mass killings documented by local media and human rights organizations.⁸ In many cases, the bodies of the victims have been burned. In recent months, reports about massacres have been corroborated by the accounts of military defectors and deserters as well as photographs and videos recorded by soldiers.

³ Assistance Association for Political Prisoners (AAPP), Daily Briefing in Relation to the Military Coup, 13 September 2022, <https://aappb.org/?p=22970>.

⁴ See, for example, Institute for Strategy and Policy – Myanmar, Data Matters, "Over 5,600 Civilians Killed," 10 May 2022, <https://www.ispmyanmar.com/isp-data-matters/#images-37>.

⁵ See, Karenni Civil Society Network, "Bi-weekly situation update, July 18 – July 31 2022," 3 August 2022, <https://karennicsn.org/2022/08/03/july-18-july-31-2022-summary-of-sac-human-rights-violations-in-karenni-state-and-pekhon-township/>; Karen Human Rights Group, "Statement in condemnation of escalation of violence in Southeast Burma," 19 July 2022, https://khrgh.org/2022/07/statement-condemnation-escalation-violence-southeast-burma?mc_cid=4408408a4e.

⁶ Karen Human Rights Group, "Mu Traw District Situation Update: Air strikes, indiscriminate shelling, displacement, landmine explosions, retaliation against civilians and arbitrary taxation, December 2021 to February 2022," 1 July 2022, <https://khrgh.org/2022/07/22-77-s1/mu-traw-district-situation-update-air-strikes-indiscriminate-shelling-displacement>.

⁷ Chin Human Rights Organization, "Collective Punishment: Implementation of 'Four Cuts' in Mindat Township," March 2022, <https://www.chinhumanrights.org/collective-punishment-implementation-of-four-cuts-in-mindat-township/>, p. 23-25; Karenni Human Rights Group, "Quarterly Briefer," 13 July 2022, https://actionnetwork.org/user_files/user_files/000/078/511/original/KnHRG_-_Quarterly_Briefer_Issue_2.pdf, p. 3.

⁸ Shan Human Rights Foundation, "Extrajudicial killing, torture, arbitrary arrest, looting, torching of houses by SAC troops in Ywangan, southern Shan State, February-April, 2022," 11 May 2022, <https://shanhumanrights.org/extrajudicial-killing-torture-arbitrary-arrest-looting-torching-of-houses-by-sac-troops-in-ywangan-southern-shan-state/>.

34. The military has used landmines extensively in civilian areas, often placing them in locations that evince an intention to cause civilian casualties.⁹ Human rights researchers have found landmines or documented landmine explosions in farm fields, on paths used by villagers, in front of churches, outside toilets, and inside civilian homes.¹⁰ At least 41 civilians were killed and 144 injured by landmines in the first six months of 2022, according to UN figures.¹¹ The percentage of victims of landmines and unexploded ordinance who are female has increased since the coup. A human rights defender told the Special Rapporteur:

Whenever the military reaches to a village or town, they will lay mines there. They lay the mines at the road, the entrances to the village, the doors of the houses; everywhere around the village. We went to one village [and] saw that there were 16 landmines in one village. ... When you step on the mine, it cuts your legs or arms. We are seeing the increase in people becoming disabled because of the landmines. Many people are also being killed.

35. Pro-junta militias and vigilante groups—including the Pyusawhti and Thway Thauk groups—have also attacked and killed civilians in many parts of the country. The Human Rights Foundation of Monland has documented attacks by militias impacting 129 victims, including 18 persons who were killed.¹² These groups are often armed and trained by the military and enjoy impunity for their crimes. People’s Defense Forces and other anti-junta groups have carried out targeted killings of junta officials and suspected informants.

Destruction of civilian homes and displacement

36. More than 28,000 homes and other civilian structures have reportedly been destroyed by shelling, arson attacks, and other fires relating to armed conflict since the coup.¹³ Sagaing and Magway Regions have been most impacted, with the military carrying out a systematic campaign of destruction targeting villages ostensibly aligned with opposition armed groups. However, the military has destroyed civilian property in conflict zones throughout the country, as documented by local human rights organizations.¹⁴

37. Attacks on civilians and destruction of civilian property contribute to the military’s objective of displacing civilian populations that could provide a base of support for opposition armed groups. According to UN figures, there are 1.3 million displaced persons in Myanmar, with nearly 1 million displaced since the coup.¹⁵ Local human rights and humanitarian organizations, who are often working closely with displaced populations, often estimate higher displacement numbers for their own areas than the comparable UN figures.

38. A man who works with a local civil society organization to deliver humanitarian aid in southern Shan State told the Special Rapporteur:

It has been one-and-a-half years [since the coup]. It is now a war zone. The people, they aren’t displaced in one place. They have to flee several times. They move and

⁹ Human Rights Foundation of Monland, “Human Rights Situation in Mon State, Karen State & Tanintharyi Region,” July 2022, <https://rehmonnya.org/archives/7457>.

¹⁰ Amnesty International, “Myanmar: Military’s use of banned landmines in Kayah State amounts to war crimes,” 20 July 2022, <https://www.amnesty.org/en/latest/news/2022/07/myanmar-militarys-use-of-banned-landmines-in-kayah-state-amounts-to-war-crimes/>.

¹¹ UNICEF, “Landmines / ERW Incidents Information,” January – June 2022, [unicef.org/myanmar/reports/myanmar-landmineerw-incidents-information-16](https://www.unicef.org/myanmar/reports/myanmar-landmineerw-incidents-information-16).

¹² Human Rights Foundation of Monland, “The Rise of Pro-Junta Militias in Southeastern Burma,” August 2022, <https://rehmonnya.org/reports/RiseofMilitiasSEBurmaHURFOM.pdf>.

¹³ Institute for Strategy and Policy – Myanmar, “Over 28,000 Homes and Buildings Torched or Destroyed since Coup,” 27 July 2022, <https://www.ispmyanmar.com/over-28000-homes-and-buildings-torched-or-destroyed-since-coup/>. See also, Myanmar Witness, “Burning Myanmar: The growing use of arson against civilian communities,” 22 July 2022, https://www.myanmarwitness.org/_files/ugd/06ca64_95f4dcfcb948409f89db720ab2176929.pdf.

¹⁴ Southern Monitor, “Tanintharyi Region Monthly Situation Update,” 31 July 2022, <https://reliefweb.int/report/myanmar/myanmar-tanintharyi-region-monthly-situation-update-31-july-2022>.

¹⁵ UNHCR, “Myanmar Emergency Update,” 2 September 2022, <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-21-2-september-2022>.

then they are attacked again. The area is mostly farmland. Since the coup, since the war became intense, the farmers cannot farm.

IV. Responding to a growing humanitarian crisis

39. Myanmar civil society has demonstrated enormous bravery, resilience, and adaptability in the delivery of humanitarian assistance. Many organizations have redirected resources away from their traditional areas of focus to provide life-saving aid to displaced and conflict-affected populations. These organizations have the local knowledge and networks necessary to circumvent the barriers to aid delivery erected by the junta. They have also demonstrated their willingness to take considerable risks to reach vulnerable communities. Given that these organizations are filling a much-needed gap in protection and assistance, the international community must step up to fund and support such initiatives more systematically and sustainably.¹⁶

40. Many groups are still relying on donations from local communities and other pre-existing sources of income. A representative of an organization providing humanitarian assistance to internally displaced persons told the Special Rapporteur:

It is difficult for INGOs or the UN to reach to our place. There are a lot of risks. We locals are taking all the risks and working on the ground in the crisis. But the funds we receive are very little. I want to give the message that the local CSOs have the capacity and can responsibly take funds. We are the ones on the ground and taking all the risk and able to access the difficult places.

41. Civil society's increased focus on aid delivery and emergency assistance has been necessitated by a devastating humanitarian crisis with far-reaching consequences for populations throughout the country. The military's intentional campaign of forced displacement has deprived large populations of food and shelter and cut people off from their livelihoods. The collapse of government institutions and public services has denied millions access to medical care, public health initiatives, and poverty alleviation programs.

42. The household income of families in Myanmar has fallen by roughly half since the coup, according to a recent survey.¹⁷ An estimated 13.2 million people face moderate or severe food insecurity in 2022, and the UN has warned that rising food prices and instability could worsen the food crisis in the coming months.¹⁸ In a conference room paper published in June, the Special Rapporteur highlighted the humanitarian needs of children, who face malnutrition and limited access to medical care and routine vaccinations, among other challenges (A/HRC/50/CRP.1).

43. In May 2022, ASEAN agreed on an "ASEAN Humanitarian Assistance Delivery Arrangement Framework" to deliver aid to Myanmar through collaboration between the ASEAN Coordinating Centre for Humanitarian Assistance (AHA Centre) and a Myanmar Task Force under the exclusive control of the junta. Under the agreement, all aid deliveries require the approval of the Myanmar Task Force and will be directed to areas jointly agreed by the AHA Centre and Myanmar Task Force. The former Executive Director of the AHA Centre told the Special Rapporteur that the Centre was not designed to address humanitarian crises driven by armed conflict. Myanmar civil society warned that the agreement, which was reached without the involvement of the National Unity Government, ethnic armed organizations, or civil society, would allow the military to use aid as a weapon, by controlling

¹⁶ See, Karen Human Rights Group, "Denied and Deprived: Local communities confronting the humanitarian crisis and protection challenges in Southeast Burma," June 2022, https://khrhg.org/sites/khrhg.org/files/report-docs/denied_and_deprived_-_english_full_report.pdf.

¹⁷ Save the Children, "Families in Myanmar Lose More than Half Their Income in Year of Conflict, Says Save the Children," 28 July 2022, <https://www.savethechildren.net/news/families-myanmar-lose-more-half-their-income-year-conflict-says-save-children#>.

¹⁸ UN Office for the Coordination of Humanitarian Affairs, "Humanitarian Update No. 20," 31 July 2022, <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-20-31-july-2022>.

the delivery of humanitarian assistance.¹⁹ Even worse, the agreement precludes the delivery of cross-border aid.

44. In conversations with the Special Rapporteur, activists and human rights defenders repeatedly decried the ASEAN agreement on humanitarian aid, stressing that aid channeled through the junta will not reach populations in need. They pointed out that it is the junta that is responsible for the crisis, obstruction of aid deliveries, and targeting of aid workers. Despite ASEAN's rhetorical support for the delivery of aid to all populations in need, it remains inconceivable that the junta would direct assistance to the very populations it is attacking and intentionally displacing.

45. UN agencies and international aid organizations working in Myanmar are hindered by the junta's imposition of bureaucratic delays, travel authorization requirements, and the explicit denial of access to many regions, including those with the greatest needs. Aid workers—both those working with international agencies and civil society actors—face many severe threats, including inspections of vehicles at checkpoints, searches of phones and computers, extortion, arrest, detention, torture, execution, and indiscriminate military attacks. Aid deliveries are often blocked or seized by the military. A recent global study on challenges to delivery of humanitarian aid identified Myanmar as one of four countries suffering from “extreme constraints” to humanitarian access.²⁰

46. Many displaced people are located in ethnic minority areas proximate to Myanmar's external borders. Given the intransigence of the junta on aid deliveries, cross-border humanitarian assistance offers an important opportunity to meet the needs of many displaced populations. However, the international community has not done enough to facilitate cross-border aid on a scale commensurate with the gravity of the crisis. Many humanitarian organizations continue to distribute aid only through official channels within Myanmar. Neighboring countries have often refused to authorize aid deliveries across borders and have restricted the activities of civil society organizations moving assistance through unofficial channels.²¹

V. Defending and supporting political prisoners

47. In the face of the junta's campaign of mass detention, lawyers continue to represent political prisoners despite the systematic denial of fair trial standards. A lawyer representing political prisoners told the Special Rapporteur:

We see that the judges are not judging according to the law. There is no justice. The judges favor the SAC. The people that just share something on Facebook or livestream, they can get the maximum sentence of three years. ... After the coup, [the judges apply] the highest possible sentence.

48. Lawyers defending political prisoners themselves face arrest, threats, and harassment by military officials. To date, at least 42 lawyers have been arrested since the coup.²² In most cases, the legal justification for their arrests is unknown.

49. Lawyers have been forced into new roles since the coup, reflecting the collapse of the rule of law in Myanmar. After an arrest, the whereabouts of detainees are often unknown for extended periods of time, indicating that the junta is likely responsible for the crime against humanity of enforced disappearances. Lawyers are now frequently playing an intermediary role, assisting families to locate and communicate with their detained family

¹⁹ 765 Myanmar, regional and international organizations, “ASEAN: Decision on Humanitarian Assistance on Myanmar Must Include All Related Parties to Avoid Aid Weaponization by the Junta,” 11 May 2022, https://progressivevoicemyanmar.org/wp-content/uploads/2022/05/Update_ASEAN_Humanitarian_Joint_Statement_FINAL.pdf.

²⁰ ACAPS, “Humanitarian Access Overview,” July 2022, https://www.acaps.org/sites/acaps/files/products/files/acaps_humanitarian_access_overview_july_2022_0.pdf (Eritrea, Ukraine, and Yemen were the other countries with “extreme constraints”).

²¹ Refugees International, “Paths of Assistance: Opportunities for Aid and Protection along the Thailand-Myanmar Border,” July 2022, <https://www.refugeesinternational.org/reports/2022/7/11/paths-of-assistance-opportunities-for-aid-and-protection-along-the-thailand-myanmar-border>.

²² AAPP database, Total Arrested, reviewed 13 September 2022.

members and initiating negotiations to secure their release. Many civil society organizations assist the family members of political prisoners, including by providing financial and psychosocial support.

50. Even as lawyers come under attack, their case load continues to increase. After the July executions, 84 political prisoners remain on death row, while another 42 have been sentenced to death in absentia as of 13 September 2022, according to AAPP. AAPP's records indicate that 15,506 people have been arrested in relation to their pro-democracy activities or opposition to the junta since the coup. Of this total, 12,372 remain in detention. Many of those arrested in recent months face criminal charges relating to their private actions, including posting on social media and donating money to opposition groups. At least 15 teachers affiliated with the Kaung for You education program sponsored by the National Unity Government were reportedly arrested after military officials gained access to a school database.

51. A youth activist told the Special Rapporteur about the toll arrests are having on the pro-democracy movement:

A challenge is the safety and security of anyone involved in the movement. You are trying to believe in yourself, but you don't know when you will be arrested. I have talked to young people who say, yeah, we are being very careful, but we don't know where to go to be safe. That access to safe locations is not there for youth who live in the towns.

52. The junta has used various strategies to punish and pressure opposition figures and others who escape abroad or manage to evade arrest. According to AAPP, as of 13 September 2022, the junta was holding hostage 394 individuals, including 55 children, merely because of their relationship to a wanted person. The junta has also confiscated and blocked access to more than 760 houses and buildings affiliated with NLD members and opposition figures.

53. Hundreds of members of the NLD have been detained by the junta, which continues to pursue fraudulent cases against senior NLD officials. In June 2022, former State Counsellor Aung San Suu Kyi was transferred from an undisclosed location, where she had been held with staff members, to solitary confinement in Naypyidaw Prison. She faces charges in at least 18 cases relating to corruption, election fraud, sharing state secrets, incitement, import violations, and violations of COVID-19 restrictions. She has already been convicted in six cases and sentenced to 20 years imprisonment.

54. Prison conditions remain horrific, and junta forces are torturing political prisoners and other detainees on a widespread and systematic basis (A/HRC/49/76, A/HRC/49/72). Political prisoners have reportedly faced retaliation for protesting the execution of the four opposition figures and complaining about their conditions of detention. More than 100 individuals have reportedly been killed by junta forces in police stations, prisons, and interrogation centers. Hundreds more have died while in the custody of military or police officers outside of detention centers.²³

55. The mass detention of peaceful protesters, human rights defenders, NLD officials, and others is a key component of the junta's widespread and systematic attack on the civilian population in Myanmar and likely constitutes the crime against humanity of imprisonment or other severe deprivation of physical liberty. Junta forces are likely also responsible for the crime against humanity of torture and other inhumane acts in relation to their treatment of political prisoners. The execution of political prisoners likely constitutes the crime against humanity of murder.

VI. Resisting attacks on fundamental freedoms and digital rights

56. Despite the junta's relentless efforts to crush civic space, Myanmar civil society continues to lead pro-democracy activism and help others exercise their fundamental freedoms. Activists have continued to risk violence, detention, and torture to peacefully protest, often organizing flash mobs, silent strikes, or boycotts. In recent months, strike committees and civil society organizations have organized several nationwide protest events,

²³ Institute for Strategy and Policy – Myanmar, Data Matters, “At Least 445 Died After SAC Arrests,” 10 May 2022, <https://www.ispmyanmar.com/isp-data-matters/#images-35>.

including to commemorate Burmese New Year, the 18-month anniversary of the coup, the Martyr's Day holiday, and the execution of the four political prisoners in July. Political prisoners have reportedly protested and organized hunger strikes in prison.

57. Civil society has also worked hard to ensure that people can continue to safely exercise their fundamental freedoms online. Many groups have provided digital security training and helped to facilitate a transition to secure messaging platforms. Others have distributed global SIM cards or Virtual Private Network licenses. Activists have set up mesh networks that operate through Bluetooth or WiFi antenna, allowing for communication during internet shutdowns.

58. Through these actions, Myanmar civil society has fought back against the junta's crackdown on fundamental freedoms, including the rights to freedom of expression, peaceful assembly, and association. Thousands have been detained and charged for expressing their opinions on the streets and online. According to AAPP, more than 160 media workers—including journalists, editors, and filmmakers—have been arrested since the coup, of whom more than 82 remain in detention. Many have been charged under Penal Code section 505A, a provision added by the junta following the coup that provides for up to three years' imprisonment for dissemination of "false news."

59. The junta has also sought to crush freedoms in online spaces, most dramatically by restricting internet access in many parts of the country. At least 31 townships in seven states and regions have reportedly experienced internet shutdowns in the past year, with a further 23 townships experiencing the throttling of internet speeds.²⁴ Internet restrictions often coincide with military offensives and heightened attacks on civilians, suggesting that the military may be attempting to use internet shutdowns to cover up its crimes.²⁵

60. The exit of foreign telecommunications providers from the Myanmar market has increased the risk of surveillance and violations of the right to privacy and has made documenting internet shutdowns more difficult. Norwegian operator Telenor's sale of its Myanmar business in March 2022 resulted in the transfer of user data to a military-linked company. Telenor had previously disclosed official orders to hand over user data and install surveillance technology. In September 2022, Ooredoo Group announced its sale of Ooredoo Myanmar to Singapore-based Nine Communications, whose ownership includes a Myanmar businessman with reported links to the military. The sale raises concerns that the entire telecommunications sector could be controlled by the military.

61. The junta has reportedly purchased and deployed Chinese CCTV cameras with facial recognition capabilities in major cities, raising concerns that the technology will be used to track down activists and surveil and suppress protests. The junta has moved forward with plans to implement an electronic-ID system that would link to biometric data for all people over 10 years of age. The junta will reportedly require mobile phone users to register the IMEI numbers—a unique identifying number assigned by the manufacturer—of each of their devices.²⁶

62. Even while restricting internet access, the junta and pro-military groups have made use of online platforms to threaten opposition actors and sow disinformation. Activists and human rights defenders told the Special Rapporteur about how they had been threatened and harassed on social media platforms. Many have also experienced doxxing, or the public posting of private information, including home addresses. Women activists are often targeted with misogynistic and sexual threats and harassment by pro-military groups. The Special Rapporteur has received confidential reports from civil society and international researchers indicating that many of these accounts could be controlled or sponsored by military personnel.

²⁴ Athan, "Internet Access Amid Darkness and Lives Amid Threats," May 2022, <https://progressivevoicemyanmar.org/wp-content/uploads/2022/06/Internet-Shutdown-Athan-May-2022-Eng.pdf>.

²⁵ 671 civil society organizations, "Open call to all international actors: Do more to stop internet shutdowns shrouding torchings and killings in Myanmar," 23 June 2022, <https://civicus.org/index.php/media-resources/news/5870-open-call-to-all-international-actors-do-more-to-stop-internet-shutdowns-shrouding-torchings-and-killings-in-myanmar>.

²⁶ Access Now, "Myanmar IMEI FAQ: how the junta could disconnect the resistance," 7 July 2022, <https://www.accessnow.org/myanmar-imei/>.

Telegram, an online platform, is emerging as a primary channel for the dissemination of pro-military content, likely because the company devotes less resources to content moderation.

VII. Supporting and defending women

63. Despite facing severe security and funding challenges, women-led civil society organizations have demonstrated immense bravery and ingenuity to serve vulnerable communities. Women's groups have provided conflicted-affected communities with food, water, medicine, and hygiene kits, documented gender-based violence, provided online and face-to-face counselling, supported relocation and safehouses for survivors, supported the families of political prisoners and participants in the Civil Disobedience Movement, spearheaded pro-democracy campaigns, and trained communities on women's rights, among other activities.²⁷ A women human rights defender explained:

Women's groups know how to reach the communities in need. They are willing to take all the risks. ... They're concerned about the children, infants, pregnant mothers who will be in the middle of conflict... Whether we get funding from donors or not, women will continue [providing services].

64. Patterns of gender-based violence have existed in Myanmar for decades, but the coup has accelerated this violence by the Myanmar military, enabled by a pervasive culture of impunity within the Myanmar military. Research by women human rights defenders shared with the Special Rapporteur indicates that soldiers have perpetrated sexual violence both more frequently and in more diverse geographic regions since the coup. The widespread and systematic nature of sexual violence indicates a structural pattern used to demoralize, intimidate, and silence women and girls.

65. Women's rights groups have documented more than 100 cases of rape or sexual violence in Myanmar since the coup, the majority of which have been perpetrated by the Myanmar military, Border Guard Forces, or other junta-aligned groups. Women human rights defenders told the Special Rapporteur about gang rapes committed by soldiers and rape or sexual assault prior to killings in villages. In some cases, rape has reportedly been used as a form of punishment against women involved in peaceful activities opposing the junta. Recently published testimony by military defectors has corroborated the accounts of victims and suggests that military officers condone sexual violence in conflict areas.²⁸

66. In Yangon, soldiers and police have abducted and raped women walking alone or in small groups or assaulted women during searches of private residences, threatening to kill the women if they told anyone what happened. Women and LGBTQ persons have reported the use of sexual violence during interrogation. Security forces have allegedly demanded sexual favors in exchange for removing their names from warrant lists.

67. Crimes against women are regularly under-reported and under-investigated, and the challenges of documenting gender-based violence have been aggravated since the coup. Survivors are often reluctant to report gender-based violence for a number of reasons, including narratives that foster shame and social stigma and fears of retaliation by perpetrators. Women's rights organizations have documented threats by soldiers against survivors of sexual violence if they report crimes by the military, including threats to harm family members or destroy villages. The complete erosion of the justice system since the coup, coupled with the long-term impunity enjoyed by the military, forecloses the possibility of achieving justice through the courts.

68. Widespread forced displacement has increased the vulnerability of women and girls, who lack access to water, nutrition, and vital services, including sexual and reproductive health services. Women have been forced to use plastic bags in place of sanitary pads; unwanted pregnancies are increasing due to a lack of access to contraception; and women are

²⁷ Women's League of Burma, "Situation Update: April-May 2022," p.1, <https://www.womenofburma.org/sites/default/files/2022-07/April-May2022-situation-update.pdf>.

²⁸ Charlotte Attwood, Ko Ko Aung and Rebecca Heschke, "I can't forget her – Myanmar's soldiers admit atrocities," *BBC*, 22 July 2022, <https://www.bbc.com/news/world-asia-62208882?fbclid=IwAR3z6PwBqWvptUygNoyU2ZGj306b0rzwN8affHm6wnaxlUMtqlu8SPNwRcwY>.

giving birth in the jungle without access to medical care. Women's groups have reported increased cases of domestic violence in IDP camps and in villages as household financial stress and food insecurity have escalated.

69. The collapse of Myanmar's economy has disproportionately impacted women and girls, increasing their vulnerability to exploitation and abuse. As more and more families fall into poverty, women take on increased domestic work and make sacrifices to care for their families with fewer resources. Loss of income and livelihood opportunities cause women to adopt negative coping strategies. More women and girls are reportedly experiencing early marriage, giving birth at a young age, taking jobs in karaoke bars and other settings where they face sexual harassment and abuse, turning to sex work, or seeking employment far from home or abroad. Civil society groups have reported increases in the trafficking of women and girls to Thailand, China, India, Malaysia, and Dubai.

VIII. Standing up for the rights of persons with disabilities

70. In Myanmar, persons with disabilities have historically faced discrimination, social stigmatization, and immense challenges relating to the accessibility of public spaces and services. Myanmar civil society organizations have conducted awareness raising activities with the general public and provided resources and services directly to persons with disabilities. Given the widespread contamination by landmines and unexploded ordinance in Myanmar, civil society has provided essential services to individuals who have lost limbs or suffered other injuries in conflict zones. Disability rights organizations have also played an important role in advocating for government policies to protect the rights of persons with disabilities. Many of the leaders and staff of these organizations are themselves persons with disabilities.

71. The civil society networks supporting persons with disabilities have been dislocated and disrupted by the coup and the military's campaign of violence. Disability rights activists told the Special Rapporteur that they had previously engaged directly with officials in the NLD government to support the roll out and implementation of the 2015 Rights of Persons with Disabilities Law, seeing significant—albeit slow—progress. After the coup, not only did this progress come to a halt, but disability rights activists' previous engagement with the NLD became a risk factor, exposing them to the possibility of arrest or violence.

72. Persons with disabilities, including disability rights leaders, are an important yet underutilized resource in the design and implementation of human rights advocacy campaigns and humanitarian response initiatives. They are often consulted as an afterthought rather than being involved as agents of change within their communities. Both international organizations and local disability rights groups agree that much more must be done to tap the knowledge and insights of persons with disabilities.

73. Persons with disabilities have been disproportionately impacted by the coup and the military's rampant human rights violations. In conflict areas, persons with disabilities, as well as elderly people, are often unable to flee the military's violent attacks because of mobility limitations or because they have not received warnings of the military's approach. While quantitative data is not available, media and civil society organizations have reported numerous cases in which persons with disabilities have been killed in their homes or villages after other villagers fled a military attack. The military's campaign of forced displacement of civilian populations has also separated disabled persons from family members and other support networks, deepening their isolation and vulnerability.

74. According to credible information shared with the Special Rapporteur, in some areas the military has ordered hospitals and doctors to not treat landmine victims and instead send them to military hospitals. The military's apparent motive is to deny treatment to opposition fighters. As a result, landmine victims are being denied timely, quality treatment.

75. The collapse of the state health care system has deprived persons with disabilities of routine care. Disabled children are often unable to attend schools within alternate education systems, which often lack accommodations for disabilities. Persons with disabilities have often been the first to lose their jobs as Myanmar's economy has crumbled and employers adapt. Internet shutdowns and the rising price of mobile services have hit persons with disabilities particularly hard since they rely heavily on internet and phone connections for

communication, telemedicine, and access to information. People with hearing impairments or other communication challenges often cannot meaningfully participate in their own trials.

IX. Defending the rights of the Rohingya

76. The severe discrimination and isolation faced by the Rohingya people pose additional challenges for Rohingya activists, human rights defenders, and community leaders. They must address a multitude of grave threats to the lives and wellbeing of community members with minimal outside support. In many cases, Rohingya leaders must deliver services that people in other parts of Myanmar receive from the state, national networks, or international organizations. For example, the Special Rapporteur spoke with several Rohingya people who are involved in education or healthcare initiatives, addressing the Rohingya's inability to access public schools and hospitals. Given the lack of access to Rakhine State by international media and human rights monitors, Rohingya human rights defenders play an essential role in sharing information about the challenges and abuses suffered by the population. They will be central to efforts to ensure accountability for the genocidal attacks on the Rohingya.

77. In recent months, Rohingya people observed two grim anniversaries. June 2022 marked ten years since the start of the campaign of state-sponsored violence and ethnic-cleansing against the Rohingya and other Myanmar Muslim populations in Rakhine State that led to the confinement of approximately 130,000 Rohingya in squalid IDP camps, where they have remained for the past decade. Inside these de facto internment camps, which are surrounded by barbed wire fences, Rohingya suffer from severe deprivation and have little access to education, medical services, or livelihood opportunities.²⁹ This year, new restrictions have been imposed on renovations and construction in camps, further imperiling the camp populations.

78. 24 August 2022 marked the five-year anniversary of the beginning of the military's genocidal offensive against Rohingya civilians in northern Rakhine State that resulted in the death of thousands of Rohingya and caused more than 700,000 to flee to Bangladesh as refugees. Rohingya remaining in Rakhine State continue to suffer severe human rights violations, which are underpinned by their lack of citizenship. Rohingya women and girls are especially isolated, suffering both from official repression and from discriminatory beliefs and practices within the Rohingya community. This isolation increases the risk of abuse and exploitation, including human trafficking.

79. Given official repression in Myanmar and the dire conditions in camps in Bangladesh, many Rohingya continue to risk their lives in desperate journeys by land or sea to Malaysia or other destinations. Rohingya have reportedly died at sea and suffered abuse and extortion at the hands of human traffickers. In June, the Special Rapporteur spoke with Rohingya and other refugees during an official mission to Malaysia. He commended Malaysia for opening its doors to Rohingya fleeing abuses in Myanmar but expressed concerns about the lack of protection for refugees in Malaysian law, the prolonged arbitrary detention of refugees in immigration detention centers, and refugees' lack of opportunity for education and livelihoods.

X. Reporting on environmental devastation, land grabbing, and human rights violations by extractive industries

80. Environmental activists, human rights defenders, and community-based organizations are at the frontline of a dangerous new wave of resource exploitation that was accelerated by the coup. These actors are documenting environmental degradation, land confiscation, and other human rights violations associated with the extractive industries and linked to the heightened levels of conflict and lawlessness in the post-coup period. It has become extremely dangerous for communities and activists to monitor the harmful impacts of business activity in extraction areas, which are usually heavily guarded. Villagers and

²⁹ Burmese Rohingya Organisation UK, "'Slow death': ten years confined to camps for 130,000 Rohingya in Myanmar," 23 May 2022, <https://www.brouk.org.uk/wp-content/uploads/2022/05/ICJ-Briefing-May-2022.pdf>.

environmental activists have been arrested, threatened, and attacked for resisting land expropriation. Despite the risks, indigenous rights and environmental protection groups from all over Myanmar are continuing to advocate for protection of customary rights over their territories and natural resources.

81. Since the coup, various actors—including business elites associated with the junta, Border Guard Forces, local armed militia groups, and the Kachin Independence Army—have exploited the governance vacuum to increase their influence and control over lucrative natural resource concessions. Gold, jade, and rare earth mining have reportedly increased significantly, often driven by investments and illicit business activities by foreign companies.³⁰ In the case of rare earth mining, numerous sources have confirmed that the mining is being carried out by Chinese companies through agreements with Border Guard Forces or militias. The Special Rapporteur has received numerous reports of villagers being forced to sell their land or being forcibly displaced by junta-allied groups to clear the way for new mining enterprises.

82. Many land grabs and extractive activities are taking place in ethnic minority areas, destroying the land, rivers, and forests that are integral to indigenous people's cultures and ways of living. Civil society groups report that unregulated mining has caused environmental devastation, deforestation, and biodiversity loss and affected food security. The use of toxic chemicals in mining operations has left land barren and contaminated groundwater. Mercury pollution and increased sedimentation have made rivers and streams unusable for drinking, bathing, fishing, and farming. Birds, insects, fish, and other wildlife have disappeared from some areas. Civil society groups have reported that negative environmental impacts displace indigenous peoples from their ancestral land. As one civil society member stated, "They will be forced to leave because there's nothing there. The environment they're living in will be destroyed and where will they be going?"

XI. Myanmar civil society implores the international community to change course, strengthen its response to the crisis

83. Myanmar civil society has remained at the forefront of efforts to persuade Member States to cut off the junta's access to weapons and revenue sources and to deny the junta legitimacy. While many Member States have taken positive steps, these efforts remain disjointed and incomplete. Too many governments have yet to take any significant actions despite rhetorical support for democracy in Myanmar.³¹ Some Member States have sanctioned military-linked individuals and entities, for example, but have been reluctant to follow the lead of the European Union by imposing sanctions on Myanma Oil & Gas Enterprise, one of the junta's leading sources of revenue.³² While the Maldives, Canada, the Netherlands, the United Kingdom, and Germany have all announced their intention to join the Gambia in its genocide case against Myanmar at the International Court of Justice, other Member States have not.

84. The flexibility, creativity, and resilience demonstrated by civil society as they adapt to new challenges has not always been matched by international donors and support networks. Civil society organizations' ability to secure and maintain funding from international sources is hampered by complex application and reporting processes, financial reporting requirements, and demands that they be registered with junta-controlled bodies. Activists and human rights defenders told the Special Rapporteur that some donor requirements are

³⁰ Global Witness, *Heavy Rare Earth Supply Chain Risks*, August 2022, <https://www.globalwitness.org/en/campaigns/natural-resource-governance/addressing-risks-supply-chain-heavy-rare-earth-minerals-illicit-mining-myanmar/>.

³¹ See, for example, Open letter to Australian Foreign Minister Penny Wong from 688 civil society organisations, 29 June 2022, <https://progressivevoicemyanmar.org/2022/06/29/open-letter-to-australian-foreign-minister-penny-wong-from-688-civil-society-organisations/>.

³² "637 Myanmar & International Civil Society Organizations and over 220, 000 people call on the US to sanction Myanmar's oil and gas revenues and stop the bankrolling of the genocidal military junta," Open Letter to US President Joseph R. Biden, Jr., 4 May 2022, <https://progressivevoicemyanmar.org/2022/05/07/626-myanmar-international-civil-society-organizations-and-over-220-000-people-call-on-the-us-to-sanction-myanmars-oil-and-gas-revenues-and-stop-the-bankrolling-of-the-genocidal-military-ju/>.

incompatible with the current operating environment and add to their levels of risk. For example, carrying receipts or financial documents—in physical or electronic form—relating to humanitarian aid deliveries could lead to arrest during inspections at military checkpoints.

85. While ASEAN has disinvited junta representatives from some ASEAN events, it has failed to adequately address the junta's flagrant disregard for the Five-Point Consensus, which requires the junta's cooperation on ending violence, ensuring constructive dialog, and delivering humanitarian assistance. Human rights advocates have decried the fact that ASEAN and ASEAN member states have continued to engage with and, at times, directly support the Myanmar military.³³ The execution of the four opposition activists in July seems to have been an inflection point for some ASEAN member states. Cambodia published a statement as ASEAN Chair calling the executions "reprehensible" and saying the killings represent a "gross lack of will" in implementing the Five-Point Consensus.

86. One civil society actor described their disappointment in the international response:

The international community keeps failing the people of Myanmar. They're hiding behind ASEAN's Five-Point Consensus, which is allowing the junta to continue to commit atrocity crimes with total impunity. We need coordinated action now through targeted sanctions, a global arms embargo, and justice and accountability through the ICC or by setting up an ad hoc tribunal. Otherwise, the military will keep killing us while the world stands back and watches.

87. Civil society organizations are quick to acknowledge the governments, foundations, and international donors that have provided them essential support, enabling them to adapt to the new post-coup environment and to provide lifesaving assistance to the Myanmar people. Some foreign governments have offered asylum to civil society leaders and activists that face arrest or violence in Myanmar. International organizations have addressed acute security needs by providing emergency financial assistance and physical and digital security training and resources. Since the coup, some governments and donors have announced new funding initiatives to support human rights organizations and the pro-democracy movement.

88. Despite these essential efforts, the international support being provided to civil society falls far short of what is required given the immense needs in Myanmar. Many civil society leaders told the Special Rapporteur that their organizations have filled the gap left by international organizations exiting Myanmar or pulling back from operations in conflict-affected areas, but that they are largely reliant on pre-existing funding sources or donations from local populations to pay for their expanded operational footprint. A representative of a prominent women's rights organization highlighted this point, stating:

A lot of women leaders are refugees, have limited income, but are still supporting their own community because there is no support from the international community. ... The more the international community ignores [the problem], the more burden [falls] on women's rights organizations and individual women leaders. These are all burdens we carry on our shoulders. We know it's not sustainable and it won't last long, but we believe it's our responsibility.

XII. Recommendations

89. **The Special Rapporteur calls on the military junta to immediately end attacks on civilians and other human rights violations, halt the use of anti-personnel landmines, release all political prisoners, dissolve the State Administrative Council, stand down so that a legitimate government reflecting the will of the people can be formed, and cooperate with international accountability mechanisms.**

90. **The Special Rapporteur calls on the Security Council to pass a resolution that (i) imposes a comprehensive arms embargo on Myanmar, including on jet fuel to the**

³³ Justice for Myanmar, "ASEAN's complicity in the Myanmar military's atrocity crimes exposed," 10 May 2022, <https://www.justiceformyanmar.org/press-releases/aseans-complicity-in-the-myanmar-militarys-atrocity-crimes-exposed>; Open letter to ASEAN defense ministers by 677 regional and international civil society organizations regarding Myanmar junta participation in ADMM, 15 June 2022, <https://progressivevoicemyanmar.org/2022/06/15/open-letter-to-asean-defence-ministers/>.

military; (ii) imposes targeted economic sanctions on the Myanmar military, its leaders, and its sources of revenue, and (iii) refers the situation in Myanmar to the International Criminal Court. The prospect of a veto by one or more Security Council members should not deter other members from placing a resolution before the Council for consideration, debate, and a vote.

91. The Special Rapporteur calls on all Member States that support the people of Myanmar and their human rights to heed the call of Myanmar human rights defenders to embrace a shift in approach to the crisis. Member States must work together to exert strong, sustained pressure on the junta, including by coordinating targeted sanctions and supporting initiatives and mechanisms to ensure accountability for grave human rights violations. The Special Rapporteur recommends that UN Member States:

- (a) Convene an emergency meeting of all Member States that support human rights in Myanmar to launch a focused, coordinated, and strategic initiative to deprive the junta of the weapons, finances, and legitimacy it utilizes to sustain its campaign of violence and suppression of the democratic aspirations of the people of Myanmar;
- (b) Immediately halt the sale or transfer of weapons and dual-use technology to Myanmar and ensure that aviation fuel is not transferred to the Myanmar military;
- (c) Target those individuals and entities providing arms and munitions to the Myanmar military with economic sanctions;
- (d) Degrade the military's ability to finance its atrocities by sanctioning the Myanmar Foreign Trade Bank, Myanma Oil and Gas Enterprise, and other key sources of revenue;
- (e) Work in coordination with national financial intelligence units, law enforcement agencies, and ministries of justice and finance to identify and seize assets belonging to the State of Myanmar;
- (f) Deprive the junta of legitimacy by refusing recognition before international bodies, including the United Nations, and disinviting junta officials from international forums and functions;
- (g) Support efforts to hold perpetrators of atrocity crimes, including crimes against children, accountable in impartial and independent courts, including the International Criminal Court, the International Court of Justice, and national courts in countries with universal jurisdiction laws;
- (h) Accept refugees from Myanmar and provide them with the support required under international standards; and
- (i) Expand programs for the resettlement of refugees from Myanmar, including Rohingya refugees, and support activists, journalists, and human rights defenders in leaving Myanmar and seeking asylum in third countries.

92. The Special Rapporteur recommends that the Association of Southeast Asian Nations (ASEAN) and its Member States:

- (a) Acknowledge the military junta's flagrant violations of the Five-Point Consensus and ensure that any future agreements incorporate time-bound and measurable commitments to release political prisoners, halt violence, and restore democracy;
- (b) Consider the suspension of the military junta from ASEAN, recognizing the illegitimacy of their claim to be the government of Myanmar.
- (c) Prohibit junta officials, or officials from junta-controlled bodies, from representing Myanmar at ASEAN summits or functions;
- (d) Engage the National Unity Government and National Unity Consultative Council as key parties representing the will and interests of the Myanmar people; and

(e) Facilitate the delivery of humanitarian aid to all populations in need, including by supporting cross-border humanitarian assistance delivered through local civil society organizations.

93. The Special Rapporteur recommends that UN agencies and international humanitarian organizations:

(a) Increase humanitarian assistance to the people of Myanmar, including by fully funding the Myanmar Humanitarian Response Plan 2022;

(b) Work directly with local and community-based organizations to deliver humanitarian aid, including in areas that cannot be accessed by international humanitarian organizations; and

(c) To the extent possible provide support for cross-border aid to internally displaced persons.

94. The Special Rapporteur recommends that international donors, including foundations, UN Member States, and intergovernmental organizations:

(a) Increase support to Myanmar civil society organizations;

(b) Provide robust funding for research and advocacy supporting human rights and the interests of human rights defenders, journalists, lawyers, women's rights advocates, the LGBTQ community, the disability community, indigenous and ethnic minority populations, and other at-risk groups in Myanmar; and

(c) Adopt creative solutions to address operational challenges for organizations in Myanmar, including by relaxing reporting requirements, adopting alternative methods of transferring funds, refraining from requiring registration with junta-controlled bodies, adapting operational procedures to allow urgent and timely humanitarian responses, and shifting from restricted grants to core funding whenever possible.
