

REBUILDING AN ARCHITECTURE OF OPPRESSION

PROTECT

The impact of the military coup on freedom of expression and civic space in Myanmar



About the PROTECT consortium

PROTECT is a partnership for knowledge and learning in Kenya and Myanmar aimed at countering shrinking civic space, easing pressure on independent media and infomediaries, and enhancing transparency through empowered, independent, and informed individuals and communities who demand that governments uphold their obligations in a protective and enabling environment.

Above all PROTECT strives to increase the freedom to enjoy free, open and inclusive societies for many and to promote societies that thrive with diverse voices.

About this report

This report was researched and written by a research team consisting of independent consultants Laura Haigh and Kyaw Hsan Hlaing. The research team was tasked with researching the impact of the coup on freedom of expression and civic space in Myanmar, analysing findings against international law, and developing recommendations for key stakeholders. The views expressed in this report do not necessarily reflect those of the member organisations of the PROTECT consortium.

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GLOSSARY

List of Abbreviations	
AAPP	Assistance Association for Political Prisoners
ASEAN	Association of Southeast Asian Nations
CBM	Central Bank of Myanmar
CDM	Civil Disobedience Movement
CRPH	Committee Representing the Pyidaungsu Hluttaw
CBO(s)	Community-based organisation(s)
CSO(s)	Civil society organisation(s)
FTTH	Fibre to the home
INGO(s)	International non-governmental organisation(s)
MoTC	Ministry of Transport and Communications
MoU	Memorandum of Understanding
NGO(s)	Non-governmental organisation(s)
NLD	National League for Democracy
NUG	National Unity Government
OONI	Open Observatory of Network Interference
PDF(s)	People's Defence Force(s)
SAC	State Administrative Council
VPNs	Virtual private networks

REBUILDING AN ARCHITECTURE OF OPPRESSION

1. EXECUTIVE SUMMARY

‘Civic space since the coup has pretty much shrunk to zero. Top civil society leaders who were very vocal on human rights and important issues are now in hiding or outside the country. Many organisations have had to shut down their operations or else start operating underground. Everything we do now comes with some form of risk. It’s a very uncertain time for civil society.’

A civil society activist working on human rights, land, and environmental issues.¹

On 1 February 2021, the Myanmar military—also known as the Tatmadaw—seized power in a coup d’état. Hundreds of government officials—including State Counsellor Aung San Suu Kyi and President Win Myint—were detained, while the military claimed that all legislative, executive, and judicial power had been transferred to the Commander-in-Chief Senior General Min Aung Hlaing. The regime then quickly established a governing body, the State Administrative Council (SAC), and began enacting a range of legal and administrative changes, including appointing scores of current and former military officials or those connected to the army to positions of power.

The coup provoked a significant backlash, and within days people from across the country took to the streets to oppose a return to military rule and demand the release of political leaders. Popular resistance quickly coalesced around the Civil Disobedience Movement (CDM), a campaign led by doctors, nurses, and other health professionals who refused to go to work. The movement was bolstered by support from labour and trade union groups, civil servants, and teachers. However, as protests and support for the CDM grew, the security forces responded with increasing brutality by arresting peaceful protesters and resorting to violence, including by using live ammunition against civilian protesters. To date, security forces have killed more than 1,300 civilians across the country, while thousands more have been arrested.

In response to the military’s increasingly brutal tactics, armed resistance groups known as People’s Defence Forces (PDFs) sprung up across the country, launching attacks on security force personnel and infrastructure in many parts of central Myanmar, areas which until recently had not seen significant levels of violence for decades. Meanwhile, conflict has also flared in ethnic minority areas, with reports of Tatmadaw air strikes, indiscriminate shelling, and mortar fire forcing tens of thousands of women, men, and children to flee their homes.

The coup has made the operating environment for civil society and non-governmental organisations (NGOs) extremely challenging. Even before the military’s seizure of power, the Myanmar government had heavily curtailed civic space and freedoms of expression, association, and peaceful assembly. The coup has exacerbated these challenges, while at the same time introducing new physical, legal, financial, and security threats for civil society groups and activists and chilling civic activity.

This report examines the impact of the coup on freedom of expression and civic space in Myanmar, with a particular emphasis on the effects on civil society organisations (CSOs) and activists. It is based on more than 45 interviews conducted remotely using secure methods of communication between May and October 2021. Researchers interviewed civil society activists from a diverse range of backgrounds and who are from or operate in all 14 of Myanmar’s States and Regions, as well as overseas. The report also draws on interviews with staff from international non-governmental organisations (INGOs), independent analysts, and donors, as well as extensive desk research including reviewing statements, decrees, and announcements by the SAC, media reporting, and reports by NGOs.

¹ Interview, 7 July 2021.



Photo: An anti-coup protest held on 9 August 2021. The banner reads: 'Let's struggle free for the continuing '8888' people's freedom.' By Myanmar Pressphoto Agency.

Rebuilding an architecture of oppression

From the earliest days following the coup, the military regime set to work rebuilding an architecture of oppression—gradually dismantled after the purge of General Khin Nyunt in 2004—by announcing a range of legal changes which allow for the arrest, detention, monitoring, and surveillance of the population, in particular civil society activists as well as political leaders and other critics of the regime. Civil society groups and activists contest the status of these new laws and regulations, as they reject the coup and SAC, and so assert the military has no power or authority to amend or enact new laws. However, the military regime is using the new measures as a basis to arrest, detain, and prosecute human rights defenders, civil society activists, and others, and thus their impact is likely to be felt for months and years to come. *'They say they are acting according to the law but there is no law anymore. The law is whatever they say it is,'* noted one human rights lawyer.

Several legal amendments specifically target people engaging in anti-junta activities and are clearly designed to stymie the CDM and suppress criticism of the military. For example, additions to the Penal Code allow authorities to arrest, charge, and prosecute individuals deemed to 'cause fear, spread false news,

agitate directly or indirectly [for a] criminal offence against a Government employee,' 'hinder, disturb, damage the motivation, discipline, health and conduct' of the military officials and government employees, and cause 'hatred, disobedience or disloyalty.' Other amendments criminalise acts that 'sabotage,' 'disrupt,' or 'hinder' military personnel or government employees. In most cases, the measures expand provisions that had frequently been used to target political activists and civil society members in the past.

The junta has also resorted to tactics that were the hallmark of previous military regimes, such as the banning of organisations. It has used the law to designate political or civic groups as unlawful associations or 'terrorist' organisations in a clear attempt to weaken political movements and to make engaging with them dangerous for ordinary people. This is especially true of the National Unity Government (NUG) and Committee Representing the Pyidaungsu Hluttaw (CRPH), the parallel administration made up of elected MPs and other political leaders, which have been branded as 'terrorist' organisations. *'Even just contacting the NUG and CRPH can put you at risk,'* said one journalist. The regime has also targeted media organisations reporting on military violations and trade union and labour groups mobilising protesters by revoking their licences or designating them as unlawful associations.

The junta has also sought to use the law to expand monitoring and surveillance capacity, for example, by reinstating provisions allowing local authorities to monitor overnight guests in people's homes, a clear violation of the right to privacy. *'We can see clearly that the purpose of checking guest registration is to threaten and arrest the protesters, those who take part in CDM, and political activists,'* said a journalist operating in Kachin State in northern Myanmar.

In addition to these more tried and tested tactics, the military has also been forced to adopt new measures to crackdown on critical voices and dissent. This has included tightening the net on online activities by criminalising actions that create 'misinformation and disinformation,' imposing sweeping internet shutdowns to limit communication and access to information and banning access to a huge range of websites and applications—including popular social media platforms such as Facebook and Twitter.

Another new tactic has emerged as the military has increasingly sought to prevent funds from being transferred to the CDM and other groups and individuals perceived as opposing the coup; new interpretations of restrictions on financial transfers and monitoring of NGO and CSO bank accounts has heightened security risks for activists and civil society. *'The military's control of the banks is critical. Before [in the 1990s and 2000s], people didn't really use the banks. That's changed a lot in the last few years... [now], the Tatmadaw can monitor NGO and CSO transactions and make things difficult for them,'* said one long time researcher and analyst. Meanwhile, the banking crisis that has hit the country since the coup as well as regime moves to constrain the availability of physical cash have led to cash shortages, significantly impacting the operations of organisations, especially those engaged in service delivery.

Arrest and detention

Arrest and detention have been key tactics used by the military to clamp down on anti-military activities and civil society groups who support—or are perceived to support—they. According to local civil society groups, the military has arrested, charged, or sentenced more than 10,000 people since the coup, over 7,500 of whom remain in detention. While people across the country and from all walks of life are at risk of arrest and detention for exercising their rights to freedom of expression, association, and peaceful assembly, the military has also clearly targeted prominent civil society activists, protest leaders, labour activists, student and youth leaders, journalists, lawyers, as well as doctors and other medical professionals.

Security forces rounded up hundreds of individuals in the weeks immediately after the coup as the military sought to prevent influential figures from mobilising anti-junta protesters. Many civil society leaders and activists were arrested while attending or supporting protests. The military has specifically targeted media

workers, detaining scores in connection with their work reporting on the coup. Conditions in detention are reported to be poor, with many allegations of torture and ill-treatment and lack of access to lawyers. While the military has at times released some detainees, the pattern of arrests has continued, with reports of detainees being released only to be rearrested.

The regime has also sought to instil a climate of fear, publishing photos of detainees showing clear signs of physical abuse in addition to announcing the names, photographs and details of individuals who are 'wanted' for their anti-coup activities in state media. Prominent figures, including celebrities and actors, as well as civil society leaders, medical professionals, and students have all featured on these lists. Many have been forced in to hiding. *'Broadcasting the names of 'wanted' people on TV... showing pictures of people who have been tortured in detention... it's a clear attempt to terrorise. They want people to be afraid,'* said the head of a human rights organisation operating in southeastern Myanmar.

Threats and intimidation

In addition to arrest and detention, military authorities have used a range of other tactics to threaten, intimidate, or otherwise harass civil society activists and human rights defenders. These include raiding the homes and offices of journalists, activists, and others who are suspected of engaging in anti-military activities, supporting the CDM, or reporting on military atrocities. Security forces have also increasingly targeted the family members of 'wanted' individuals, in some cases arresting and detaining them in an attempt to force their relatives out of hiding. Not even children have been spared. An activist who had been participating in the protests and the CDM described how the security forces arrested his relatives when they could not find him. *'It seems they arrested my family as hostages in order to get me,'* he said.

Activists, journalists, and civil society groups are also experiencing heightened monitoring and surveillance. The regime has reinstated a requirement to register all overnight guests, which is enforced by night-time household inspections. For people who have already fled their homes and sought shelter in safehouses, such requirements have increased already significant security risks. People living in rural areas—especially those already known for their activism or work as civil society activists—are extremely vulnerable given their visibility in their communities. Military authorities have also attempted to foster a climate of fear and mistrust by offering financial incentives for information on the whereabouts of anti-coup protesters, members of the CDM, as well as individuals linked to the political opposition.

The military has also hampered civil society activists in their activities by setting up checkpoints in cities and on major roads, making travel between different areas difficult. Journalists, lawyers, human rights activists, humanitarian workers and health professionals report being stopped at such checkpoints and having their identities checked and their belongings searched by security forces. Well-founded fears that they might have their phones or laptops searched for incriminating evidence, mean many must first erase important documents, e-mails, and even mobile phone applications before undertaking such journeys.

The impact on civic space and response from donors and the international community

The coup and its aftermath have had wide-ranging impacts and consequences for CSOs. Most immediately, many organisations—especially those working on issues like human rights, governance, and democracy promotion—have been forced to close or suspend their operations, as it is simply too dangerous for them to continue operating. While some organisations have tried to maintain operations, others have been forced to relocate to other countries or work in secret. As the military has continued its campaign of arrest and detention, civil society leaders, activists, journalists, and others have been forced into hiding, moving between safehouses which are often not safe, or in some cases, being forced to flee the country.

In addition to physical safety and security concerns, a major challenge for civil society groups has been to work out how to continue their operations and adapt to new and ever-changing contexts while also maintaining funding and satisfying donor requirements. While some donors have been flexible—at least in the short term—there are concerns about the long-term donor commitment to civil society groups and how to ensure transparency and accountability in reporting when security risks are so high. Other challenges include how to ensure that a diverse range of groups are supported, especially if donors do not relax administrative requirements or adopt more flexible approaches.

With the situation in Myanmar showing no sign of improving, there is an urgent need for robust, co-ordinated, and sustained international action both to push the Myanmar military to stop its appalling human rights violations, and to ensure that civil society groups—whether operating inside or outside the country—are able to continue their important work.



Photo: An anti-military dictatorship night strike held by youths in Yangon on 10 November 2021. The banner reads 'Let's fight to the end without supporting the bloody education.' By Myanmar Pressphoto Agency.

2. METHODOLOGY

This report is based on 45 interviews with human rights defenders, civil society activists, and NGO staff living in or working on Myanmar, most of which were conducted between May and October 2021. Of these, 38 interviewees were Myanmar nationals or people whose family are from Myanmar, but who themselves have a different nationality. Interviewees came from all of Myanmar's 14 States and Regions and included activists working on the Thai-Myanmar border as well as those working with diaspora groups or who had been forced to flee overseas following the coup. Interviewees came from a range of CSOs and included those working for human rights advocacy groups, journalists and media workers, lawyers and legal aid networks, humanitarian workers, labour activists, and health workers.

Interviewees identified as being male, female, and non-binary, and represented a range of sexual orientations. They identified as ethnic Bamar, Chin, Mon, Kachin, Kayin (Karen), Kayah (Karenni), Rakhine, Rohingya, Shan, Ta'ang, and mixed ethnicity. Some followed the Buddhist, Christian, or Muslim faiths, while others held no religious beliefs at all. Researchers also interviewed foreign nationals working in and on Myanmar, including individuals working for INGOs and media outlets.

Research focused on the period since the military seized power on 1 February 2021. Researchers sought to understand how the coup has affected the work, security, and safety of civil society activists. However, information about the overall civic space prior to the coup is also reflected in the research findings. In this report, the term 'civil society' is interpreted broadly, and encompasses human rights groups, journalists, lawyers, labour activists, humanitarian workers, and medical professional networks.

The security situation in Myanmar and risks to physical and digital security meant that all interviews were conducted remotely using secure, encrypted communication applications. Most interviews were conducted over encrypted phone lines, however poor internet connectivity resulted in a small number being conducted by voice message. In some cases, interviews were conducted over several days.

Oral consent was obtained from each interviewee prior to the start of the interview and confirmed again at the end of the interview. All interviewees were told the nature and purpose of the research, as well as how the information they provided might be used. Names have been included in this report where individuals provided informed consent to do so. However, the security situation in Myanmar—including the risk of reprisals to individuals, their families, or their organisations—means that most chose to speak on condition of anonymity. Where interviewees requested anonymity, their names and other identifying information has been withheld to protect their security.

In addition to interviews, researchers met with independent analysts, donors, and others with expertise on Myanmar and undertook extensive desk and social media monitoring, including reviewing reports by NGOs and others.

Many interviewees spoke during periods of intense stress and uncertainty, and amid huge demands on their time. Sincere thanks go to all those who agreed to share their experience, especially given the personal risks associated with speaking out.

3. BACKGROUND AND CONTEXT

A long history of military oppression

For almost five decades, from the 1962 military coup until the ‘transition’ to quasi-democracy in 2011, the people of Myanmar lived under a series of repressive regimes, which ruled the country with an iron fist. During this time, there were wide-ranging restrictions on fundamental freedoms. The rights to freedom of expression, peaceful assembly, and association were heavily curtailed, and a range of repressive laws were used to criminalise peaceful dissent and target political activists.² These regimes arbitrarily arrested and detained thousands, often subjecting them to institutionalised torture and unfair trials and denying contact with the outside world.³ In addition, from 1983 until 2004 the country developed a large and powerful intelligence apparatus, which was largely dismantled following the purge of General Khin Nyunt.⁴ Successive regimes also censored the media and restricted or banned public gatherings.⁵

In ethnic minority and conflict-affected areas, the military committed grave violations of international law against civilians, including crimes against humanity and war crimes.⁶ Myanmar soldiers were repeatedly implicated in arbitrary and extrajudicial killings, indiscriminate attacks, enforced disappearances, torture, rape and other crimes of sexual violence, forced labour, and other serious abuses. These attacks led to the displacement of hundreds of thousands, many of whom fled the country in search of safety, as the country sank further and further into economic and social ruin.

Elections in 2010—widely acknowledged to be neither free nor fair—brought to power a quasi-civilian government the following year led by President Thein Sein, a former military general. Many were sceptical that the new administration would mark a significant departure from its predecessors, not least because the country’s 2008 Constitution, adopted in a deeply flawed referendum, ensured the military would retain significant political power and institutional autonomy.⁷ Not only did it guarantee the military 25 percent of seats in Parliament, and thus a veto over Constitutional amendments, it also ensured the military’s control of three key ministries: Defence, Home Affairs, and Border Affairs.

Despite scepticism about the so-called ‘transition’ to democracy, the new administration embarked on a series of significant reforms which saw Myanmar move from a pariah state to become increasingly accepted on the international stage. Civic space also started to open, as pre-publication censorship was abolished, some—although not all—restrictions on freedoms of expression, association, and peaceful assembly were relaxed, and hundreds of political prisoners were released. A vibrant, resilient civil society began to flourish.

² ARTICLE 19, Acts of Oppression: Censorship and the law in Burma, March 1999, <https://www.article19.org/data/files/pdfs/publications/burma-acts-of-oppression.pdf>.

³ Amnesty International, The institution of torture, December 2000, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa160242000en.pdf>; Amnesty International, Myanmar: ‘In the national interest’: Prisoners of conscience, torture, summary trials under martial law, 7 November 1990, <https://www.amnesty.org/en/documents/ASA16/010/1990/en/>; and Amnesty International, Myanmar (Burma): Unfair political trials, September 1991, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa160061991en.pdf>.

⁴ Andrew Selth, Myanmar’s intelligence apparatus and the fall of General Khin Nyunt, *Intelligence and National Security*, Volume 34, 2019 - Issue 5, pp. 619-636.

⁵ ARTICLE 19, Acts of Oppression: Censorship and the law in Burma, March 1999, <https://www.article19.org/data/files/pdfs/publications/burma-acts-of-oppression.pdf>.

⁶ See Amnesty International, Crimes against humanity in Eastern Myanmar, 5 June 2008, <https://www.amnesty.org/en/wp-content/uploads/2021/08/asa160112008eng.pdf>; Amnesty International, Myanmar: Leaving home, 7 September 2005, <https://www.amnesty.org/en/wp-content/uploads/2021/08/asa160232005en.pdf>; and Amnesty International, The Rohingya minority: Fundamental rights denied, 18 May 2004, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa160052004en.pdf>.

⁷ Human Rights Watch, Vote to Nowhere: The May 2008 Constitutional Referendum in Burma, 30 April 2008, <https://www.hrw.org/report/2008/04/30/vote-nowhere/may-2008-constitutional-referendum-burma>; and The Guardian, Constitution ballot ‘blatantly rigged’, 12 May 2008, <https://www.theguardian.com/world/2008/may/12/cyclonenargis.burma2>.

When the National League for Democracy (NLD) came to power after winning a landslide in elections in 2015, there were hopes that the situation might improve further. However, despite early efforts to repeal some repressive laws, the party failed to undertake necessary reforms to protect human rights, prioritising instead the maintenance of a conservative political order that some saw as an attempt to placate the military. Meanwhile, the military, headed by Commander-in-Chief Senior General Min Aung Hlaing, continued to commit wide-ranging violations of international human rights and humanitarian law, with near total impunity. As has been well documented, in October 2016 and again from August 2017, the Tatmadaw oversaw a genocidal campaign of violence against the Rohingya community in northern Rakhine State, forcing more than 800,000 people to flee the country to Bangladesh.⁸ The military also committed serious human rights violations, including war crimes and crimes against humanity, against communities in Kachin, Rakhine, and Shan States.⁹ Civil society activists, journalists, and others who spoke out against security force abuses and campaigned for justice and accountability were increasingly at risk.

The Myanmar military seizes power

In November 2020, Myanmar held its second elections since the country transitioned from outright military rule. The elections themselves were widely seen as peaceful and credible, although they were seriously marred by the arrest and imprisonment of peaceful activists, discriminatory restrictions that prevented the Rohingya from voting, and the cancellation of polls in large parts of Rakhine State and several other conflict-affected areas.¹⁰ The NLD won another landslide victory, expanding their majority in Parliament. However, for many communities, especially ethnic minority communities who felt let down by the party, the vote was as much a rejection of the military as it was a show of support for the NLD.

Despite the NLD's overwhelming victory, the military—which had backed the opposition Union Solidarity and Development Party—challenged the outcome of the vote, claiming widespread voter fraud.¹¹ These claims have been universally rejected by independent observers who monitored the polls.¹² Tensions began to rise in January 2021 when the Tatmadaw continued to complain about voting irregularities. Then on 1 February, just hours before the newly elected Parliament was due to be sworn in in the capital of Naypyidaw, the military seized power, detaining State Counsellor and *de facto* leader Aung San Suu Kyi, President Win Myint, and scores of NLD politicians, Union Election Commission officials, and prominent military critics.

That same day, the military announced that Vice President Myint Swe, a former general, had been appointed as interim president.¹³ He in turn ordered a state of emergency and transferred all legislative, judicial, and executive power to Senior General Min Aung Hlaing under Articles 417 and 418(a) of the 2008 Constitution. At the time, Myint Swe said that the military would remain in power for one year, as per the

⁸ Independent International Fact-Finding Mission on Myanmar, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, 17 September 2018, UN Doc: A/HRC/39/64, <https://undocs.org/A/HRC/39/64>.

⁹ *Ibid.*, see also Human Rights Watch, 'Untold Miseries': War-time Abuses and Forced Displacement in Burma's Kachin State, 2012, <https://www.hrw.org/report/2012/03/20/untold-miseries/war-time-abuses-and-forced-displacement-burmas-kachin-state>; Amnesty International, 'All the civilians suffer': Conflict, Displacement and Abuse in Northern Myanmar, 14 June 2017, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1664292017english.pdf>; Amnesty International, 'No one can protect us': War crimes and abuses in Myanmar's Rakhine State, 29 May 2019, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1604172019english.pdf>; and Amnesty International, Myanmar: 'Caught in the middle': Abuses against civilians amid conflict in Myanmar's northern Shan State, 23 October 2019, <https://www.amnesty.org/en/documents/asa16/1142/2019/en/>.

¹⁰ ARTICLE 19, HRC45: Repression of free speech ahead of elections in Myanmar, 22 September 2020, <https://www.article19.org/resources/hrc45-repression-of-free-speech-ahead-of-elections-in-myanmar/>; and Human Rights Watch, Myanmar: Election Fundamentally Flawed, 5 October 2020, <https://www.hrw.org/news/2020/10/05/myanmar-election-fundamentally-flawed>.

¹¹ Nikkei Asia, Myanmar military-linked opposition demands election recount, 26 November 2020, <https://asia.nikkei.com/politics/myanmar-election/myanmar-military-linked-opposition-demands-election-recount>; The Irrawaddy, Myanmar military claims to find over 70,000 irregularities on voter lists, 24 December 2020, <https://www.irrawaddy.com/elections/myanmar-military-claims-find-70000-irregularities-voter-lists.html>; and The Irrawaddy, Claiming electoral fraud, Myanmar military and proxy party calls special parliament session, 11 January 2021, <https://www.irrawaddy.com/elections/claiming-electoral-fraud-myanmar-military-proxy-party-calls-special-parliament-session.html>.

¹² The Asian Network for Free Elections (ANFREL), The 2020 Myanmar General Elections: Democracy Under Attack: ANFREL International Election Observation Mission Report, 17 May 2021, <https://anfrel.org/anfrel-releases-2020-myanmar-general-elections-final-observation-mission-report/>.

¹³ The Irrawaddy, Myanmar Military Seizes Power, 1 February 2021, <https://www.irrawaddy.com/news/burma/myanmar-military-seizes-power.html>.

constitutional time limit on states of emergency.¹⁴ On 2 February, the military regime established the State Administrative Council (SAC), headed by Senior General Min Aung Hlaing, which functions as the ruling body of the military regime.¹⁵ Since then, the SAC has issued a range of orders and directives, including appointing new Union, State, and Regional Level Ministers, Supreme Court justices, and Union Election Commission officials.

Within days, people began protesting against the coup, demanding the release of detained politicians and the restoration of civilian rule. In the weeks that followed, hundreds of thousands took to the streets, while every evening people living in cities, towns, and villages across the country banged pots and pans in a clear sign of resistance.¹⁶ At the same time, a growing Civil Disobedience Movement (CDM) began to emerge, initially led by doctors and nurses, and then joined by civil servants, celebrities and social media influencers, education officials, and lawyers who refused to go to work. Trade unionists and labour activists also played a key role in mobilising private and public sector workers to engage in countrywide strikes, bringing the country's businesses, banks, and economy to a virtual standstill.¹⁷

Initially, the military permitted the protests. However, as they grew, and as the CDM gained more and more support, the security forces cracked down violently, targeting anyone seen to be resisting the coup. To date, more than 1,300 people have been killed while more than 10,000 have been arrested, more than 7,500 of whom remain in detention.¹⁸ Conflict has also flared in ethnic minority areas, in particular in Chin, Kachin, Kayah (Karenni), and Kayin (Karen) States. Tens of thousands have been displaced, exacerbating humanitarian needs in areas already ravaged by decades of armed conflict.¹⁹ From late May, a third wave of COVID-19 hit the country, intensifying the humanitarian crisis.

Against this backdrop, the Tatmadaw has continued to assert that there were voting irregularities during the elections, and on 27 July 2021, officially announced it had annulled the election result.²⁰ On 1 August, Senior General Min Aung Hlaing announced the formation of a 'caretaker government'—later renamed the 'Union Government'—with himself as the Prime Minister.²¹ Despite attempts to disband the NLD, parliamentarians elected in the November 2020 vote formed the Committee Representing the Pyidaungsu Hluttaw (CRPH) only days after the coup.²² On 16 April, the CRPH announced members of a National Unity Government (NUG) operating in parallel to the military regime.²³

¹⁴ Republic of the Union of Myanmar Office of the President Order Number (1/2021), 1 February 2021. Since the coup, the military has consistently justified its actions in terms of the 2008 Constitution, claiming that conditions in the country were sufficient to warrant a constitutional emergency. Article 417 grants the authority to assume power in situations which may 'disintegrate the Union,' 'disintegrate national solidarity,' or 'cause the loss of sovereignty.' However, legal scholars have argued that the military's declaration of the state of emergency was itself unconstitutional, this resulting in an 'illegal coup.' See for example, Melissa Crouch, The Illegality of Myanmar's Coup, 7 February 2021, <https://melissacrouch.com/2021/02/07/the-illegality-of-myanmars-coup/>.

¹⁵ Republic of the Union of Myanmar, Office of the Commander-in-Chief of Defence Services, Order No (9/2021), 6th Waning of Pyatho, 1382 ME 2 February 2021.

¹⁶ The Guardian, The nights of pots and pans are back, on Myanmar's fearful streets, 2 February 2021, <https://www.theguardian.com/global-development/2021/feb/02/the-nights-of-pots-and-pans-are-back-on-myanmar-fearful-streets>.

¹⁷ For post-coup events and implications, see International Crisis Group, The Cost of the Coup: Myanmar Edges Toward State Collapse, Asia Briefing No. 167, 1 April 2021, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/b167-cost-coup-myanmar-edges-toward-state-collapse>.

¹⁸ AAPF, information as of 25 November 2021, <https://aapfb.org/?p=18901>.

¹⁹ UN Office for the Coordination of Humanitarian Affairs, Myanmar Humanitarian Update No. 11, 1 October 2021, <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-11-1-october-2021>.

²⁰ Radio Free Asia (RFA), Myanmar's junta annuls 2020 election results, citing voter fraud, 27 July 2021, <https://www.rfa.org/english/news/myanmar/annulled-07262021204753.html>.

²¹ State Administration Council, Order No. 152/2021, 1 August 2021; and State Administration Council, Order No. 180/2021, 11 September 2021.

²² Committee Representing the Pyidaungsu Hluttaw, Announcement No. (1/2021) 8 February 2021, <https://crphmyanmar.org/declarationeng-1-2021-8-feb-2021/>.

²³ *Ibid.*; and Republic of the Union of Myanmar, Committee Representing the Pyidaungsu Hluttaw, Announcement Number 23/2021, 16 April 2021.



Photo: A police blockade in Yangon on 6 March 2021. By Myanmar Pressphoto Agency.

Civic space before the coup

While civic space has come under increasing threat since the coup—as discussed in detail in this report—it is important to highlight that even under the NLD administration, civil society groups, human rights defenders, activists, and others already operated in a restricted space. While some challenges stemmed from the military’s continuing power, including control over the security apparatus, the NLD government also took actions which undermined and restricted the role of civil society groups further.

Despite its parliamentary majority, the NLD failed to take effective action to abolish or amend a broad range of repressive colonial and military-era laws that had been used by previous regimes to target human rights defenders, civil society actors, and peaceful protesters. Rather, officials used many of these laws to prosecute civil society leaders and activists during its term.²⁴ Under the NLD, there was an explosion in the number of people charged with ‘online defamation’ under Section 66(d) of the Telecommunications Law, and in some cases, charges were brought by NLD officials against individuals who had criticised the party

²⁴ ARTICLE 19, Myanmar Briefing Paper: Criminalisation of Free Expression, May 2019, <https://www.article19.org/wp-content/uploads/2019/06/2019.06.6-A19-Criminalisation-of-Free-Expression-final.pdf>.

or State Counsellor Aung San Suu Kyi. Where the government did make efforts to amend problematic laws, these amendments failed to bring them in line with international human rights law and standards, and as a result, authorities continued to wield them against peaceful activists and government critics.

In addition to the risk of arrest and detention, human rights defenders, journalists, and civil society activists faced threats, monitoring, and surveillance in connection with their activities, in particular where they challenged powerful actors or military interests.²⁵ In some cases, activists and journalists were killed in connection with their work, however investigations were rare, and perpetrators were seldom brought to justice.²⁶ Such cases and the impunity that followed had a chilling effect on civil society.

Civil society groups also faced challenges in holding public events, meetings, and trainings. Local authorities often required such groups to seek advanced permission to hold events, and even those that were allowed to go ahead were subject to monitoring and surveillance.²⁷ Organisations working on sensitive issues such as human rights, military abuses, religious tolerance, and corruption were especially at risk of having their activities targeted or interrupted.²⁸

The NLD also restricted access to information and communication, especially after the government ordered an internet shutdown in conflict-affected areas in Rakhine and Chin States from 21 June 2019, threatening civilian safety, secure communications, human rights reporting, healthcare, aid delivery, and the local economy.²⁹ The NLD-controlled Ministry of Transport and Communications (MoTC) also ordered internet service providers to block access to hundreds of websites, including those allegedly disseminating ‘fake news.’ The banned websites included ethnic media outlets providing vital reporting on the COVID-19 pandemic and human rights issues as well as Justice for Myanmar, a campaign group exposing corruption and the economic interests of the Myanmar military.³⁰

The NLD government also restricted access for civil society groups and non-governmental organisations (NGOs) to conflict-affected areas, especially in Kachin, Rakhine, and Shan States. Humanitarian organisations were required to apply for permission to travel to specific areas—an extremely burdensome and bureaucratic process—to be able to access communities in need.³¹

²⁵ ARTICLE 19, Myanmar: Drop charges against Karen environmental activist Saw Tha Phoe, 12 March 2020, <https://www.article19.org/resources/myanmar-drop-charges-against-karen-environmental-activist-saw-tha-phoe/>; ARTICLE 19, Myanmar: Pattern of attacks on press freedom must end, 2 May 2018, <https://www.article19.org/resources/myanmar-pattern-attacks-press-freedom-must-end/>; and ARTICLE 19, Myanmar: Journalist reporting on illegal logging and corruption facing threats and harassment, 18 September 2017, <https://www.article19.org/resources/myanmar-journalist-reporting-on-illegal-logging-and-corruption-facing-threats-and-harassment/>.

²⁶ ARTICLE 19, Myanmar: Journalist investigating illegal logging killed, 16 December 2016, <https://www.article19.org/resources/myanmar-journalist-investigating-illegal-logging-killed/>; and the Guardian, Indigenous environmental campaigner killed by Myanmar government, 13 April 2018, <https://www.theguardian.com/environment/2018/apr/13/indigenous-environmental-campaigner-saw-o-moo-killed-by-myanmar-government-karen-state>.

²⁷ La Ring, Khin Sandar Nyunt, Nist Pianchupat, and Shaaazka Beyerle, Nonviolent Action in Myanmar: Challenges and Lessons for Civil Society and Donors, United States Institute of Peace, Special Report No. 483, September 2020, <https://www.usip.org/sites/default/files/2020-09/20200918-sr-483-nonviolent-action-in-myanmar-challenges-and-lessons-for-civil-society-and-donors-sr.pdf>.

²⁸ For example, in June 2016, the Ta’ang Women’s Organization was forced to cancel a press conference launching a report on abuses by the Myanmar army against civilians in Shan State, after local authorities in Yangon instructed hotels not to host the event because the group did not have permission. The Irrawaddy, Rangoon Authorities Ban Press Conference on Burma Army Torture, 27 June 2016, <https://www.irrawaddy.com/news/burma/rangoon-authorities-ban-press-conference-on-burma-army-torture.html>.

²⁹ ARTICLE 19, Myanmar: ARTICLE 19 urges Government to end Internet shutdown, 2 August 2019, <https://www.article19.org/resources/myanmar-article-19-urges-government-to-end-internet-shutdown/>.

³⁰ ARTICLE 19, Myanmar: Immediately lift ban on ethnic news websites, 1 April 2020, <https://www.article19.org/resources/myanmar-immediately-lift-ban-on-ethnic-news-websites/>; ARTICLE 19, Myanmar: Government order to block campaign website is a dangerous escalation of online censorship, 2 September 2020, <https://www.article19.org/resources/myanmar-government-order-to-block-campaign-website-is-a-dangerous-escalation-of-online-censorship/>.

³¹ Human Rights Watch, ‘An open prison without end’: Myanmar’s Mass Detention of Rohingya in Rakhine State, October 2020, pp. 111-118, <https://www.hrw.org/report/2020/10/08/open-prison-without-end/myanmars-mass-detention-rohingya-rakhine-state>; Amnesty International, ‘Caught in the middle’: Abuses against civilians amid conflict in Myanmar’s Northern Shan State, 24 October 2019, pp. 37-39, <https://www.amnesty.org/en/documents/asa16/1142/2019/en/>; Amnesty International, ‘No one can protect us’: War crimes and abuses in Myanmar’s Rakhine State, 29 May 2019, pp. 31-33, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1604172019english.pdf>; Fortify Rights, ‘They block everything’, Avoidable deprivations in humanitarian aid to ethnic civilians displaced by war in Kachin State, Myanmar, August 2018, https://www.fortifyrights.org/downloads/They_Block_Everything_EN_Fortify_Rights_August_2018.pdf; and Amnesty International, ‘All the civilians suffer’: Conflict, displacement and abuse in northern Myanmar, 14 June 2017, pp. 34-36, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1664292017english.pdf>.

Engaging people in positions of power was also challenging. After the NLD assumed power, civil society actors complained that it was difficult to secure meetings with NLD parliamentarians, especially if their organisations were not officially registered under the 2014 Law on the Registration of Organisations.³² There were also reports that NLD MPs had been instructed they could not meet with civil society activists without first obtaining party approval.³³ Civil society groups, in particular women's organisations and youth groups, also complained that they were regularly side-lined from the national peace process, including after the NLD assumed power.³⁴



Photo: An anti-coup protest held in front of a police guard in Yangon on 22 February 2021. By Myanmar Pressphoto Agency.

³² The Myanmar Times, Side-lining CSOs not the right path, 11 June 2018, <https://www.mmtimes.com/news/sidelining-csos-not-right-path.html>.

³³ The Myanmar Times, MP U Sein Win quits ruling NLD, citing lack of freedom, 27 June 2021, <https://www.mmtimes.com/national-news/26918-mp-u-sein-win-quits-ruling-nld-citing-lack-of-freedom.html>. See also, La Ring, Khin Sandar Nyunt, Nist Pianchupat, and Shaazka Beyerle, Nonviolent Action in Myanmar: Challenges and Lessons for Civil Society and Donors, United States Institute of Peace, Special Report No. 483, September 2020, pp. 9-11, https://www.usip.org/sites/default/files/2020-09/20200918-sr_483-nonviolent-action-in-myanmar-challenges-and-lessons-for-civil-society-and-donors-sr.pdf.

³⁴ The Myanmar Times, CSOs pine for seat at table, 26 August 2016, <https://www.mmtimes.com/national-news/22173-csos-pine-for-seat-at-table.html>; and The Myanmar Times, Youth ethnic alliance emerges after summit, 3 August 2016, <https://www.mmtimes.com/national-news/21733-youth-ethnic-alliance-emerges-after-summit.html>.

4. LEGAL AND ADMINISTRATIVE RESTRICTIONS

Beginning in the days following the coup, the Myanmar military has enacted a range of measures designed to clamp down on the anti-junta movement and stifle critical voices or dissent. Some of these measures involved changes to the legal framework, either reintroducing provisions that used to be on the books while the country was under military rule or expanding existing provisions to broaden the military's power to arrest, detain, and monitor individuals. These changes have severely impacted civil society groups, which face an extremely challenging operating environment.

The status of these new laws and regulations remains contested among civil society groups and activists who reject the coup and the SAC and assert that the military lacks legislative and regulatory authority. None the less, the military regime is using them as a basis to arrest, detain, and prosecute human rights defenders, civil society activists, and others, and thus their impact is likely to be felt for months and years to come.



Photo: Lady Justice performance protest in Thamine, Mayangone Township on 25 March 2021. By Myanmar Pressphoto Agency.

4.1 New and amended laws

'They say they are acting according to the law but there is no law anymore. The law is whatever they say it is.'

A human rights lawyer, who was forced to flee Myanmar after learning that he was 'wanted' by the military.³⁵

Within days of seizing power, the SAC began announcing a slew of orders and decrees, including additions and amendments to Myanmar's existing legal framework. Many of these sought to further restrict the space for freedom of expression, association, and peaceful assembly, either by introducing new criminal offences, reinstating legal provisions which had been abolished under the NLD, or removing safeguards from existing laws.

Penal Code and Code of Criminal Procedure amendments

On 14 February 2021, the military made several alarming changes to provisions in the Penal Code and the Criminal Procedure Code. A new provision—Section 505-A—added further grounds under which individuals can be detained and prosecuted. Under the new section, individuals who 'cause fear to the public,' 'spread false news,' or 'agitate directly or indirectly [for a] criminal offence against a Government employee' may be imprisoned for up to three years.³⁶ The crime established by the section is a 'non-bailable' offence. Under corresponding amendments to the Code of Criminal Procedure, authorities have the power to arrest individuals suspected of Section 505-A offences without a warrant.³⁷ The new provision is extremely broad and, as a result, grants authorities wide latitude to detain and prosecute individuals.

The SAC also expanded the pre-existing Section 505 of the Penal Code—'statements conducive to public mischief,' a provision used to target government critics under successive regimes—to expand the grounds for arrest and prosecution. A new Section 505(a) makes it a crime to attempt to 'hinder, disturb, damage the motivation, discipline, health and conduct' of military officials and government employees and cause 'hatred, disobedience or disloyalty'—a clear attempt to target those engaged in the CDM.³⁸

Since the coup, Section 505 and 505-A have been used to arrest and detain hundreds of people engaged in anti-coup protests.³⁹

The military has also amended other Penal Code provisions to facilitate the arrest and prosecution of people engaging in anti-coup activities or criticism of the military. The crime of 'sedition' in Section 124-A, which prohibited any statements or signs which 'bring into hatred or contempt' or 'excite disaffection' towards the government was expanded to include statements relating to the military and military personnel and the maximum penalty was increased from three to 20 years' imprisonment.⁴⁰

Two new Sections—124-C and 124-D—have been added to the Penal Code. Section 124-C provides up to 20 years' imprisonment and a fine for any person who intends to 'sabotage or to hinder the success of performance of the Defence Services and law enforcement organisations,' while Section 124-D provides up to seven years' imprisonment and a fine for any person who 'disrupts or hinders' Defence Services

³⁵ Interview, 15 June 2021.

³⁶ Republic of the Union of Myanmar State Administration Council, State Administration Council Law No (5/2021), Law Amending the Penal Code, 3rd Waxing of Tabodwe, 1382ME 14 February 2021, (SAC, Law No. 5/2021).

³⁷ Republic of the Union of Myanmar State Administration Council, State Administration Council Law No (6/2021), Law Amending the Code of Criminal Procedure, 3rd Waxing of Tabodwe 1382ME, 14 February 2021, (SAC Law No. 6/2021).

³⁸ SAC, Law No. 5/2021.

³⁹ See for example, AAPP, 2021 Coup Daily Briefings, available at: <https://aappb.org/?cat=109>.

⁴⁰ SAC, Law No. 5/2021. On 29 October senior NLD member Win Htein was the first person to be found guilty under the new provision and was sentenced to 20 years' imprisonment. Myanmar Now, NLD party stalwart Win Htein sentenced to 20 years in prison for sedition, 29 October 2021, <https://www.myanmar-now.org/en/news/nld-party-stalwart-win-htein-sentenced-to-20-years-in-prison-for-sedition>.

personnel and Government employees.⁴¹ Both provisions are excessively broad and clearly designed to target people participating in the CDM.

Ward and Village Tract Administration Law

One of the SAC's earliest legal amendments came less than two weeks after seizing power, when it revised the Ward and Village Tract Administration Law to require all households to register overnight guest with the local authorities.⁴² 'Guest registration' had been a requirement for all people in Myanmar until 2016 and was often used by previous military authorities as a pretext to conduct warrantless searches of residences and arrest and detain political activists and human rights defenders.⁴³ Removing provisions allowing for guest registration was one of the earliest legal amendments the NLD made after coming to power.⁴⁴

On 13 February 2021, the military reinstated the guest registration requirement, requiring all people in the country to notify their ward or village administrator when they have overnight visitors, and again when those visitors depart. Failure to do so carries a 10,000 kyat fine (approximately US\$6), and non-payment is punishable by up to seven days in prison. Registering the arrival and departure of guests is also included as a duty of local administrators.

By reinstating guest registration provisions, the military authorities clearly intend to rebuild a system of local surveillance, through which the actions, activities, and movements of ordinary people are continually monitored and recorded. The effect on civil society is chilling and also makes the situation for those fleeing arrest—and those who try to help them—even more precarious. Some activists said that the requirement had forced them to flee their homes or the safehouses they were seeking shelter in, while others said their organisations had been forced to close down some safehouse locations.⁴⁵ However, there are likely to be much wider and longer-term impacts for civil society groups—for example, an activist from a women's rights organisation explained it was now extremely difficult to provide shelter and safehouses to survivors of sexual and domestic violence:

*'Survivors don't want to go to a village or ward administration office—they get asked questions and have to provide their name and other personal details. They feel unsafe and worry that they might be found by their abusers.'*⁴⁶

Electronic Transactions Act amendments and proposed Cyber Security Law

On 9 February 2021, the military-controlled MoTC circulated a draft Cyber Security Law among telecommunications operators in the country. Comments were requested by 15 February. The draft was deeply problematic and contained a number of provisions incompatible with the rights to freedom of expression and privacy. That it was circulated so soon after the military's seizure of power was a clear indication that the junta was looking for ways to control the online space and tighten its grip both on ordinary people and telecommunications companies. The following day, 239 civil society organisations (CSOs) issued a joint statement rejecting the proposed bill—and the SAC's power to enact it.⁴⁷

⁴¹ SAC, Law No. 6/2021.

⁴² Republic of the Union of Myanmar State Administration Council, State Administration Council Law No (3/2021), Fourth Amendment of the Ward or Village-Tract Administration Law, 2nd Waxing of Tabodwe 1382 ME 13 February 2021.

⁴³ Fortify Rights, Midnight intrusions: Ending guest registration and household inspections in Myanmar, March 2015, https://fortifyrights.org/downloads/FR_Midnight_Intrusions_March_2015.pdf.

⁴⁴ The Myanmar Times, 'Midnight inspection' clause abolished by parliament, 20 September 2016, www.mmmtimes.com/index.php/national-news/22620-midnight-inspection-clause-abolished-by-parliament.html.

⁴⁵ Interviews, June-August 2021.

⁴⁶ Interview, 29 June 2021.

⁴⁷ 239 organisations, Civil society statement on the so-called 'Cyber Security Bill', 10 February 2021, <https://freeexpressionmyanmar.org/civil-society-statement-on-the-so-called-cyber-security-bill/>.

If enacted, the draft law would establish executive power over all aspects of cyber security policy, regulation, and investigation;⁴⁸ require online service providers to block or remove a wide range of information;⁴⁹ retain users' personal data for up to three years;⁵⁰ and criminalise a range of online actions, including creating fake accounts or websites with the intent of 'causing public panic, loss of trust or social division.'⁵¹

To date, the military council has not enacted the law. However, on 15 February it did make amendments to the Electronic Transactions Law, incorporating several problematic provisions from the proposed Cyber Security Law. This includes adding new crimes of creating 'misinformation and disinformation' with the 'intent of causing public panic, loss of trust or social division in cyberspace';⁵² inserting or installing 'dangerous malware';⁵³ and 'unauthorized' access to online material, such as hacking, with the intent to damage foreign relations.⁵⁴ All offences carry prison sentences.⁵⁵ The new provisions are extremely broad, and terms like 'public panic,' 'loss of trust,' and 'social division' are not clearly defined. As a result, they could easily be used to target human rights defenders, journalists, and others who report information about human rights, especially internationally, as well as whistle-blowers.

Other concerning provisions relate to data protection and management. While the amended law does contain some provisions requiring the protection of information and safe management of personal data, these are ill-defined. In addition, there are limits on the extent to which private corporations have to protect users' data, for example, if Myanmar authorities are engaged in 'enquiry, investigation, collecting information, coordinating information' on issues of 'stability of state sovereignty, public order, national security.'⁵⁶ This list of exceptions is so broad—and terms such as 'stability of state' and 'national security' so vague—that the law could easily be used to target human rights defenders, journalists, or others trying to report on the situation in Myanmar, violating their right to privacy.

Legal Aid Law

In addition to enacting or amending existing laws to facilitate the arrest and detention of people protesting the coup, the military administration has also sought to limit detainees' ability to obtain legal assistance. On 29 April 2021, the Military Council amended the Legal Aid Law, removing legal aid services for people in pre-trial detention.⁵⁷ Under amendments to Article 4(c), only individuals who have been formally charged or sentenced have the right to request legal aid. The change means that many of the thousands detained since the coup are ineligible for legal aid support, at least in the initial period of their detention. In addition to compromising their right to a fair trial, the amendment also removes a vital safeguard against torture and ill-treatment in custody.⁵⁸

Other amendments also undermine fair trial and due process rights. Under amendments to Section 2(b), vulnerable groups such as stateless people, asylum seekers, foreigners, and migrant workers are no longer entitled to legal aid services, while key safeguards relating to how long arrested individuals can be kept in custody have been removed. Lawyers who provide state-funded legal aid services are barred from

⁴⁸ Sections 5-8.

⁴⁹ Section 29.

⁵⁰ Section 30.

⁵¹ Chapter 15: Offences and Penalties.

⁵² Section 38(c).

⁵³ Section 38(d).

⁵⁴ Section 38(e).

⁵⁵ Sections 38(b) and 38(c) provide for between one and three years' imprisonment, Section 38(d) between two and five years' imprisonment, and Section 38(e) between three and seven years' imprisonment.

⁵⁶ Section 27(c).

⁵⁷ Amendment published in Burmese in *The Mirror*, 30 April 2021, p. 10, available at:

https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/KM_30.4.2021.pdf.

⁵⁸ See, International Commission of Jurists, Myanmar: amendments restrict legal aid for thousands of detainees, 21 May 2021, <https://www.icj.org/myanmar-amendments-restrict-legal-aid-for-thousands-of-detainees/>.

providing support in other legal cases, a clear attempt to limit the number of lawyers providing legal aid assistance in political cases, as many rely on private practice or civil litigation to supplement pro-bono or legal aid work. The revised law also expands the regime's control over legal aid organisations and providers by granting the military-controlled Union Supreme Court, and the Union Legal Aid Body under the Court's control, power to issue orders, directives, notifications, and procedures relating to legal aid.

The amendments are inconsistent with the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, which require all states to ensure the right to legal aid without discrimination on any grounds,⁵⁹ and to ensure effective legal aid is provided promptly at all stages of the criminal justice process.⁶⁰ While it is important to note that access to lawyers in Myanmar was limited even before the coup and that there were serious concerns about the effectiveness of the state funded legal aid system, the amendments are nonetheless alarming, especially in a context where many people struggle to afford lawyers and so often forgo legal representation.

There are questions about the extent to which the changes to the Legal Aid Law have impacted lawyers working on the ground. One interviewee working on legal aid assistance programmes explained that their interpretation was that it only applies to state funded legal aid assistance and that other privately funded legal aid would be able to continue uninterrupted.⁶¹ However, anecdotally, there are reports that police in some areas have cited the revised law as a reason to bar lawyers from accessing detained clients.⁶² The head of an NGO working on access to justice for marginalised communities indicated that the revision sent a clear message that the military would be paying greater attention to legal aid work, saying, *'Since the junta amended the law, we feel we can't do any legal representation work publicly. Instead, we are having to find other ways to support arrested individuals.'*⁶³

The Privacy Law

Another law that was swiftly amended after the coup is the Law Protecting the Privacy and Security of Citizens. The law—known more commonly as the Privacy Law—had been enacted in 2017 under the NLD-led administration. While the aim was ostensibly to protect citizens from surveillance and other invasions of their privacy—common under previous military governments—the law was deeply problematic as it contained a number of provisions that allowed for the criminalisation of freedom of expression. As a result, it was heavily criticised by civil society groups.⁶⁴

On 13 February 2021, the military council amended the law, removing certain safeguards against violations of the right to privacy, arbitrary arrest, and detention, and fair trial provisions.⁶⁵ While several of these legal safeguards remain in other laws—at least in theory—the fact that the military regime chose to amend the Privacy Law so soon after the coup provides yet more evidence of their intention to deny people's basic rights.

Television and Radio Broadcasting Law

Although the majority of legal changes were made in the weeks immediately following the coup, the junta has continued to announce changes to existing legislation, and on 1 November 2021, amended the

⁵⁹ UN General Assembly, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems: resolution / adopted by the General Assembly, 28 March 2013, A/RES/67/187, Principle 6, <https://undocs.org/A/Res/67/187>.

⁶⁰ *Ibid.*, Principle 7.

⁶¹ Interview, 1 October 2021.

⁶² Interview, 1 October 2021.

⁶³ Interview, 22 September 2021.

⁶⁴ Human Rights Watch: Burma: Privacy Law Used to Prosecute Critics, 12 January 2018, <https://www.hrw.org/news/2018/01/12/burma-privacy-law-used-prosecute-critics>; and Free Expression Myanmar, Privacy Amendment welcome but insufficient to address misuse of defamation, 7 September 2020, <https://freeexpressionmyanmar.org/privacy-amendment-welcome-but-insufficient-to-address-misuse-of-defamation/>.

⁶⁵ Republic of the Union of Myanmar State Administration Council, State Administration Council Law No (4/2021), Amendment of Law Protecting the Privacy and Security of the Citizens, 2nd Waxing of Tabodwe 1382 ME, 13 February 2021.

Television and Radio Broadcasting Law, expanding its scope and introducing criminal penalties.⁶⁶ Whereas the law had previously applied only to broadcasts over radio and television, the revised law now also applies to broadcasts using ‘any other technology,’ which could apply to broadcasts over the internet, including on social media.⁶⁷

‘Offences’ under the law previously punishable by hefty fines have been expanded to include criminal penalties. Broadcasting without a licence or broadcasting after a licence has been revoked or suspended now each carry up to five years’ imprisonment in addition to a potential 50 million kyat fine (approximately US\$30,000).⁶⁸ Meanwhile, broadcasting after a licence has expired and before it has been renewed now carries a sentence of up to one year in prison, in addition to a maximum fine of 10 million kyats (approximately US\$6,000).⁶⁹ Deliberate use of ‘wrong information’ in a licence application now carries a maximum prison sentence of three years in addition to a maximum 30 million kyat fine (approximately US\$18,000).⁷⁰ In addition, a new provision grants authorities wide latitude to arrest any person who fails to follow or breaches related bylaws, official notifications, orders, or directives. The charge is punishable with up to five years imprisonment and a fine.⁷¹ Under the amendment, all offences under the Television and Radio Broadcasting Law are ‘cognizable’ offences, meaning that police can make an arrest without a warrant.

The amendments to the Television and Radio Broadcasting Law represent a clear attempt to further restrict the work of journalists and media workers reporting on Myanmar. They appear especially designed to target media groups which have been banned by the regime, but none the less continue to report on the situation in the country.

4.2 Banning of civil society and media organisations

Another tactic of the military—and one which was commonly used during by the previous military junta—is the banning of organisations by declaring them ‘unlawful.’ Under Myanmar’s Unlawful Associations Act, members of groups designated as ‘unlawful’—or even those who contact or support such groups—risk arrest and imprisonment. The law has been frequently used to target journalists, members of ethnic minority communities, and individuals living in ethnic minority and conflict-affected areas in the past.⁷²

The Unlawful Associations Act

The Unlawful Associations Act is a colonial-era law that grants the President broad powers to declare ‘unlawful’ any association that interferes with the administration of the law or the maintenance of law and order or that constitutes a danger to the public peace. Designation of an association as ‘unlawful’ has reaching consequences for groups and individuals who interact with them.

Section 17(1) provides for two to three years’ imprisonment and a fine for any person who ‘is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives

⁶⁶ Republic of the Union of Myanmar State Administration Council, Second Amendment Law to the Television and Radio Broadcasting Law, State Administration Council Law No 63/2021, 12th Waning of Thadingyut 1383 ME, 1 November 2021.

⁶⁷ Section 2.

⁶⁸ Sections 3 and 6.

⁶⁹ Section 4.

⁷⁰ Section 5.

⁷¹ Section 7.

⁷² See for example, ARTICLE 19, Myanmar: Release journalists charged for reporting in armed conflict area, 28 June 2017, <https://www.article19.org/resources/myanmar-release-journalists-charged-for-reporting-in-armed-conflict-area/>; ARTICLE 19, Myanmar Briefing Paper: Criminalisation of Free Expression, May 2019, <https://www.article19.org/wp-content/uploads/2019/06/2019.06.6-a19-criminalisation-of-free-expression-final.pdf>; and Amnesty International, Myanmar: New expression meets old repression: Ending the cycle of political arrests and imprisonment in Myanmar, 24 March 2016, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1634302016english.pdf>.

or solicits any contribution for the purpose of any such association or in any way assists the operations of any such association.’ Section 17(2) provides for between three- and five-years’ imprisonment and a fine for any person who manages or assists in managing an unlawful association, or who promotes a meeting of any such association or its members.

On 26 February 2021, the SAC announced that 16 labour organisations had been designated ‘unlawful associations.’ According to state media, the 16 organisations were ‘not registered in line with the law and identified as illegal organisations,’ and their activities ‘do not conform to the law.’⁷³ The military council warned that those who continued to operate would face action in accordance with the law. Researchers spoke to leaders from two of the organisations who confirmed that they only heard their groups had been banned after it was broadcast on state television.⁷⁴

The banning of the 16 labour organisations came at a time where workers, in particular factory workers, were engaged in large scale protests against the military regime. In declaring these groups unlawful, the military council created a legal basis under which it could arrest and detain trade unionists and labour leaders, including protest organisers and participants. The announcement has made it much more difficult for labour organisations and activists to operate. Two leaders said they had had to shutter their respective offices and suspend most of their activities. *‘[Being branded an unlawful association] is an obstacle to implement our work because the employers claim that our organisation is illegal and not recognized by the government,’* said one of the activists, noting that since her organisation had been banned, workers had been afraid to communicate with them.⁷⁵

Military authorities have also targeted media organisations, and on 8 March 2021 state media announced that five domestic outlets—Democratic Voice of Burma (DVB), Khit Thit Media, Mizzima, Myanmar Now, and 7Day News—had their broadcasting licences revoked. According to state media, the five outlets were banned from publishing or broadcasting, including online.⁷⁶ The announcement was swiftly followed by raids on offices and newsrooms.⁷⁷ Local media groups, including ethnic news outlets, have also been targeted, and the military has extended bans to Kachin State outlets Myitkyina Journal and The 74 Media, Shan State-based Tachileik News Agency, as well as Delta News Agency.⁷⁸

When the media outlets continued to report the news, the military authorities intensified the crackdown on journalists and, in May, announced a ban on satellite dishes. State media reported that news outlets were using ‘illegal satellite dishes’ to broadcast programmes that ‘harm the state security, the rule of law and community peace and tranquillity and topics amounting to encourage those who commit high treason and rebellion to the State.’ It warned that those who install satellite dishes could face a one-year prison sentence or 500,000 kyat fine (approximately US\$300).⁷⁹

Human rights group the Assistance Association for Political Prisoners (AAPP) has also come under scrutiny by the military authorities. Since the security forces launched their violent crackdown on anti-coup

⁷³ The Global New Light of Myanmar, Announcement of illegal organizations, 2 March 2021, <https://www.gnlm.com.mm/announcement-of-illegal-organizations/>. Among those declared ‘unlawful’ were the All Burma Federation of Trade Union, Let’s Help Each Other, Future Light Centre, Action Labour Right, All Myanmar Trade Union’s Network, Agriculture Freedom of Myanmar, Association for Labour Development (ALD), Federation of Garment Workers Myanmar, Freedom and Labour Action Group, Labour Power Group, We Generation Network, Yaung Chi Oo Workers Association, Solidarity Trade Union of Myanmar (STUM), Cooperation Committee of Trade Unions (CCTU), All Myanmar Oil Workers’ Union, and the Industrial Women Workers Organization (IWWO).

⁷⁴ Interviews, June and July 2021.

⁷⁵ Interview, 29 June 2021.

⁷⁶ Global New Light of Myanmar, Five media banned from publishing: Mol, 9 March 2021, <https://gnlm.com.mm/five-media-banned-from-publishing-moi/>.

⁷⁷ See Section 6.1 Raids on offices and homes, p. 42.

⁷⁸ Frontier Myanmar, Journalism goes local as the junta shackles national media, 28 May 2021, <https://www.frontiermyanmar.net/en/journalism-goes-local-as-the-junta-shackles-national-media/>; and RFA, Amendments to telecommunications law reveal junta effort to curb press, 5 November 2021, <https://www.rfa.org/english/news/myanmar/amendment-11052021184421.html>.

⁷⁹ The Global New Light of Myanmar, Vol. VIII, No. 16: Public Information, 5 May 2021, https://cdn.myanmarseo.com/file/client-cdn/gnlm/wp-content/uploads/2021/05/5_May_21_gnlm.pdf.

protesters, AAPP has provided regular updates on human rights violations, including statistics on the number of people killed, arrested, and detained.⁸⁰ On 27 April 2021, the SAC issued a statement asserting that the group was not an officially registered organisation and thus had no legal standing in the country. The statement, which was issued just days after a meeting of the Association of Southeast Asian Nations (ASEAN), went on to criticise AAPP for publishing information 'not taken from accurate and correct information sources' but instead 'based on social media and rumours.'⁸¹ It accused AAPP of harming state stability, the rule of law, and restoration of law and order, in particular by causing public panic and inciting riots. While the statement stopped short of officially declaring the organisation 'unlawful' or announcing charges against the group, it made clear that AAPP and its staff were under close scrutiny. The organisation has since closed its Yangon office and its staff have been forced in to hiding.⁸²

The SAC has also attempted to ban the political entities established by democratically elected parliamentarians. On 21 March 2021, the SAC issued an order designating the CRPH and its affiliate groups 'unlawful' under the Unlawful Associations Act. In an official announcement published in state media, the military council attempted to justify the move stating that CRPH, its members, and affiliates 'constituted a danger to the rule of law, peace and stability of the State and public peace.'⁸³ On 8 May, the military council went still further, designating the CRPH, NUG, People's Defence Force (PDF), and all their subordinates as 'terrorist groups' under the 2014 Counter-Terrorism Law.⁸⁴

The Counter-Terrorism Law

The Counter-Terrorism Law contains extremely vague language, giving authorities wide latitude to arrest and imprison individuals suspected of being members of a designated 'terrorist' group, or of aiding or assisting a member of a terrorist group. Acts of terrorism under the law include:

- *Committing or failing to commit acts of 'terrorism' aimed at causing fear among the public, among other things (Section 3(b)(13));*
- *Persuading, propagating, or recruiting a person to join a 'terrorist' group or participate in 'terrorist' activities (Section 3(b)(15));*
- *Forming a 'terrorist group' or knowingly participating in a 'terrorist' group (Section 3(b)(16));*
- *Concealing, providing shelter, or hiding a member of a terrorist group (Section 3(b)(17)); and*
- *Allowing a member of a terrorist group to hold meetings or arrange transportation for them (Section 3(b)(18)).*

All of the above-mentioned provisions carry prison sentences. Section 3(b)(13) carries a minimum ten-year sentence which can extend to life imprisonment or even a death sentence, while Sections 3(b)(15-18) carry a minimum sentence of three and a maximum of seven years' imprisonment.'⁸⁵ Prior to the amendment, Section 3(b)(15) offences carried a maximum three-year prison sentence; the penalty was increased by the SAC on 1 August 2021.⁸⁶

The designation of the CRPH and the NUG as 'unlawful' and 'terrorist' organisations, respectively, has had a chilling effect on civil society groups in Myanmar wanting to engage with or support their democratically

⁸⁰ Available at: <https://aappb.org/>.

⁸¹ Government of the Republic of the Union of Myanmar Ministry of Home Affairs, Information released for Assistance Association for Political Prisoners-AAPP, 26 April 2021.

⁸² Interview, 1 October 2021.

⁸³ Republic of the Union of Myanmar Ministry of Home Affairs, Declaration of Unlawful Association, Order No 2/2021, 21 March 2021.

⁸⁴ Republic of the Union of Myanmar Anti-Terrorism Central Committee, Declaration of Terrorist Groups, Notification No 2/2021, 8 May 2021.

⁸⁵ See 2014 Counter-Terrorism Law, Chapter (14), Offences and Penalties, and Republic of the Union of Myanmar State Administration Council Law Amendment of Counter-Terrorism Law State Administration Council Law No 21/2021 9th Waning of Waso 1383 ME, 1 August 2021.

⁸⁶ Republic of the Union of Myanmar State Administration Council Law Amendment of Counter-Terrorism Law State Administration Council Law No. 21/2021 9th Waning of Waso 1383 ME 1 August 2021. See also, The Irrawaddy, Myanmar Coup Chief Amends Counterterrorism Law, 3 August 2021, <https://www.irrawaddy.com/news/burma/myanmar-coup-chief-amends-counterterrorism-law.html>.

elected officials. As a women's rights activist explained: *'Of course we are trying to support the CRPH and NUG in ways we can, but it is very risky. We have to work very quietly because the SAC announced that CRPH and NUG are unlawful associations. Even just engaging with them could mean we are imprisoned for 20 years.'*⁸⁷ Similarly, a journalist noted that the ban meant it was challenging to report on issues related to the organisations or seek their official comment. *'Even just contacting the NUG and CRPH can put you at risk,'* he said.⁸⁸



Photo: A protest in Yangon on 21 November 2021. Banner reads: 'Yangoner's strike.' By Myanmar Pressphoto Agency.

⁸⁷ Interview, 6 July 2021.

⁸⁸ Interview, 21 June 2021.

4.3 Internet Shutdowns

'The first day of the internet shutdown, I'll never forget it. No one knew what was happening... We were all so scared. Then, every night when the internet went off it was chaos. The military started night time raids, coming to people's homes and dragging them away. Shutting off the internet was like a terror tactic.'

A Myanmar journalist.⁸⁹

Another early action by the military authorities was to take control of the digital space. In the early hours of 1 February 2021, armed soldiers entered the offices of telecommunication operators and internet service providers and ordered them to shut off the internet, plunging the country in to digital darkness.⁹⁰ Data concerning network access through telecommunications providers showed a near-complete shutdown of connections starting soon after midnight.⁹¹

Days later, on 6 February, the military-controlled MoTC once again ordered all mobile operators to temporarily shut down mobile internet access. According to telecommunications operator Telenor, in the directive the MoTC confirmed the order was issued under Section 77 of the Telecommunications Law and stated that the action had been taken to stop the spread of misinformation and protect the stability of the nation.⁹² Voice and SMS services remained available, and services were restored the following day.

15 February marked the beginning of nationwide, nightly internet shutdowns between the hours of 1am and 9am.⁹³ The shutdowns, which saw internet connectivity levels drop sharply to around 16 percent of normal levels, lasted for 72 days until 28 April. Initially, the shutdowns affected mobile data, but on 17 March restrictions were broadened to block public Wi-Fi access, affecting public Wi-Fi hotspots in shopping centres and other public areas. Then, on 1 April, the military authorities blocked fixed wireless internet services, leaving only those with fixed line internet—such as fibre to the home (FTTH)—with network access.⁹⁴ Although connectivity was later restored, services were shut down for one hour on 4 June, coinciding with a press conference held by the NUG which was streamed online.⁹⁵

In recent months, the military has changed tactics and instead of sweeping internet shutdowns has imposed more targeted shutdowns in areas where anti-coup resistance has been especially strong. Since mid-August, local media and CSOs have reported temporary shutdowns in Chin, Kachin, and Rakhine States and Magway, Mandalay, and Sagaing Regions.⁹⁶ In some areas the shutdowns reportedly lasted several hours; in others days or even weeks.

The military authorities have never publicly announced the justification for these shutdowns, but it is highly likely that the legal basis is Section 77 of the Telecommunications Law, which provides that the MoTC:

⁸⁹ Interview, 23 June 2021.

⁹⁰ The New York Times, A digital firewall in Myanmar, built with guns and wire cutters, 23 February 2021, <https://www.nytimes.com/2021/02/23/world/asia/myanmar-coup-firewall-internet-china.html>.

⁹¹ ARTICLE 19, Unplugged in Myanmar: Internet restrictions following the military coup, 9 July 2021, p. 7, <https://www.article19.org/resources/unplugged-in-myanmar-internet-restrictions-following-the-military-coup/>.

⁹² Telenor, Data network restored in Myanmar, Update 7 February: Telenor Myanmar has restored the data network nationwide, following instruction from the MoTC, 6 February 2021, <https://www.telenor.com/media/press-release/myanmar-authorities-orders-nationwide-shutdown-of-the-data-network>.

⁹³ Following lobbying by businesses, this was later relaxed to 1:00am-6:30am on weekdays. See, International Crisis Group, Myanmar's Military Struggles to Control the Virtual Battlefield, Asia Report N°314, 18 May 2021, p. 16, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/314-myanmars-military-struggles-control-virtual-battlefield>.

⁹⁴ See, ARTICLE 19, Unplugged in Myanmar Internet restrictions following the military coup, 9 July 2021, p. 9, <https://www.article19.org/resources/unplugged-in-myanmar-internet-restrictions-following-the-military-coup/>.

⁹⁵ Nikkei Asia, Myanmar coup latest: Telenor 'evaluating' presence in country, 17 May 2021, last updated 4 July 2021, <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Myanmar-coup-latest-Telenor-evaluating-presence-in-country>.

⁹⁶ See for example, The Irrawaddy, Myanmar Junta Cuts Internet Access in Hpakant, 24 August 2021, <https://www.irrawaddy.com/news/burma/myanmar-junta-cuts-internet-access-in-hpakant.html>; RFA, Nearly Two Dozen Townships in Myanmar Without Internet as Military Tightens Restrictions, 24 September 2021, <https://www.rfa.org/english/news/myanmar/internet-09242021190423.html>; Myanmar Now, Military cuts off internet connection in 11 more townships in northwestern Myanmar, 25 September 2021, <https://www.myanmar-now.org/en/news/military-cuts-off-internet-connection-in-11-more-townships-in-northwestern-myanmar>; and Western News, Facebook post, 11 November 2021, <https://www.facebook.com/102405104899336/posts/407279061078604/>.

'[M]ay, when an emergency situation arises to operate for public interest, direct the licensee to suspend a Telecommunications Service, to intercept, not to operate any specific form of communication, to obtain necessary information and communications, and to temporarily control the Telecommunications Service and Telecommunications Equipments.'

Human rights and digital rights groups have previously raised concerns about Section 77, noting that it is excessively broad and fails to satisfy the legality requirement of the three-part test, used to determine whether a restriction on freedom of expression is permissible under international human rights law.⁹⁷ The provision had been used prior to the coup to restrict mobile data in Rakhine State from 21 June 2019 and to block specific websites from March 2020, including ethnic news media websites.⁹⁸ By making internet access the exception rather than the norm, the military council has violated the right to freedom of expression and access to information, which may only be restricted under limited conditions defined by international law.

The impact of the post-coup internet shutdowns on civil society—and people in Myanmar more broadly—was significant. Most immediately, it prevented people from accessing information about what was happening, creating chaos, confusion, and fear. It also made it difficult for people to safely gather information and report on human rights violations, exercise their rights to freedom of expression and peaceful assembly by organising protests, and engage in day-to-day activities such as online banking. For activists and others living outside Myanmar, the shutdowns added an extra dimension of stress and fear: *'I couldn't contact people at night, and then every morning, I'd text my family to make sure everyone was still safe,'* explained one activist whose father was detained on the day of the coup.⁹⁹

In parallel to shutting down mobile data and public Wi-Fi internet access, the military also immediately blocked access to certain websites. Just days after the coup, the MoTC issued a series of directives 'temporarily' blocking access to certain social media websites. This included blocking Facebook on 3 February and Twitter and Instagram two days later.¹⁰⁰ From early February onward, the Open Observatory of Network Interference (OONI) and others have also reported that a number of virtual private networks (VPNs) and related circumvention tools have been blocked in whole or in part.¹⁰¹ Once again, the legal basis has not been made public, but is believed to be Section 77 of the Telecommunications Law.

In general, and despite the directive to block websites, some people in Myanmar continue to use 'banned' websites and platforms via VPNs. However, multiple interviewees explained that even having Twitter or VPN applications on their phones and laptops puts them at risk, especially if they are searched by the military authorities. As a precaution, several said that they regularly remove these applications from their phones, and log out of social media and e-mail accounts, as the head of a CSO who had recently travelled between States for work explained:

*'Before travelling here, I deleted messages, signed out of my Gmail, and deleted Signal and my VPN apps. I reinstall these apps when we arrive in a secure location. Fortunately, no one checked my phone on the journey here, however it was always a risk which is why I deleted those apps from my phone. If you have Signal or VPN the authorities will be suspicious.'*¹⁰²

⁹⁷ ARTICLE 19, Briefing Paper: Myanmar's Internet Shutdown in Rakhine and Chin States, 2 August 2019, <https://www.article19.org/wp-content/uploads/2019/08/2019.08.01-Myanmar-Internet-Shutdown-briefing-pdf>; and ARTICLE 19, Myanmar: Telecommunications Law, 8 March 2017, <https://www.article19.org/data/files/medialibrary/38665/Myanmar-analysis--8-March-2017.pdf>.

⁹⁸ See, *Ibid.*; and ARTICLE 19, Myanmar: Immediately lift ban on ethnic news websites, 1 April 2020, <https://www.article19.org/resources/myanmar-immediately-lift-ban-on-ethnic-news-websites/>.

⁹⁹ Interview, 6 July 2021.

¹⁰⁰ Telenor, Directive to block social media service, 3 February 2021, <https://www.telenor.com/directive-to-block-social-media-service/>; and Telenor, Directive to block social media services Twitter and Instagram in Myanmar, 5 February 2021, <https://www.telenor.com/directive-to-block-social-media-services-twitter-and-instagram-in-myanmar/>.

¹⁰¹ ARTICLE 19, Unplugged in Myanmar Internet restrictions following the military coup, 9 July 2021, p. 9, <https://www.article19.org/resources/unplugged-in-myanmar-internet-restrictions-following-the-military-coup/>.

¹⁰² Interview, 3 July 2021.

4.4 Restrictions on gatherings; imposition of curfews



Photo: Protesters in Yangon on 13 March 2021. By Myanmar Pressphoto Agency.

The military council has also sought to restrict movement following the coup and on 8 and 9 February announced that Section 144 of the Code of Criminal Procedure would apply in townships across the country. In total, 129 townships were affected.¹⁰³ Section 144 empowers the authorities to 'issue temporary orders in urgent cases to nuisance or apprehended danger,' granting broad powers to restrict access to certain areas in order to prevent 'disturbance of the public tranquillity, or a riot, or an affray' among other things.¹⁰⁴ Failure to comply can result in prosecution and imprisonment of one month and a fine for first-time offenders.¹⁰⁵

¹⁰³ The Global New Light of Myanmar, Section 144 of Criminal Procedure imposed in Nay Pyi Taw territory and townships in States/Regions, 10 February 2021, <https://www.gnlm.com.mm/10-February-2021/>. Townships affected were in Ayeyarwady Region (26), Bago Region (3), Kachin State (6), Kayah State (1), Kayin State (3), Magway Region (5), Mandalay Region (8), Mon State (5), Sagaing Region (4), Shan State (9), Tanintharyi Region (7), and Yangon Region (44), as well as Naypyidaw Union Territory (8).

¹⁰⁴ Section 144, Code of Criminal Procedure. Section 144 has been frequently used in the past to restrict human rights defenders and activists, in particular land and environmental activists, from protesting against forced evictions, land confiscations, and other human rights abuses. It is also the basis for discriminatory curfews which restricted the freedom of movement of the Rohingya community following state-backed communal violence in 2012. See Amnesty International, Myanmar: Open for business? Corporate crime and abuses at Myanmar copper mine, 10 February 2015, pp 17-18, <https://www.amnesty.org/en/documents/asa16/0003/2015/en/>; and Amnesty International, Caged without a roof: Apartheid in Myanmar's Rakhine State, 21 November 2017, pp 44-45, <https://www.amnesty.org/en/latest/news/2017/11/myanmar-apartheid-in-rakhine-state/>.

¹⁰⁵ Entry or assembly in an area restricted by a Section 144 order has been treated as an offence under Section 188 of the Penal Code (failure to comply with the order of a lawfully empowered public servant).

According to state media, the imposition of Section 144 orders across the country meant that unlawful assemblies and protests were prohibited in affected townships—gatherings of more than five people in a public place were banned. In addition, a curfew came into effect between the hours of 8pm and 4am.¹⁰⁶

While the order did little to prevent people from gathering in public to protest against the coup, it nonetheless provides the legal basis for military authorities to arrest and detain people engaging in protest and anti-coup activities. It can also be used to target individuals who might not be engaging in protests but who are living in areas under Section 144 orders, meaning civil society groups and organisations undertaking ordinary activities such as meetings or other events are at risk. The imposition of curfews is also concerning as it restricts freedom of movement at night which has severe impacts on peoples' access to emergency medical treatment and can affect the ability of medical and other health workers from reaching patients in need.

4.5 Martial Law

In mid-February, as protests started to gather steam and the security forces began to crack down with force, the military council announced the imposition of martial law in several townships in Yangon and Mandalay.¹⁰⁷ In areas under martial law, authorities are able to prosecute peaceful protesters, civil society activists, journalists, and others in military courts, which are even less independent than ordinary courts and not open to the public.¹⁰⁸ As a result, it is extremely difficult for detainees to access lawyers, violating their right to a fair trial.

Martial law also empowers the authorities to hand down increased punishments including death sentences, prison sentences with hard labour 'for unlimited years,' or 'the highest punishment designated in accordance with respective crimes.'¹⁰⁹ According to Human Rights Watch, military courts have handed down more than 65 death sentences since seizing power.¹¹⁰ While Myanmar has not carried out an execution since the late 1980s, the fact that death sentences can be—and are being—imposed has further increased fears among civil society actors, as well as the wider population. *'One of my fears is being arrested unexpectedly and being accused of fabricated charges related to having a weapon, because under the law it would allow them to hand down a death sentence,'* said a labour rights activist.¹¹¹

¹⁰⁶ The Global New Light of Myanmar, Section 144 of Criminal Procedure imposed in some townships, 9 February 2021, <https://www.gnlm.com.mm/section-144-of-criminal-procedure-imposed-in-some-townships/>.

¹⁰⁷ Republic of the Union of Myanmar State Administration Council, Martial Law Order 3/2021, 3rd Waxing of Tabaung 1382 ME, 15 March 2021.

¹⁰⁸ See, Melissa Crouch, What are military tribunals in Myanmar?, 16 March 2021, <https://melissacrouch.com/2021/03/16/what-are-military-tribunals-or-special-criminal-courts-in-myanmar/>.

¹⁰⁹ Republic of the Union of Myanmar State Administration Council, Martial Law Order 3/2021, 3rd Waxing of Tabaung 1382 ME, 15 March 2021.

¹¹⁰ Human Rights Watch, Myanmar: Junta Tribunals Impose 65 Death Sentences, 21 July 2021, <https://www.hrw.org/news/2021/07/21/myanmar-junta-tribunals-impose-65-death-sentences>.

¹¹¹ Interview, 29 June 2021.

4.6 Financial and banking restrictions

'Financial transactions are difficult. Even if we have money in our accounts, it's difficult to withdraw because of restrictions on banks. The military is actively monitoring [NGO and CSO] bank transactions—they have already prevented some bank transfers... International transfers are especially monitored. Some CSO and CBO [community-based organisation] bank accounts have also been frozen.'

A civil society activist working with a grass roots organisation.¹¹²

'The military's control of the banks is critical. Before [in the 1990s and 2000s], people didn't really use the banks. That's changed a lot in the last few years... [now] the Tatmadaw can monitor NGO and CSO transactions and make things difficult them.'

A Myanmar expert, who documented human rights violations under the military regime in the 1990s and early 2000s.¹¹³

Monitoring of bank transfers and financial records

In addition to legal and administrative restrictions, the military council has also announced a range of changes to the financial and banking sector which have adversely impacted the operations of CSOs and placed them under increased scrutiny. Chief among these was the announcement in mid-March by the Central Bank of Myanmar (CBM)—which effectively came under military control on 1 February—that all national and international NGOs would be required to produce bank transaction records since 1 April 2016—the day the National League for Democracy assumed power.¹¹⁴

It is difficult to determine the extent to which military authorities are scrutinising bank accounts, and what level of resources—for example forensic accounting staff—the regime has allocated to go through such a large amount of information.¹¹⁵ However, several interviewees explained that either they or their partner organisations had faced increased financial scrutiny by bank and military personnel since the coup. *'Staff members at one of our partner organisations were called and questioned about the organisations' money and where it comes from,'* explained a member of an organisation that supports community and grassroots activism on human rights and the environment.¹¹⁶ Another activist operating in Mon State explained, *'Staff at our bank told us that the authorities were focusing on joint accounts, because a lot of CSOs use them. We don't go to the bank anymore... there's always a police officer or soldier stationed outside and if we go to the bank there is a risk we'll be questioned.'*¹¹⁷

The head of another CSO said that military authorities appeared to have used information from bank accounts to trace staff members from his organisation:

*'There are three people listed as joint account holders for our bank account, and we all had to put our addresses when we applied. For his security, one of my colleagues listed his [relative's] home address. No one else knew that address was linked to him, it's not listed anywhere else for any of this other documentation. But in mid-February military authorities came to his [relative's] house looking for him.'*¹¹⁸

The directive for increased scrutiny of international non-governmental organisation (INGO) and NGO accounts came within a few days of state media announcing that the military council had issued warrants

¹¹² Interview, 23 June 2021.

¹¹³ Interview, 23 June 2021.

¹¹⁴ The Irrawaddy, Myanmar Regime Seizes Bank Accounts of Soros' Open Society Foundation, 16 March 2021, <https://www.irrawaddy.com/news/burma/myanmar-regime-seizes-bank-accounts-soros-open-society-foundation.html>.

¹¹⁵ Interview, 15 September 2021.

¹¹⁶ Interview, 7 July 2021.

¹¹⁷ Interview, 6 July 2021.

¹¹⁸ Interview, 28 June 2021.

for the arrest of staff members of the large philanthropic foundation Open Society Foundations in Myanmar (known in Myanmar as Open Society Myanmar or OSM), accusing the group of violating foreign currency transaction laws.¹¹⁹ The organisation's bank accounts in Myanmar were frozen, while arrest warrants were issued for 11 members of staff. The group's financial manager was arrested and remains in detention.¹²⁰

In addition to OSM, the military has also targeted several other CSOs, accusing them of financial irregularities and corruption and freezing their banks accounts. This includes the Daw Khin Kyi foundation, established by Aung San Suu Kyi, which came under increased scrutiny in the days immediately following the coup.¹²¹ Allegations of corruption linked to the foundation underlie one of the military's many politically motivated charges against the leader.¹²² Also targeted was the Free Funeral Services Society (FFSS), which is accused of 'misusing' donations providing money to CDM supporters. Two people, the founder and financial officer, are both in hiding, having each been charged under Section 505(a) of the Penal Code.¹²³

Civil society leaders from multiple organisations explained that the targeting of these organisations—and the directive demanding checks to non-governmental accounts—has made them much more wary about using their banks, including to make and receive transfers.¹²⁴ Some have stopped using their organisational bank accounts altogether, fearing that doing so might draw attention and make them a target for the military. Others expressed fears that they would be targeted if military authorities discovered they had received foreign funding, in particular from organisations in the US, UK, and EU. This is particularly the case for organisations working on sensitive issues such as human rights and elections.

In addition to the CBM directive, a new interpretation of banking regulations relating to foreign currency transfers has also created challenges for civil society groups and organisations. Under the new interpretation, any transfer of more than US\$10,000 must be approved by the CBM's Foreign Exchange Management Department before it can be credited to an account. As a result, any large transfers are subject to greater scrutiny, placing civil society groups at greater risk. Several groups explained that they no longer made large transfers and instead had to send and receive money in smaller tranches, which is both time consuming and can incur additional fees. Organisations that continue to make or receive large foreign currency transfers are subject to a range of administrative requirements, and the process can be subject to significant delays.

The ability to seek, secure, and use resources—including financial resources—is essential for CSOs to function effectively, regardless of their size or the nature of their work. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has held that the ability of individuals and legal entities to access resources—whether human, material, or financial—from domestic, foreign, and international sources, is an essential component of the right to freedom of association.¹²⁵ The Special Rapporteur has also noted that legal frameworks and policies related to resources can both strengthen and sustain associations or alternatively can hinder their operations and weaken their effectiveness.¹²⁶

¹¹⁹ The Global New Light of Myanmar, Illegal cash flow from George Soros and Alexandra Soros to Open Society Myanmar frozen, 16 March 2021, <https://www.gnln.com.mm/illegal-cash-flow-from-george-soros-and-alexandra-soros-to-open-society-myanmar-frozen/>.

¹²⁰ Open Society Foundations, Open Society Foundations Call for Immediate Release of OSM Staff Member in Myanmar, 17 March 2021, <https://www.opensocietyfoundations.org/newsroom/open-society-foundations-call-for-immediate-release-of-osm-staff-member-in-myanmar>.

¹²¹ The Irrawaddy, Myanmar Military Regime Probes Finances of Daw Aung San Suu Kyi's Charity, 11 February 2021, <https://www.irrawaddy.com/news/burma/myanmar-military-regime-probes-finances-daw-aung-san-suu-kyis-charity.html>.

¹²² Reuters, Myanmar authorities open new corruption cases against Suu Kyi, 11 June 2021, <https://www.reuters.com/world/asia-pacific/myanmar-authorities-open-new-corruption-cases-against-suu-kyi-2021-06-10/>.

¹²³ The Irrawaddy, Myanmar Military Sues Charity for Supporting Civil Servants on Strike, 8 March 2021, <https://www.irrawaddy.com/news/burma/myanmar-military-sues-charity-supporting-civil-servants-strike.html>; and Frontier Myanmar, 'The military is hunting us': volunteer medics in the crosshairs, 22 April 2021, <https://www.frontiermyanmar.net/en/the-military-is-hunting-us-volunteer-medics-in-the-crosshairs/>.

¹²⁴ Interviews May-July 2021.

¹²⁵ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 24 April 2013, UN Doc: A/HRC/23/39, para. 8, <https://undocs.org/A/HRC/23/39>.

¹²⁶ *Ibid.*, para. 9.

Undue restrictions on associations, such as laws and policies that hinder their ability to seek, secure, and use resources, not only impacts the work of the organisation, but also has a wider, adverse impact on human rights, in particular where they limit organisations' ability to promote human rights or engage in service delivery, for example through humanitarian assistance, provision of health care, and environmental protection.¹²⁷

Bank closures and limits on cash withdrawals

'Our day-to-day finances have been massively affected. It is so difficult to get money. When we find out which ATMs are working, we have to run to get there to try to withdraw cash. Sometimes staff have to go at 4am to queue outside the bank. After, they sometimes only have a few hours of work left in the day.'

*The Executive Director of an NGO.*¹²⁸

Soon after the coup, banks across the country were forced to close after thousands of workers began engaging in the CDM. Around 2,000 bank branches closed, bringing the country's economy to a standstill, and making it almost impossible for people to withdraw cash or make online transfers.¹²⁹ When banks did reopen—in some cases following threats of 'legal action' by the Tatmadaw—there were several runs on military-owned banks, with people worried about their savings or keen to boycott military-linked companies and institutions.¹³⁰

The volatile financial situation and growing pressure on banks led the CBM to issue a directive limiting cash withdrawals. The directive came into effect on 1 March 2021, capping daily ATM withdrawals at 500,000 kyats (approximately US\$300), down from 1 million kyats (approximately US\$600), which had previously been the daily maximum. In addition, the CBM directive limited how much cash could be withdrawn from individual accounts to 2 million kyats (approximately US\$1,200) per week, and from corporate accounts to 20 million kyats (approximately US\$12,000) per week.¹³¹ While the restrictions were put in place due to the limited availability of cash, the CBM has itself been restricting the supply of kyat notes to the banks, likely as the result of a political decision by the regime in the belief that limiting access to bank deposits and cash would undermine CDM and the broader resistance movement.¹³²

The move did little to alleviate pressure, and customers continued to queue outside banks and at ATMs to withdraw money from their accounts, often in defiance of the curfew. ATMs quickly ran out of cash, and since then, some banks have lowered the daily and weekly limits still further. Several interviewees said their banks only permitted them to withdraw 200,000 kyats (approximately US\$120) from ATMs per day and up to 3 million kyats (approximately US\$1,800) per week from corporate accounts.¹³³ Meanwhile, several banks limited the number of people that could make daily withdrawals by operating a token system. Only those who have a token—usually distributed early in the morning and limited in number depending on the size of the branch—can enter the bank and withdraw cash.¹³⁴

The difficulties accessing cash has had significant adverse impacts on CSOs. Most immediately, it has made it more difficult to pay staff and contractors, especially where they are not able to send or receive money online. It has also made operations much more challenging. Humanitarian organisations have

¹²⁷ *Ibid.*

¹²⁸ Interview, 3 July 2021.

¹²⁹ Frontier Myanmar, Military piles pressure on private banks to reopen—or else, 23 March 2021, <https://www.frontiermyanmar.net/en/military-piles-pressure-on-private-banks-to-reopen-or-else/>.

¹³⁰ The Irrawaddy, Customers Flock to Withdraw Cash From Myanmar Military-Owned Banks, 16 February 2021, <https://www.irrawaddy.com/news/burma/customers-flock-withdraw-cash-myanmar-military-owned-banks.html>.

¹³¹ The Irrawaddy, Myanmar Central Bank Limits ATM Transactions, Account Withdrawals, 1 March 2021, <https://www.irrawaddy.com/news/burma/myanmar-central-bank-limits-atm-transactions-account-withdrawals.html>.

¹³² Interview, analyst with knowledge of the banking sector, 30 November 2021.

¹³³ Interviews, May-July 2021.

¹³⁴ *Ibid.*

struggled to provide cash assistance or purchase local goods, such as food and non-food items, to support communities in need.¹³⁵

Interviewees described how they and their colleagues often had to queue for hours at a time to try to withdraw cash to support their work. The amount of time it takes to withdraw cash has knock-on negative impacts on their ability to do other work. Several interviewees also noted security concerns for NGO and CSO staff queuing outside banks, not least when they are trying to keep a low profile and limit the amount of time they spend outside.¹³⁶ It also makes it difficult for people with security concerns to relocate. For people with children or other dependents, the situation is even more challenging.¹³⁷

Coping mechanisms

With large international bank transfers risky, and withdrawing cash challenging, NGOs, INGOs, and CSOs have had to find new ways to receive funds, pay their staff, and conduct their activities. Some have resorted to using informal trust-based networks which rely on established links between individuals and businesses in different countries to transfer funds. These networks have operated for decades and have been used regularly by migrant workers to send remittances as well as to make cash transfers during the previous military regime. Other CSOs have used 'mobile money' companies, transferring money online which is then collected in cash from a number of vendors, although mobile money agents also often face a lack of liquidity.

While many CSOs are moving to these less-formal mechanisms, they can be fraught with challenges and often result in additional fees for foreign currency transactions. Fees can vary but can reach as high as 10-11 percent.¹³⁸ In addition, as cash has become more scarce, mobile money companies have at times struggled to secure enough cash to pay recipients in Myanmar, and there have been reports of some vendors unofficially charging additional fees or higher interest rates.¹³⁹

In most cases, civil society groups explained that they had to absorb these additional costs, meaning that they had less money to support their work and overall operations. *'We have to cover the costs of the additional fees,'* explained a civil society activist working in Mon State. *'We are lucky that some donors have given additional grants to cover the bank and transaction fees, but others haven't, and in those cases, we have to pay the fees ourselves.'*¹⁴⁰

¹³⁵ *Ibid.*

¹³⁶ Interviews, June and July 2021.

¹³⁷ Interview, 6 July 2021.

¹³⁸ Interviews, June and July 2021.

¹³⁹ See for example, Wave Money, Facebook post, 21 May 2021, https://m.facebook.com/story.php?story_fbid=1546530585517694&id=297770690393696.

¹⁴⁰ Interview, 6 July 2021.

5. ARREST AND DETENTION

A key tactic the military has used to clamp down on anti-coup protests and civil society groups who support them has been arrest and detention. According to the AAPP, as of 25 November 2021, more than 10,000 people have been arrested by the military regime since the coup, 7,500 of whom remain in detention.¹⁴¹ The vast majority have been arrested in Yangon and Mandalay Regions in central Myanmar. However, there have also been significant arrests in Sagaing, Bago, and Tanintharyi Regions. Those detained include prominent civil society activists, protesters, labour activists, student leaders, journalists, lawyers, doctors, and other medical professionals and humanitarian workers.

5.1 Early arrest or attempted arrest of prominent civil society leaders

Although most of those arrested on 1 February 2021 were NLD officials, the military also targeted several prominent civil society leaders and activists. This included a well-known filmmaker and pro-democracy activist, famous writers and singers, and monks.¹⁴²

Among those detained on 1 February was Mya Aye, a prominent political activist and leader of the 88 Generation. The 88 Generation is a prominent activist network founded by the student leaders of pro-democracy protests in 1988. Mya Aye was arrested at his home in Yangon on the morning of the coup—CCTV footage captured the moment he was led away by men in military uniforms at around 5:30am.¹⁴³ His fate and whereabouts remained unknown for two months, and it was not until 1 April that his family learned he was being detained in Yangon's Insein prison. He was subsequently charged with 'intent to incite' the commission of an offence 'against any other class or community' under Section 505(c) of the Penal Code.¹⁴⁴ The charge relates to a 2014 e-mail he sent about his work with ethnic armed groups while working to support peace and reconciliation in the country. The e-mail was found on his phone, which was seized and searched by security forces. However, his family have raised concerns about how security forces were able to access the message, as Mya Aye did not give over his password and had deleted old e-mails in anticipation of the coup.¹⁴⁵

Soon after, the military attempted to arrest other prominent figures, announcing on 13 February that warrants had been issued for the arrest of seven people, including other 88 Generation leaders. The statement accused the activists of 'using their popularity to incite the people with their writing and speeches through social media and social networks to destroy the state's law and order.'¹⁴⁶

The arrests of Mya Aye, and other prominent leaders in the days after the coup was a clear indication that the regime sought to prevent influential figures from mobilising protests against the military. However, several analysts noted that compared to previous military regimes, the number of civil society activists and leaders arrested was fairly limited in the days initially following the coup, suggesting that the junta did not have sufficient information about who would likely be involved in any counter-coup activity. *'The security forces didn't really know who was who,'* observed one Myanmar analyst. *'They were starting from quite a limited intelligence base.'*¹⁴⁷ Another long-time Myanmar researcher agreed, saying:

¹⁴¹ AAPP, information as of 25 November 2021.

¹⁴² AAPP, Recent Arrests List CSOs (Last Updated on 7 Feb 21), <https://aappb.org/wp-content/uploads/2021/02/Recent-Arrests-List-CSOs-Last-Updated-on-7-Feb-21.pdf>.

¹⁴³ See, VOA News, Security Cam Shows Myanmar Activist Arrest, YouTube, 2 February 2021, <https://www.youtube.com/watch?v=vQMm22q27A>.

¹⁴⁴ Note, this charge is under Section 505(c) prior to the amendments to Section 505 of 14 February 2021.

¹⁴⁵ Interview, 6 July 2021.

¹⁴⁶ Myanmar Now, Junta issues arrest warrants for Min Ko Naing and other prominent activists, 14 February 2021, <https://www.myanmar-now.org/en/news/junta-issues-arrest-warrants-for-min-ko-naing-and-other-prominent-activists>.

¹⁴⁷ Interview, 15 September 2021.

‘Back in the late 80s and 90s, they [the military regime] knew exactly who to pick up and where everybody lived... it’s one of the reasons they had to reinstate a lot of those monitoring provisions. They just didn’t have the level of intelligence they used to.’¹⁴⁸



Photo: A student union protest in Yangon on 7 July 2021. Banner reads: ‘In the spirit of 7 July 1962, let’s fight and root out the military dictatorship.’ By Myanmar Pressphoto Agency.

5.2 Targeting of specific civil society groups

As described above, the military has arrested many civil society activists for their participation in peaceful protests or support for the CDM. However, the military has also targeted civil society groups involved in other activities that threaten the military’s interests or authority. Activists and CSO members have been arrested for drawing attention to military violations, providing assistance to detainees, and trying to provide services and other support to people impacted by the coup and the COVID-19 pandemic. Most have been charged under the new Section 505-A of the Penal Code. However, the military has also used other repressive laws and some remain behind bars without charge, with the basis for their detention unclear.

¹⁴⁸ Interview, 23 June 2021.

Journalists and media workers have been particularly targeted for arrest and detention since the military began its violent crackdown on protesters in towns and cities across the country. To date, at least 126 journalists and media workers have been arrested, and some 53 of them are still in detention either serving prison sentences or else facing politically motivated charges.¹⁴⁹ At least 32 others are in hiding after warrants were issued for their arrest.¹⁵⁰ Among those arrested have been journalists reporting on protests, writing articles about military abuses, and those working for or suspected of being linked to so-called 'banned media organisations.' The military has sought to control the media by threatening journalists with arrest and prosecution if they use the terms 'military council,' 'military junta,' or 'junta.'¹⁵¹

The military has also targeted labour activists and trade unionists for arrest and detention, in particular in areas where factory workers have gone on strike and protested against the coup. Several prominent labour and trade union leaders were detained in March and April 2021 after factory workers participated in large scale anti-military protesters. One—the director of a trade union organisation—had played an active role in the CDM and was a key figure organising and mobilising workers to protest the against the coup. She was charged under Section 505 and released on 18 October. Other members of her organisation were also targeted for arrest.¹⁵² Labour and trade union activists in other parts of the country have also been targeted, and some have been forced into hiding. A female labour activist told the researchers that she was facing several charges since the coup, including 'incitement' under Section 505 of the Penal Code and violating the Natural Disaster Management Law. *'The work of labour activists is getting risky. There are a lot of enemies everywhere... Since I have been charged, I have gone into hiding because I don't want to harm my family members.'*¹⁵³

Security forces have also targeted doctors and health workers. Insecurity Insight, Physicians for Human Rights, and the Center for Public Health and Human Rights at Johns Hopkins Bloomberg School of Public Health estimate that 210 health workers were arrested in Myanmar between 1 February and 30 September 2021.¹⁵⁴ Arrests continued even at the height of the third wave of COVID-19, which hit the country from late May. A doctor told researchers that one of his colleagues who was participating in the CDM, was arrested in April after providing medical treatment to people in need. The colleague was subsequently charged under Section 505 of the Penal Code. *'After my volunteer colleague was arrested, I went in to hiding and stayed at a relative's house silently for a month,'* he said.¹⁵⁵

Arrest of doctors and health workers take place in a wider context of attacks on medical professionals and facilities. According to the World Health Organization, there have been 281 attacks on health workers in Myanmar since 1 February.¹⁵⁶ These include attacks on medical personnel, medical facilities, and transport routes. The military is believed to be responsible for the vast majority of these attacks.

Although not targeted in the same way as other civil society actors, lawyers and legal professionals are also at risk of arrest and detention. According to AAPP, the military regime has arrested at least 24 lawyers since the coup, 15 of whom remain in detention.¹⁵⁷ This number mainly includes individuals participating in

¹⁴⁹ AAPP, information as of 25 November 2021.

¹⁵⁰ *Ibid.*

¹⁵¹ The Global New Light of Myanmar, Announcement, 30 June 2021, p. 3, <https://www.gnlm.com.mm/30-June-2021/>.

¹⁵² Interview, 25 June 2021.

¹⁵³ Interview, 29 June 2021.

¹⁵⁴ Insecurity Insight, Physicians for Human Rights, and the Center for Public Health and Human Rights at Johns Hopkins Bloomberg School of Public Health, Violence Against or Obstruction of Health Care in Myanmar February-September 2021, 26 October 2021, <https://phr.org/wp-content/uploads/2021/10/Violence-Against-Health-Care-in-Myanmar-February-September-2021-October-update.pdf>. The study is based on open-source data.

¹⁵⁵ Interview, 6 July 2021.

¹⁵⁶ See, World Health Organization, Surveillance System for Attacks on Health Care, <https://extranet.who.int/ssa/Index.aspx>, accessed 2 December 2021.

¹⁵⁷ AAPP, information as of 25 November 2021.

anti-junta protests, however at least five lawyers have been arrested after defending clients accused on politically motivated charges.

Such arrests are a blatant attempt to intimidate and obstruct lawyers from doing their work and defending the rights of their clients. They are also clearly designed to send a message to other legal professionals and warn them against representing clients accused of resisting the coup. One human rights lawyer explained:

*'All lawyers are at risk under the junta, especially the young lawyers who are providing pro bono legal assistance to political dissidents. The military says they don't target lawyers who represent people in political cases, but we know that's not true.'*¹⁵⁸

In recent months, military authorities have barred lawyers representing State Counsellor Aung San Suu Kyi from speaking to the media, foreign diplomats, and international organisations. In August, a member of her legal team was reportedly forced to sign a document pledging not to talk publicly about the case.¹⁵⁹ Since then, at least four other members of the team have been similarly barred from speaking publicly about the case.¹⁶⁰ According to local media, the order has been issued under Section 144 of the Code of Criminal Procedure, which allows authorities to issue temporary orders in urgent cases to prevent 'obstruction, annoyance or injury.' As noted earlier, failure to comply with a Section 144 order can result in prosecution and imprisonment of one month and a fine for first-time offenders.¹⁶¹

The role of lawyers

Lawyers play a vital role in defending the rights of individuals in the criminal justice system and ensuring respect for the rule of law. International human rights standards are clear that lawyers should not be penalised for statements and actions made in good faith in the course of their work as lawyers, in particular during professional appearances before a court, tribunal, or other legal or administrative body.

The UN Basic Principles on the Role of Lawyers call on all governments to ensure that lawyers 'are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference' and 'shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.'

Other lawyers have been forced into hiding or to flee the country after being targeted by military authorities. A prominent lawyer was forced to flee his home in Yangon after learning that security forces planned to arrest him on the evening of 7 March. Another human rights lawyer explained that he fled his house on the night of the coup after being warned that authorities were looking for him. He spent more than four months in hiding and only returns home when he is representing clients in court.

5.3 'Wanted' lists

'Broadcasting the names of 'wanted' people on TV... showing pictures of people who have been tortured in detention... it's a clear attempt to terrorize. They want people to be afraid.'
*The head of a human rights organisation operating in southeastern Myanmar.*¹⁶²

¹⁵⁸ Interview, 2 July 2021.

¹⁵⁹ The Irrawaddy, Myanmar Regime Bars Aung San Suu Kyi's Lawyer From Talking to Media and Foreigners, 10 August 2021, <https://www.irrawaddy.com/news/burma/myanmar-regime-bars-aung-san-suu-kyis-lawyer-from-talking-to-media-and-foreigners.html>.

¹⁶⁰ The Irrawaddy, Myanmar Junta Bars Another Suu Kyi Lawyer From Talking to Media, 25 October 2021, <https://www.irrawaddy.com/news/burma/myanmar-junta-bars-another-suu-kyi-lawyer-from-talking-to-media.html>.

¹⁶¹ See, Section 4.4 Restrictions on gatherings; imposition of curfews, p. 29.

¹⁶² Interview, 29 June 2021.

Another tactic to threaten and intimidate civil society activists—and the population more broadly—has been the publication of so-called ‘wanted’ lists. From early April, state media began printing the names, photographs, and in some cases street addresses of people it accused of ‘internationally committing incitements to the government employees to join CDM,’ showing support to the ‘unlawful’ CRPH, and sharing information to provoke unrest on social media.¹⁶³ According to state media, those named had been charged with ‘incitement’ under the new Section 505-A of the Penal Code. For several weeks afterwards, new lists each containing the names of 20 people were published in state media and broadcast at night on state run television.

Initially, the lists focused on prominent figures, including celebrities, actors, musicians, and social media influencers believed to be supporting the CDM. The lists quickly expanded to include civil society activists, journalists, doctors, and student leaders engaged in the CDM.¹⁶⁴ Many of those named on the lists were forced into hiding.

Youth activist Thinzar Shunlei Yi was among those whose names appeared on the ‘wanted’ lists. *‘It was mid-April when they announced on TV that I was charged with [Section] 505-A,’* she explained.¹⁶⁵ For her, finding out that she had been charged was not a surprise—she had heard from a confidential source that her name was on the list of wanted people and had fled to a safer place. *‘I knew it was only a matter of time before my name appeared on the nightly lists. They want us to go silent and to let us know they are watching,’* she said.¹⁶⁶

Others whose names appeared on the lists also had to flee. However, the safety of family and friends remains a serious concern. A journalist whose was designated a ‘wanted’ individual in early April explained: *‘After they announced my name on the TV, I unfriended my brother on social media and deleted pictures of my family and friends. Even now, my family are really worried for their safety.’*¹⁶⁷

The fact that those named were charged under Section 505-A constitutes a clear violation of their right to freedom of expression, as the provision is vaguely worded and inconsistent with international human rights law. In addition, the publication of individuals’ photographs and home addresses violates their right to privacy and places them at risk of vigilante or other attacks by pro-military supporters or proxies.

5.4 Fair trials and conditions in detention

In recent months, evidence has begun to mount concerning the widespread torture and ill-treatment of those arbitrarily detained since the coup. An investigation by Associated Press, which involved interviews with military defectors, found that torture of detainees was ‘methodical and systemic’ in military bases, interrogation centres, and prisons.¹⁶⁸ Human rights organisations and other media organisations have also documented torture and ill-treatment in detention. Recently released detainees reported being subjected to beatings, sleep deprivation, withholding of food and water, and in at least one instance, a mock burial.¹⁶⁹ Women detainees, including transgender women, have also reportedly been subjected to torture and other

¹⁶³ The Global New Light of Myanmar, Those spreading news to affect State stability charged under Section 505-A, 6 April 2021, p. 11, <https://www.gnlm.com.mm/6-April-2021/#article-title>.

¹⁶⁴ See The Global New Light of Myanmar, issues from 6 April—20 April 2021, available at: <https://www.gnlm.com.mm/>.

¹⁶⁵ Interview, 23 June 2021.

¹⁶⁶ Interview, 23 June 2021.

¹⁶⁷ Interview, 23 June 2021.

¹⁶⁸ Associated Press, Myanmar military uses systematic torture across country, 28 October 2021, <https://apnews.com/article/myanmar-torture-military-prisons-insein-abuse-390fe5b49337be82ce91639e93e0192f>.

¹⁶⁹ The Irrawaddy, Released Myanmar Journalists Tell of Junta Torture and Human Rights Violations, 16 July 2021, <https://www.irrawaddy.com/in-person/interview/released-myanmar-journalists-tell-of-junta-torture-and-human-rights-violations.html>; and Human Rights Watch, Myanmar: Teenager Describes Torture, Mock Burial, 22 June 2021, <https://www.hrw.org/news/2021/06/22/myanmar-teenager-describes-torture-mock-burial>.

ill-treatment in detention.¹⁷⁰ Concerns about torture and ill-treatment in detention have been further heightened by a number of deaths in custody. According to a UN spokesperson, at least 175 people have died while in the custody of the security forces after being arrested since the coup, 50 of them since October 2021.¹⁷¹

For its part, the military appears not to feel the need to conceal its use of torture and ill-treatment. On 18 April, state television broadcast images of six detainees—four men and two women—who appeared to have been physically abused in detention. In the images, the faces of the six people appear bloodied and bruised. Since then, state media has frequently published photographs of detainees who appear to have been beaten. The images constitute a clear attempt to sow fear and uncertainty and send a warning that those who resist the coup will be arrested, detained, and tortured.

Understanding the scale of arrest, detention, torture, and ill-treatment in Myanmar's prisons is made more challenging by the fact that detainees are regularly denied access to lawyers and other legal representatives. Lawyers' networks have consistently reported challenges accessing people in detention, and even when they are able to, face severe restrictions in communicating with their clients, violating key components of the right to a fair trial.¹⁷² A lawyer working in Lashio Township, northern Shan State explained the difficulties he faced representing clients facing politically motivated charges:

*'There are some challenges when we defend political prisoners. We can't meet and speak with them [when they are first arrested] and have to wait for two weeks to get permission to meet them. We can only meet the detainees at the court. It is not possible to ask about their security concerns because the police and prison guards are watching all the time. We have no chance to ask freely about how they have been treated in detention. [Often] we have to investigate the location where the prisoner has been sent and what kind of charge they are facing.'*¹⁷³

Access to legal representation is essential to protect the rights of detainees. Not only does it help ensure trials are conducted in line with international standards, it can also act as an important safeguard against torture and other-ill treatment in detention.

5.5 Amnesties

The rapidly increasing number of anti-coup protesters has prompted widespread calls for the release of detainees. UN officials, diplomats, and human rights groups have demanded the military regime free peaceful protesters and others arbitrarily detained.

In an apparent attempt to appease international pressure, the military has released some political detainees. On 24 March, military authorities announced the release of 628 people—including volunteer health workers and a photojournalist—who had been detained in the context of anti-coup protesters.¹⁷⁴ On 30 June, the military regime announced that it would release a further 2,296 people detained since the coup. A military spokesperson told local media that those released 'took part in protests but not in leading

¹⁷⁰ RFA, Interview: Myanmar Police Take Unyielding Detainees in Handcuffs For 'Beatings And Torture', 22 April 2021, <https://www.rfa.org/english/news/myanmar/shwe-yamin-htet-04222021181201.html>; and The Irrawaddy, Myanmar's LGBTIQ Community Faces Death and Torture From Junta, 1 July 2021, <https://www.irrawaddy.com/news/burma/myanmars-lgbtqi-community-faces-death-and-torture-from-junta.html>.

¹⁷¹ UN, Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, 22 November 2021, <https://www.un.org/press/en/2021/db211122.doc.htm>.

¹⁷² Interviews, June-October 2021.

¹⁷³ Interview, 11 July 2021.

¹⁷⁴ The Irrawaddy, Myanmar Military Junta Releases 628 Protest-Related Detainees, 24 March 2021, <https://www.irrawaddy.com/news/burma/myanmar-military-junta-releases-628-protest-related-detainees.html>.

roles. They didn't participate in violent acts,' indicating clearly that part of the military's strategy is to target protest leaders and weaken the protest movement.¹⁷⁵

In a statement following the June releases, AAPP warned: 'They are arresting people who should never have been detained in the first place... today's events intend to make it seem there has been a relaxation in the junta's repression. This is not the case. In fact, the junta is making space for even more detainees, and even more torture victims.'¹⁷⁶ Indeed, in the days and weeks that followed the releases the military regime continued to arrest and detain anti-coup activists.

There was another mass prisoner release on 18 October, when the military regime announced that more than 5,636 people would be freed from prisons across the country. According to state media, this included 1,316 people who had been convicted and 4,320 people whose prosecution was still ongoing, 'with an emphasis on peace of mind and humanitarian assistance to the people, and with a chance for them to transform into helpful citizens while building a new, peaceful, modern, and disciplined democratic nation.'¹⁷⁷ The announcement came just days after the ASEAN confirmed that it would not invite junta leader Senior General Min Aung Hlaing to the bloc's annual summit following an emergency meeting. Instead, the group said it would instead extend an invitation to a 'non-political' representative.¹⁷⁸

Within hours of the releases, there were reports of people being rearrested. According to AAPP, at least 110 people were rearrested the same day or in the days that followed.¹⁷⁹ In addition—and as confirmed by state media—released individuals were forced to sign a document pledging not to commit further 'crimes.' If they do, they are required to complete their original sentence in addition to any new sentences.¹⁸⁰ Such 'conditional' releases were a hallmark of politically motivated arrest, imprisonment, and release under previous military regimes under Section 401 of the Code of Criminal Procedure.¹⁸¹

¹⁷⁵ The Irrawaddy, Myanmar Junta Frees Political Prisoners and Journalists, 30 June 2021, <https://www.irrawaddy.com/news/burma/myanmar-junta-frees-political-prisoners-and-journalists.html>.

¹⁷⁶ AAPP, Press Statement on prison releases, 30 June 2021, <https://aappb.org/?p=16219>.

¹⁷⁷ The Global New Light of Myanmar, 1,316 detainees, 4,320 defendants pardoned on Thadingyut occasion, 19 October 2021, <https://www.gnfm.com.mm/1316-detainees-4320-defendants-pardoned-on-thadingyut-occasion/>.

¹⁷⁸ Reuters, ASEAN excludes Myanmar junta leader from summit in rare move, 17 October 2021, <https://www.reuters.com/world/asia-pacific/asean-chair-brunei-confirms-junta-leader-not-invited-summit-2021-10-16/>.

¹⁷⁹ The Irrawaddy, Political Prisoners Freed by Myanmar Junta Rearrested on Same Day, 19 October 2021, <https://www.irrawaddy.com/news/burma/political-prisoners-freed-by-myanmar-junta-rearrested-on-same-day.html>.

¹⁸⁰ The Global New Light of Myanmar, 1,316 detainees, 4,320 defendants pardoned on Thadingyut occasion, 19 October 2021, <https://www.gnfm.com.mm/1316-detainees-4320-defendants-pardoned-on-thadingyut-occasion/>.

¹⁸¹ See, Amnesty International, New expression meets old repression: Ending the cycle of political arrests and imprisonment in Myanmar, 24 March 2016, p. 46, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1634302016english.pdf>.

6. THREATS, INTIMIDATION, AND HARASSMENT

In addition to arrest and detention, the military authorities have used a range of other tactics to threaten, intimidate, or otherwise harass civil society activists and human rights defenders. These tactics have an immediate impact on the safety and security of these individuals, especially when it means they have to flee their homes or go in to hiding. However, they also have wider impacts. Activists are often forced to spend time and resources responding to new threats and taking protective measures. As with arrest and detention, threats, intimidation, and harassment also stop activists from undertaking their work on important issues and supporting communities in need.

6.1 Raids on offices and homes

Since the coup, military authorities have conducted multiple raids on the homes and offices of civil society actors. Often times, such raids occur when security forces are searching for specific individuals to arrest or detain. In addition to searching the premises, security forces have at times confiscated documents and equipment, such as phones and laptops. Colleagues or family members who are present are often questioned about the whereabouts of 'wanted' individuals.



Photo: Protesters shielding themselves from tear gas on 12 March 2021. By Myanmar Pressphoto Agency.

Media outlets and newsrooms have been targeted regularly, in particular in the weeks following the coup as the military sought to prevent critical reporting. On 8 March 2021, police and soldiers raided the office of Myanmar Now, confiscating computers and office equipment. The following day, security forces raided the office of Kamayut Media, arresting its two founders. That evening, security forces also raided the Yangon office of Mizzima news.¹⁸²

The raids came just hours after the military council's Ministry of Information revoked the operating licenses of five domestic media organisations.¹⁸³ Several journalists working at these organisations explained that most had already closed or moved their offices, fearing reprisals from the military. *'We had already moved out of the office,'* said one. *'We knew they would come after us—that they would accuse us of violating the media laws because we were still working and reporting about the situation on the ground.'*¹⁸⁴ The raids had a chilling impact on other media workers, who reported that their organisations shuttered their offices soon after learning about the Yangon raids.¹⁸⁵

Media outlets in ethnic minority areas have also been targeted by the security forces. A journalist working for a news outlet in Shan State explained that the group's offices in Taunggyi and Hopong were raided in March. The first time, security forces raided the office in Taunggyi town. However, it had already been shuttered and files removed. During the second incident on 24 March, security forces and township officials raided the office in Hopong Township and two houses in Taunggyi, detaining two female reporters, the male publisher, and a security guard. Security forces also reportedly seized documents and other files from the office.¹⁸⁶

Other journalists reported that while their offices were not raided, they were put under surveillance by the military authorities. *'They would keep watch outside our office,'* explained an ethnic Kachin journalist. *'If we went out, they followed. So, we shut our office and moved all our files and materials. After that, they stopped coming to our office as they knew that there was no one there.'*¹⁸⁷

Civil society activists also report having their offices and homes raided. In most cases, those targeted have been prominent activists who have spoken out against the military. One such activist who works on human rights issues and whose office is based in Yangon, was among those targeted:

*'I went into hiding as soon as the coup happened. I protested and gave interviews to the media and on 6 February police and military came to search my house. They interrogated my family and took photos of them. They told my wife to contact them if I came home. Later that month, they came to our office [then] they came back again just before Thingyan [Myanmar new year, which takes place in mid-April]. By then, the military had issued a warrant for my arrest and I had moved my family to a safe place. First, they searched the office then they broke into my house and searched my papers.'*¹⁸⁸

Other civil society leaders said that, although their offices had not been raided or searched, they had come under increased scrutiny from the security forces.¹⁸⁹ For civil society members in ethnic areas, the situation is even more precarious, as they face discriminatory treatment at the hands of the security forces. *'We always have to worry because we, Ta'ang, are more targeted and our houses are often searched,'* said an

¹⁸² Myanmar Now, Myanmar military storms Mizzima's office in a third raid on local media in two days, 9 March 2021, <https://www.myanmar-now.org/en/news/myanmar-military-storms-mizzimas-office-in-a-third-raid-on-local-media-in-two-days>.

¹⁸³ See, Section 4.2 Banning of civil society and media organisations, p. 23. See also, Global New Light of Myanmar, Five media banned from publishing: Mol, 9 March 2021, <https://gnlm.com.mm/five-media-banned-from-publishing-moi/>.

¹⁸⁴ Interview, 21 June 2021.

¹⁸⁵ Interviews, June 2021.

¹⁸⁶ Interview, 1 June 2021.

¹⁸⁷ Interview, 4 June 2021.

¹⁸⁸ Interview, 28 June 2021.

¹⁸⁹ Interview, 25 June 2021.

ethnic Ta'ang activist. *'We always have to have a backpack ready because we don't know when we might have to run.'*¹⁹⁰

Security forces have also raided buildings and property in an attempt to apprehend doctors and other health workers participating in the CDM and providing medical treatment to injured protesters, as well as individuals suffering from COVID-19. A member of a doctors' network, who left his job to join the CDM, explained that one of his colleagues was detained during a raid on a house the network was using as a home clinic: *'We were using the building to treat the wounded protesters in secret. One day, it was raided and my colleague, a CDM doctor, was detained by the junta. He was charged with section 505-A.'*¹⁹¹ The colleague was still in detention at the time of interview.

More recently on 22 November, the military regime raided a charity clinic run out of a church in Loikaw, Kayah (Karenni) State, blocking off surrounding roads and detaining 18 medical workers. The group was initially accused of providing medical treatment to armed resistance fighters, however local media reported that all 18 were released the following day.¹⁹²



Photo: Anti-military dictatorship youths took to Yangon's Sule Street holding torches and chanting "we shall never kneel down under the military boots" on 18 November 2021. By Myanmar Pressphoto Agency.

¹⁹⁰ Interview, 5 July 2021.

¹⁹¹ Interview, 6 July 2021.

¹⁹² Myanmar Now, Loikaw church closes clinic after military arrests medical staff, 24 November 2021, <https://www.myanmar-now.org/en/news/loikaw-church-closes-clinic-after-military-arrests-medical-staff>.

6.2 Targeting of family members

'It seems they arrested my family as hostages in order to get me.'

A human rights activist.¹⁹³

When they are unable to arrest or detain individuals, military authorities have resorted to threatening, harassing, arresting, and detaining their family members, or in some cases, close friends. The aim appears to be to try to force the 'wanted' individuals out of hiding. According to the AAPP, since the coup at least 269 people have been detained after authorities were not able to find their relatives or close friends. Of these, 219 remain in detention while 50 have been released.¹⁹⁴

Arrests of family members tend to take place while security forces are searching for a 'wanted' person. This is what happened to two relatives of a prominent lawyer. The lawyer was forced to flee his home in Yangon, which also functions as his office, on 7 March after receiving news that security forces planned to arrest him later that day. When security forces arrived at his home at around midnight that evening and discovered he was not there, they arrested his daughter and brother-in-law. They also destroyed CCTV equipment used to provide security for the office.¹⁹⁵ The two were taken to Insein Prison where they were held for almost three weeks before being released without charge on 26 March. The lawyer has since fled Myanmar and been forced to take refuge in a third country.¹⁹⁶

The family members of civil servants participating in the CDM have also been targeted for arrest. On 11 April 2021, security forces in Tedim Township, Chin State tried to arrest an ethnic Chin civil servant at his house. He was not there as he had gone into hiding after learning there was a warrant out for his arrest. Police had reportedly been monitoring his house the previous day. According to a source with knowledge of the incident, when security forces could not find their target, they detained his parents. They were taken to the Tedim police station where they were questioned about their son's political activities and whereabouts. They were told to inform the police if their son returned and bring him to the station. The pair were released without charge at around noon the following day.¹⁹⁷

While in some cases family members are eventually released, in others they are formally charged. This was the case for the mother of a civil society activist who participated in the anti-government protests in the weeks following the coup. When police and military officers came to the activists' house in Yangon's Okkalapa Township at around 10am on 2 May 2021, they demanded to know where he was. According to an individual with knowledge of the incident, security forces searched the house, and when they could not find him, kicked and beat his mother with their guns before arresting her. She appeared before a special court inside Insein Prison on 28 May and was charged under Section 505(a) of the Penal Code. She was convicted and sentenced to three years' imprisonment the same day. Although the family hired a lawyer, the lawyer was not permitted to represent her during court proceedings, nor were they able to visit her in detention. She was released on 18 October, as part of a prisoner release announced by the military regime.¹⁹⁸

At times, military authorities have even detained children—as was the case with the family of a business owner, farmer, and activist from Mogok, Pyin Lwin Oo District in Mandalay Region. He had been participating in peaceful anti-coup activities and on 13 June, several security force officials came to his house looking him. They told his wife that there was a warrant out for his arrest. They left after searching the house, but a larger group of officials came back later and arrested three members of his family: his wife

¹⁹³ Interview, 1 July 2021.

¹⁹⁴ AAPP, information as of 25 November 2021.

¹⁹⁵ Photographs on file with the researchers.

¹⁹⁶ Interview, 15 June 2021.

¹⁹⁷ Interview, 1 July 2021.

¹⁹⁸ Interview, 25 June 2021. See also, AAPP, Release list, last updated 19 October 2021, <https://aappb.org/wp-content/uploads/2021/10/Release-Lists-Last-Updated-on-19-October-2021.pdf>.

and two of his children, one of them, a 4-year-old girl.¹⁹⁹ Family members struggled to find out where the three were taken, but subsequently discovered they were being held at the Mogok police station. The girl was released as part of a prisoner amnesty on 30 June; however her mother and older sister were charged with violating Section 505(a) of the Penal Code and each was sentenced to three years' imprisonment by a court inside Mogok prison.²⁰⁰ They were released as part of the mass prisoner release announced on 18 October.²⁰¹

The relatives of journalists reporting on military abuses have also been targeted for arrest and detention. For example, on 29 April, security forces arrested the brother-in-law of a Chinland Post journalist. The Chinland Post has for years provided vital reporting on the situation in Chin State, and at that time had been reporting on clashes between the Tatmadaw and ethnic Chin armed groups and providing information about Tatmadaw fatalities. According to a person with knowledge of the incident, around six trucks carrying members of the security forces arrived at the journalist's house at around 9:30pm on 29 April. When they could not find him, they arrested his brother-in-law, who remains in detention.

In addition to being at risk of arrest and detention, family members of 'wanted' individuals or people who engage in anti-coup activities may also be subject to heightened surveillance and monitoring. As a result, some individuals interviewed for this report explained that they had been forced to cut off contact with their relatives to try to minimise the risk of arrest.²⁰²

Another fear is the risk of social stigma. Under previous military regimes, the families of political detainees were often ostracised and faced difficulties in accessing education and employment opportunities.²⁰³ Already it appears the military is trying to sow seeds of fear and isolation. *'They warned people near our house not to get involved with our family, and said if they were involved, they would be in danger. They even threatened our neighbours,'* said an activist in hiding who is wanted for participating in anti-coup activities.²⁰⁴

6.3 Monitoring and surveillance

'We can see clearly that the purpose of checking guest registration is to threaten and arrest the protesters and those who take part in CDM and political activists.'

*An ethnic Kachin journalist working in northern Myanmar.*²⁰⁵

The military authorities have also taken steps to increase surveillance and monitoring of civil society groups, journalists, human rights defenders, military critics, and those participating in the CDM. One of the primary ways this is being done is through the reinstatement of legal provisions requiring households to register overnight guests with their local administrative offices in the weeks immediately after the coup.²⁰⁶ While enforcement of the requirement has been patchy, it nonetheless has a chilling effect on civil society groups and actors and is used as a pretext for late night searches of people's homes and offices.

A human rights activist who lived in Sanchaung Township, Yangon explained that when the military began searching houses in her area in early March 2021, staying at home became more and more risky. *'The Military locked down our township. They started searching the houses, I was at home, but I didn't feel safe*

¹⁹⁹ Interview, 1 July 2021.

²⁰⁰ Interview, 1 July 2021.

²⁰¹ AAPP, Release list, last updated 19 October 2021, <https://aappb.org/wp-content/uploads/2021/10/Release-Lists-Last-Updated-on-19-October-2021.pdf>.

²⁰² Interviews, June 2021.

²⁰³ Amnesty International, Myanmar: New expression meets old repression: Ending the cycle of political arrests and imprisonment in Myanmar, 24 March 2016, p. 26, <https://www.amnesty.org/en/wp-content/uploads/2021/05/asa1634302016english.pdf>.

²⁰⁴ Interview, 1 July 2021.

²⁰⁵ Interview, 29 June 2021.

²⁰⁶ See also, Section 4.1 New and amended laws, p. 19.

at all,' she said.²⁰⁷ The situation was made more precarious because authorities were requiring people to register overnight guests in their houses. 'My landlady forced me and my friends to register with our Ward office. You have to register with ID cards. That was the moment I realised we had to move out. But even the next place wasn't safe.'²⁰⁸

For people who have already fled their homes and sought shelter in safehouses, the guest registration requirement has posed new challenges as safehouses are increasingly unsecure. Even if they are able to avoid registering as an overnight guest, the risk to them, and those around them, remains. *'The overall hatred of the junta means that people are generally willing to help others seeking shelter, however, it all relies on trust. Ultimately, you're asking other people to take on danger in order to help keep you safe,'* said a journalist who explained that several of their colleagues had been forced in to hiding at various points since the coup. *'Some people have been able to get away with staying in a safehouse for a day or two, but really, many people are just taking gambles.'²⁰⁹*

In addition to re-establishing a legal framework for state surveillance, military authorities have also attempted to co-opt members of the public in their monitoring activities by offering financial incentives for information on the whereabouts of anti-coup protesters, members of the CDM, as well as individuals linked to the NUG and the CRPH. In a statement published in state media on 1 September, the military's Central Committee on Counter Terrorism requested members of the public to 'inform respective police stations or security organisations about terrorists and terrorist organisations and social media users who spread fake news,' offering anonymity, security, and—depending on the accuracy of information—a financial reward.²¹⁰

Interviewees said that the announcement appeared designed to create an atmosphere of mistrust and suspicion among ordinary people, with some noting that the offer of a financial reward in a context where large parts of the population are suffering extreme economic hardship was a cynical attempt to exploit people's desperation.²¹¹ One interviewee also highlighted the potential for abuse by individuals looking to settle local grievances that pre-date the coup. In such cases, they explained that civil society activists working on land, environmental issues, and corruption at the local level would be at particular risk.²¹²

The military regime has also sought to pressure landlords and property owners into providing information about anti-coup activists, members of the CDM, and those linked to the CRPH and the NUG. In the same statement, the Central Committee on Counter Terrorism announced that individuals who hide or allow members of 'terrorist' organisations to reside in or use their properties, for example to hold meetings, would also be considered as 'terrorists' themselves, and action would be taken against them under the Counter Terror Law. In addition to the threat of arrest and detention, the statement said that property owners and landlords also risked having their money and property confiscated.

'Landlords are being held responsible [for the actions of their tenants],' said a journalist, who went on to explain: *'This announcement is generally a move to target middle and upper-class sections of society, who rely on rental properties for income. They are trying to squeeze people in any way they can, coming at them from all angles.'²¹³ Since the announcement, local media have reported an increase in home ownership and guest registration inspections, as well as instances of landlords pressuring tenants to comply with requirements.²¹⁴*

²⁰⁷ Interview, 23 June 2021.

²⁰⁸ Interview, 23 June 2021.

²⁰⁹ Interview, 22 September 2021.

²¹⁰ Central Committee on Counter Terrorism, Statement called for fight against terrorism, for rewarding whistle-blowers, informants, Global New Light of Myanmar, 1 September 2021, p. 5, <https://www.gnlm.com.mm/1-september-2021/>.

²¹¹ Interviews, September-October 2021.

²¹² Interview, 22 September 2021.

²¹³ Interview, 22 September 2021.

²¹⁴ Myanmar Now, Junta targets short-term tenants and pressures landlords to report residents' details, 29 September 2021, <https://www.myanmar-now.org/en/news/junta-targets-short-term-tenants-and-pressures-landlords-to-report-residents-details>.

While people living in larger cities can often go into hiding or move to more secure locations, those living in rural areas can find it more difficult to evade surveillance and monitoring, as they are often more well-known and more visible in their communities. The military council's appointment of new Village Administrators has also made the situation in these areas even more difficult, as an ethnic Mon activist explained:

*'The guest registration requirements are having a massive impact. After the law was changed, they also replaced the Village Administrators with people loyal to the military. The new Village Administrators report the daily activities of people in the area—who is engaging in CDM, who the student leaders are. We started seeing more and more arrests.'*²¹⁵

A journalist working in Kayah State also said it was difficult to operate in remote and rural areas and that she and her colleagues were often placed under surveillance. *'It's easy for the authorities to notice a journalist working in rural areas and monitor where they go and what they do, especially when it's related to political issues,'* she explained.²¹⁶ After the military authorities began targeting journalists, she said she and her colleagues stopped going to the office and went into hiding. *'We decided to hide where it is safer and more secure, but, moving from one place to another is risky.'*²¹⁷

6.4 Checkpoints and blockades

'From Yangon to get here there were around nine checkpoints—at all of them we had to get out of the car. They asked why we were travelling, we said we were visiting our relatives. They checked the car, our ID cards, then they checked our bags. Luckily, they didn't check our phones, but it's always a risk they will stop and search us.'

*A civil society leader describes the journey when travelling from Yangon to southeastern Myanmar for work.*²¹⁸

As described above, movement was made more difficult by the imposition of martial law and curfews in certain areas.²¹⁹ In addition, civil society activists report an increase in the number of checkpoints, often manned by both police and military. People who pass through the checkpoints report being stopped, having their ID cards checked, and having their vehicles and belongings searched.²²⁰ Four people who fled Myanmar overland explained that they had to avoid several checkpoints as they travelled from Yangon across territory controlled by ethnic armed organisations and into Thailand.

Checkpoints do not only hinder civil society activists and others who need to go into hiding or flee for their safety, they also impact organisations still trying to carry out their work. Humanitarian organisations attempting to pass through checkpoints can face delays, which in turn can make it difficult to access communities in remote and rural areas. Even in cities and towns, temporary checkpoints or police and military blockades can make it difficult for health workers to provide assistance. A doctor, who helped form a network of volunteer health workers to provide medical treatment to people injured during security force crackdowns explained that it could be very difficult to reach and treat patients:

'[One day], after the military brutally cracked down on peaceful protestors [in Yangon], there were many injured people...Our network was preparing to help treat the protestors [by performing] small-scale operations and providing blood, but we couldn't do anything because the security forces made a barrier in the street. Us medics couldn't go to the

²¹⁵ Interview, 6 July 2021.

²¹⁶ Interview, 28 June 2021.

²¹⁷ Interview, 28 June 2021.

²¹⁸ Interview, 3 July 2021.

²¹⁹ See, Section 4.4 Restrictions on gatherings; imposition of curfews, p. 29, and Section 4.5 Martial Law p. 30.

²²⁰ Interviews, June-July 2021.

*injured people, and the injured protesters couldn't reach us [because] they could not get past the police and soldiers. Because of this, some of the injured people lost their lives.*²²¹

Checkpoints and security force blockades also present security challenges for CSO and NGO staff, as it brings them in to contact with military and police personnel. The head of one civil society group said that when a group of staff—all female—travelled for a workshop after the coup, they all expressed concern about passing through checkpoints given the military's history of sexual and gender-based violence against women. In that instance, it was agreed that a male staff member would accompany the group.²²²

For activists and others living in conflict-affected ethnic minority areas, searches at checkpoints have long been a feature of daily life. However, interviewees in these areas reported an increase in the number of checkpoints and searches since the coup, as well as new restrictions on travelling around their local areas.²²³ *'We have many difficulties due to new policies,' explained an ethnic Ta'ang activist. 'When we go out or travel around, we have to show documents and are often checked. We can't even go to the market. Not only us, but also every citizen faces these challenges.'*²²⁴ She explained that local movement restrictions meant that people in her area required a letter of recommendation from the village administrators. *'To request it, we are questioned about whether we did guest registration or not. If we are not registered, they don't provide us with that letter [so we can't leave our area].'*²²⁵

6.5 Online threats and digital security

'We don't have any security. Even using phones, we can't call freely. I feel like they [the military] are always observing us. Sometimes, my phone line is interrupted while I'm talking... telecommunications are insecure now. I don't feel safe physically or mentally.'
*A member of the General Strike Committee, Bago Region.*²²⁶

Surveillance does not only happen in the physical world, and a major concern among civil society has been the capacity of the authorities to use digital technologies and tools to monitor and track their activities online. Some of these concerns predate the coup. For example, the then-NLD government's announcement of new requirements for SIM card registration was met with vocal concern from digital rights activists and other experts concerned about the potential for violations of the right to privacy.²²⁷ Similarly, there was significant unease in 2020 about NLD's attempts to increase government powers to intercept user data.²²⁸

These concerns have been heightened by reports that in the months before the coup, internet service providers and telecommunications companies had been ordered to install intercept spyware. According to Reuters 'the technology gives the military the power to listen in on calls, view text messages and web traffic including emails, and track the locations of users without the assistance of the telecom and internet firms.'²²⁹ Research groups and investigative journalists have also uncovered evidence that between 2018

²²¹ Interview, 6 July 2021.

²²² Interview, 3 July 2021.

²²³ Interviews, June-July 2021.

²²⁴ Interview, 5 July 2021.

²²⁵ Interview, 5 July 2021.

²²⁶ Interview, 20 July 2021.

²²⁷ Privacy International, Myanmar: Dangerous plans for a National Digital ID and Biometric SIM Card Registration must be scrapped, 9 December 2019, last updated 18 January 2021, <https://privacyinternational.org/news-analysis/3303/myanmar-dangerous-plans-national-digital-id-and-biometric-sim-card-registration>; and Myanmar Times, Millions in Myanmar risk having mobile phones cut after SIM registration deadline, 29 April 2020, <https://www.mmtimes.com/news/millions-myanmar-risk-having-mobile-phones-cut-after-sim-registration-deadline.html>.

²²⁸ Myanmar Now, Telenor says government is seeking direct access to customers' personal data, 12 December 2020, <https://www.myanmar-now.org/en/news/telenor-says-government-is-seeking-direct-access-to-customers-personal-data>.

²²⁹ Reuters, How Myanmar's military moved in on the telecoms sector to spy on citizens, 19 May 2021, <https://www.reuters.com/world/asia-pacific/how-myanmars-military-moved-telecoms-sector-spy-citizens-2021-05-18/>.

and 2021 Myanmar security forces sought to purchase surveillance and other technology that could be used to extract data from smartphones.²³⁰

Almost all interviewees expressed concern about their digital security. Many explained they had locked or deactivated their social media accounts or changed their names and profile pictures. Most also switched from using less secure communication and messaging platforms like Facebook to using encrypted messaging services and VPNs to try to prevent the military intercepting their calls or monitoring their online activities. *'Sometimes I had to use non-secure methods to communicate. But only if an issue was really important would we use the phone lines,'* explained one journalist who worked for a now banned national media outlet.²³¹ Several civil society activists and leaders also explained they had to change phone numbers—often multiple times—fearing that they could be used to trace their location and monitor their calls.

Security forces have also searched peoples' phones and social media accounts to identify individuals participating in or connected with anti-coup protests and the CDM. Detainees have reported being forced to unlock their smartphones by police, who then searched through their contacts, messages, and social media profiles to identify other activists or individuals for arrest.²³² A journalist who was among a group of reporters arrested while covering an anti-coup protest in Kachin State in February confirmed that security forces confiscated and searched their phones and cameras.²³³ People who pass through security checkpoints also report phone searches—several activists explained that they now delete sensitive files, contacts, and information from their phones before they travel.²³⁴

Security forces also appear to have monitored social media, in particular live streams of protests, in order to identify leaders and other participants for arrest and detention. A journalist who was covering the protests before being forced to flee the country explained:

*'In the early days of the protests, people were streaming what was happening live, through their mobile phones. It was a way for people to know where the protests were and what was happening. Then the security forces started tracking people down and arresting them [based on the videos]. When they realised what was happening, protest leaders instructed people not to go live. It was too dangerous.'*²³⁵

Two high profile civil society actors—a human rights defenders and a journalist—said that they had received multiple messages reporting attempts to hack their e-mail and social media accounts after they spoke out against the coup and the military's crackdown on protesters. *'All my accounts were compromised at the same time, all within half an hour of each other'* said the human rights defender. *'I had to log out of everything, change all my passwords, and then add two-step verification to all my accounts.'*²³⁶ The journalist explained that he had had multiple requests for password changes—sometimes up to 20 messages per day—which he believed were the result of attempts to hack his Facebook account.²³⁷

²³⁰ The Intercept, Tools for repression in Myanmar expose gap between EU tech investment and regulation, 14 June 2021, <https://theintercept.com/2021/06/14/myanmar-msab-eu-technology-regulation/>.

²³¹ Interview, 21 June 2021.

²³² The Intercept, Tools for repression in Myanmar expose gap between EU tech investment and regulation, 14 June 2021, <https://theintercept.com/2021/06/14/myanmar-msab-eu-technology-regulation/>.

²³³ Interview, 4 June 2021.

²³⁴ Interviews, June-July 2021.

²³⁵ Interview, 23 June 2021.

²³⁶ Interview, 29 June 2021.

²³⁷ Interview, 23 June 2021.

6.6 Threats from non-state actors

The overwhelming majority of risks to civil society activists emanate from the Myanmar junta, its security force apparatus, and proxies. However, civil society activists—in particular journalists—have in some cases faced threats and intimidation from non-state actors. In part, these threats come from their inability to distinguish themselves as journalists while operating on the ground, as it is not safe to do so. This leaves them open to suspicions of being ‘informers’ (or *dalan*, as they are commonly referred to in Myanmar). Two journalists who were reporting on anti-junta demonstrations in February and March explained that they were unable to openly work as journalists, which put them at risk. One said:

‘We couldn’t wear press jackets because we didn’t want to draw the security forces’ attention, but at the same time, there was a risk people would think we were police trying to disguise ourselves as locals. Some people—especially in the downtown area—accused us of being informers. Things got a little tense for a while, but we eventually we were able to explain...but still, it was quite risky.’²³⁸

The threat of being branded an informer exposes all people in Myanmar to increased risk, regardless of who they are. *‘Dalan culture is dangerous and can be really quite toxic. In some cases it’s being used to settle old scores,’* noted one Myanmar analyst.²³⁹

Journalists can also face threats, primarily in the form of online abuse, if they report critically about the NUG, the CRPH, or armed resistance forces. One journalist received a wave of online abuse, including death threats, after they wrote an article about a senior member of the NUG attending a training on armed resistance tactics.²⁴⁰ Others agreed it can be challenging to report on anything negative about anti-junta forces, with one noting:

‘Things have become very black and white – you’re either with the anti-coup protesters, NUG, CRPH, and PDF, or against them. Some people don’t understand what the role of a journalist is, how we have to report about all sides. Even if you are a revolutionary, you have to respect human rights.’²⁴¹

²³⁸ Interview, 22 June 2021.

²³⁹ Interview, 15 September 2021.

²⁴⁰ Interview, 22 September 2021.

²⁴¹ Interview, 22 September 2021.

7. IMPACT AND CONSEQUENCES FOR CIVIL SOCIETY ORGANISATIONS

'It feels like we are starting from ground zero. Everything we have done and learned has been turned upside down.'

Head of a CSO who was forced to flee his home in Yangon.²⁴²

The coup and its aftermath have had wide-ranging impacts on CSOs. Many of these are brought about by the legal, financial, and other threats civil society groups are facing, which are likely to affect organisations and individuals for months, if not years to come. Understanding these impacts and their causes will be essential to supporting civil society groups and ensuring they are able to continue their important work.



Photo: A silent demonstration in Thamine, Mayangone Township on 24 March 2021. By Myanmar Pressphoto Agency.

²⁴² Interview, 28 June 2021.

7.1 Forced to shut offices or suspend operations

'I knew they would come for civil society activists eventually so after the coup I went to the office to clear things out before we closed it. We had to shred all our paper documents and delete e-mails containing sensitive information.'

Head of a human rights-focused organisation based in Yangon.²⁴³

One immediate impact of the coup was that many CSOs were forced to reduce or suspend their operations or close their offices. An unpublished national survey of 68 CSOs conducted in May 2021 found that 37 percent had suspended or permanently closed their operations, while an additional 32 percent had reduced their capacity.²⁴⁴ Several media organisations have also been forced to suspend—or else significantly reduce—their operations. This includes closing their offices, ceasing online and print publication, and moving staff to different locations.²⁴⁵ While organisations with offices in other countries or operating in areas controlled by ethnic armed groups have generally faced fewer disruptions to their activities, those in military controlled areas, in particular in central Myanmar, have faced significant adverse impacts.²⁴⁶ These have only continued amidst the military's campaign of violence and repression.

For some interviewees, the decision to close offices or suspend operations was made in the days leading up to the coup, when there was intensive speculation that the military might seize power. *'Just before the coup we moved our office to another place. We were very careful and took down our logos and put all the organisational files in a safe place,'* explained a labour activist.²⁴⁷ Others said they suspended operations in the days immediately after the coup, fearing that they would be targeted by the military. One interviewee explained that her organisation suspended operations in Tanintharyi Region after they came under increased scrutiny by security forces: *'On 3 February police officers from Special Branch came to our office and asked whether we were still operating. Soon after, we decided to suspend our activities, and our office has been closed since then.'*²⁴⁸

In some cases, organisations have moved to work from new locations. However, relocation brings with it fresh challenges, including the risk of raids and guest registration requirements. Another challenge is the financial cost of moving premises. The head of a human rights-focused CSO explained that his organisation decided to move to new premises but were bound by their previous lease and had to find additional funding to pay for the new office location.²⁴⁹ Several interviewees who head CSOs said that they were looking at establishing operations in neighbouring countries. Many decided to relocate to Thailand, where there is an established community of border-based organisations. However, this is not without difficulties (see below).

Operating across borders—the Thailand example

'We always knew that according to the 2008 Constitution the military was in control and could take power at any time. We didn't see a transition and didn't trust the changes that were taking place, so we always kept one foot outside. If something bad happened, we would still be able to operate. We had pressure from donors to move inside, but knew it wasn't safe.'

Head of woman centred organisation based on the Thailand-Myanmar border.²⁵⁰

²⁴³ Interview, 22 September 2021.

²⁴⁴ See, Frontier Myanmar, CSOs after the coup: Operations squeezed, funding crunch, 28 September 2021, <https://www.frontiermyanmar.net/en/csos-after-the-coup-operations-squeezed-funding-crunched/>.

²⁴⁵ Interviews, May–September 2021.

²⁴⁶ Interviews, June–August 2021.

²⁴⁷ Interview, 25 June 2021.

²⁴⁸ Interview, 29 June 2021.

²⁴⁹ Interview, 3 July 2021.

²⁵⁰ Interview, 29 June 2021.

For years while Myanmar was under military rule, civil society groups, especially those working with ethnic minority communities, operated from Thailand, reporting on the situation in the country and providing cross border aid and assistance to communities in need. Many of these organisations maintained a presence along the border after Myanmar began opening up in 2011, in large part because they did not trust the Myanmar military's reforms and wanted to ensure that they could keep at least some operations moving in the event of a coup. Since 1 February 2021, these organisations have continued to play a vital role documenting what is happening in the country and providing humanitarian support to displaced communities and others affected by violence.

However, operating from Thailand is not without challenges. Many organisations are not officially registered in Thailand and lack of legal status in the country can create security concerns—for both organisations and individual staff members. In recent years, some border-based groups have also found it difficult to secure funding for their work.²⁵¹ Several interviewees reported that they felt pressured by donors and other actors to move their operations inside Myanmar, or that donors were only willing to provide funding if the money was transferred into Myanmar bank accounts.²⁵²

The Thai government has announced plans to enact a Law on the Operations of Not-for-Profit Organisations that would introduce new challenges for Myanmar-focused organisations operating in Thailand. The draft law would regulate the actions of not-for-profit organisations, which are vaguely defined, by imposing mandatory registration requirements backed by severe criminal penalties. Human rights groups have raised concerns about the law, which they say is designed to stifle criticism of the Thai authorities and is incompatible with the rights to freedom of expression and association.²⁵³

Some of its provisions have potentially negative impacts for Myanmar civil society groups operating in the country. Registration requirements would create challenges for organisations who have operated informally along the border—both in terms of legal status and their ability to secure funding for their work. Moreover, the draft law places restrictions on organisations that receive foreign funding, giving the Thai authorities sole discretion to determine which activities may be carried out using funds from foreign or international sources.²⁵⁴ This is particularly concerning given that the draft law makes reference to organisations using money from foreign sources to 'fund activities that may affect the relationship between the Kingdom of Thailand and its neighbouring countries.' While it is unclear whether the law would be used to target Myanmar CSOs, the potential for abusive and discriminatory application is clear. 'We're worried how this law might affect Myanmar CSOs and Thai NGOs,' said the head of a human rights group based on the Thailand-Myanmar border. 'Among the Myanmar groups, none of us are registered. So far there has been flexibility and we have been able to operate, but we don't know if this will change.'²⁵⁵

Other organisations have continued to work in secret, despite the risks. *'Officially, we've told everyone we are no longer working. We've shut our office, taken down our website, and staff have gone back to their homes. If anyone asks, we say we don't work anymore. But behind the scenes, we are still active, doing risky work to support people impacted by the coup,'* said a woman human rights defender.²⁵⁶

²⁵¹ See for example, PRI, With less foreign aid, Thai clinic struggles to serve migrants and refugees from Myanmar, 21 January 2020, <https://www.pri.org/stories/2020-01-21/less-foreign-aid-thai-clinic-struggles-serve-migrants-and-refugees-myanmar/>.

²⁵² Interviews, June-August 2021.

²⁵³ Amnesty International, ARTICLE 19, ASEAN Parliamentarians for Human Rights, Asian Forum for Human Rights and Development (FORUM-ASIA), CIVICUS: World Alliance for Citizen Participation, Human Rights Watch, and International Commission of Jurists, Thailand: NGO law would strike 'severe blow' to human rights, 2 April 2021, <https://www.article19.org/resources/thailand-ngo-law/>.

²⁵⁴ Draft Act, Section 6.

²⁵⁵ Interview, 29 June 2021.

²⁵⁶ Interview, 6 July 2021.

Several journalists explained that the general security situation, increased checkpoints, restrictions on movement, and security force searches meant that their organisations increasingly relied on freelance reporters and citizen journalists to help report the news.²⁵⁷ This is especially the case for remote and hard to reach areas. However, this has presented additional challenges, including difficulties communicating securely, making payments, and obtaining audio visual material as it is difficult—and risky—to transport high quality equipment.²⁵⁸ One journalist noted that freelancers are often at greater risk of being accused of being ‘rioters’ in the event of arrest, and often lack connections and access to financial support in the event they are detained.²⁵⁹

In addition to shutting offices, many civil society activists said they had to move important documents and files to a safe place, in some cases in multiple different locations.²⁶⁰ Such documents include financial and project materials and information which identifies partners, contacts, or people who have provided information about sensitive issues. In some cases, interviewees explained they had been forced to destroy or delete important files because the security risks to staff and partners were too great.²⁶¹ As the head of a human rights focused NGO which had been working on religious tolerance and discrimination, including the situation of the Rohingya community, explained:

*‘It’s a security risk to keep some of these documents together in the same place, so we had to distribute sensitive information and put it in different places. We had to delete some of our files and records, including a lot of e-mails, so now we don’t have some of our original documents and can’t access them easily.’*²⁶²

With offices shut, staff in hiding, and information dispersed, it has been extremely difficult for civil society groups to continue their work. Several interviewees also noted that they had found it difficult to provide the financial and other reporting required by donors.²⁶³

7.2 Forced into hiding or to flee the country

‘I had to go in to hiding after the military began cracking down on protesters. Every night I had to stay somewhere different. Sometimes I slept in my car, sometimes at a friend’s place. One night, I was in a housing compound and the police came in to search the building... in the end, I realised I had to leave for a safer place.’

*Head of a human rights-focused organisation based in Yangon.*²⁶⁴

The military’s actions following the coup have forced many individuals into hiding or to flee the country. Of the interviewees still living and working in Myanmar, the vast majority were either in hiding at the time of the interview or had been in hiding at some point since 1 February 2021.

Some activists and civil society leaders went in to hiding pre-emptively, fearing that their profile may expose them to arrest and detention, while, for others, the decision to go in to hiding was made after they received information, often through unofficial channels, that they were being watched or monitored by the security forces. *‘Around the time of the coup, a contact [in the security forces] warned me that I should leave town for a while,’* said a lawyer from Mandalay Region.²⁶⁵ He explained that a few days after he fled, his family reported security forces arriving at his home and asking about his whereabouts; his family said

²⁵⁷ Interviews, May–September 2021.

²⁵⁸ *Ibid.*

²⁵⁹ Interview, 22 September 2021.

²⁶⁰ Interviews, May–July 2021.

²⁶¹ *Ibid.*

²⁶² Interview, 3 July 2021.

²⁶³ Interviews, June–July 2021.

²⁶⁴ Interview, 28 June 2021.

²⁶⁵ Interview, 2 July 2021.

he was travelling for work. He stayed in hiding for more than five months, before receiving word, once again through informal channels, that it was safe for him to return home.

Activists and other individuals who go into hiding face significant challenges for their safety and security. As discussed in previous chapters, household searches, guest registration checks, informant networks, and other forms of surveillance can make it difficult to find safe places to stay. In recent months, the military has intensified its attempts to root out CDM members, anti-coup activists, and members of PDFs, increasing searches and checks of houses and other properties. Young people have come under increased suspicion, especially because many youth activists and leaders have been active in the anti-coup movement. *'Young people staying together will draw suspicion. Increasingly, they don't want to stay in safehouses with other young people, because they fear it will make them a target of the military,'* said an NGO staff member whose organisation has provided financial support to activists forced into hiding in connection with their peaceful activities.²⁶⁶

For some civil society leaders and activists, staying in Myanmar is not an option. Researchers spoke with 11 people—journalists, human rights defenders, and lawyers—who explained that they had been forced to flee the country for their safety and security. Most had fled either because of specific threats against them—such as searches of their houses or being identified on so called 'Wanted' lists—or because they are high profile activists and leaders. However, two employees of INGOs focused on human rights and advocacy said they left in part because it would be difficult for their organisations to expose military violations if they remained in country. *'It was clear from early on that the military would target activists and others speaking out against the coup and military violations,'* said one Myanmar staff member of an INGO who fled in April. *'We knew that as long as I was in the country, our organisation wouldn't be able to speak out because of the increased risks to my safety.'*²⁶⁷

However, flight from Myanmar is fraught with challenges. The COVID-19 pandemic and the limited number of international flights departing Myanmar made it difficult for many to leave the country. COVID-19 restrictions, border closures, and quarantine requirements in other countries also meant that official travel was extremely expensive, often costing upwards of US\$1,500. In May, the military regime announced anyone travelling from Myanmar by air would be required to book their tickets at least ten days in advance and airlines would be required to submit full passenger lists ten days before departure.²⁶⁸ The announcement was particularly alarming as it came around the same time Frontier Myanmar journalist Danny Fenster, a US national, was arrested while waiting to board a flight at Yangon International Airport on 24 May 2021.²⁶⁹ A journalist who had fled Myanmar by land and who was seeking a way to get his family out of the country explained that such monitoring meant air travel was not possible:

*'Getting a flight is really risky. They check the names of the passengers and if they want, they can grab you before you board. I suggested to my wife to fly from Yangon to Bangkok, but when she asked a friend who is an immigration officer, he told her to avoid it. He said I was wanted by the authorities, so it wasn't safe for her to travel by air.'*²⁷⁰

With air travel off limits, some activists have fled across land borders into neighbouring countries, often entering without visas or other official documentation. This poses risks, however, as they can be arrested and detained for violations of immigration law. For example, in May 2021, Thai authorities arrested three

²⁶⁶ Interview, 22 September 2021.

²⁶⁷ Interview, 2 July 2021.

²⁶⁸ US Embassy Myanmar, Message to U.S. Citizens: Updates Regarding Outgoing International Flights from Burma, 27 May 2021, <https://mm.usembassy.gov/message-to-us-citizens-052721/>.

²⁶⁹ Reuters, Myanmar news site says American editor detained, 24 May 2021, <https://www.reuters.com/world/asia-pacific/myanmar-news-site-says-american-editor-detained-2021-05-24/>. In March, two Australian nationals working as business consultants, were detained while trying to leave the country on a relief flight. They were held under house arrest before their release two weeks later in April. Al Jazeera, Australian couple released from detention in Myanmar, 5 April 2021, <https://www.aljazeera.com/news/2021/4/5/australian-couple-released-from-detention-in-myanmar>.

²⁷⁰ Interview, 21 June 2021.

DVB journalists and two others after they entered the country through irregular routes.²⁷¹ They were charged with violating Thailand's Immigration Act and each sentenced to seven months' imprisonment, suspended for a year, and fined 4,000 Thai Baht (approximately US\$128).²⁷² The group were subsequently granted passage to an unnamed third country.²⁷³ The lack of legal status and documentation poses significant challenges to activists and others who have fled across borders irregularly, limiting their freedom of movement, access to services, and enjoyment of other human rights.

Some activists have been able to secure visas, scholarships, and financial support to travel to the US and countries in the EU. However, such support is often not sufficient to meet all the needs of activists, especially long term needs like accommodation, healthcare, and education. One interviewee, who had been sponsored by a family member overseas to obtain a humanitarian visa, explained that the cost of living would be very high, and he was not sure what financial support was available.²⁷⁴ Another interviewee, a journalist, who was considering this route explained, *'Humanitarian and sponsorship visas rely on family in third countries to support their relatives. It's a big responsibility—and it has massive financial impacts. Most people aren't in a position to do it.'*²⁷⁵

Activists who secure scholarships or places on 'at risk' education programmes face financial and other challenges, especially if they have children or other dependents who they are trying to get out of the country. Women human rights defenders, who often shoulder more responsibility for child and other caring duties, are disproportionately impacted. Interviewees indicated that while financial and other support is often available to the 'at risk' activist in question, it rarely extends to relatives, meaning they are left to cover the costs of relocation. *'I had to relocate because I am considered high profile. I managed to get support from a programme which would support me to live and study overseas. But they only covered my expenses, meaning we would have to pay for family members,'* said a woman's rights activist. She went on to explain that the cost of supporting her other children and husband to leave the country and live overseas for a year was too great. *'I'm just an NGO worker. We cannot afford to relocate everyone—we don't have the savings. In the end, I could only afford to bring my youngest child. Other members of my family are still inside,'* she said.²⁷⁶

Several interviewees elaborated on the emotional toll of leaving the country, explaining how difficult it had been to leave, especially as they were not sure when they would be able to return.²⁷⁷ A journalist who had been forced to flee said he felt he was sometimes judged by people who had stayed in the country, however he felt he had no choice:

*'I didn't want to leave Myanmar. I wanted to stay and witness what was happening. But I know if I stayed, I would have been arrested. My choice was to fight or write—in the end, the choice was easy.'*²⁷⁸

Civil society members also expressed concern about the wider impact on civil society in the country if more and more civil society leaders and activists feel forced to leave. *'I'm worried about a brain drain,'* said the head of an NGO still operating inside the country. *'We don't know how long this will last, but it's likely to be years. How can we keep civil society alive and stable? It's important to have people on the outside and the inside. But if we all move away, who will work inside?'*²⁷⁹

²⁷¹ VOA, 3 Myanmar Journalists Arrested in Thailand, 11 May 2021, https://www.voanews.com/a/east-asia-pacific_3-myanmar-journalists-arrested-thailand/6205692.html.

²⁷² Prachatai, Thai court sentences fleeing Myanmar journalists to 7 months on suspension, 1 June 2021, <https://prachatai.com/english/node/9268>.

²⁷³ VOA, Journalists Who Fled Myanmar Find Third-Country Refuge, 8 June 2021, https://www.voanews.com/a/press-freedom_journalists-who-fled-myanmar-find-third-country-refuge/6206775.html.

²⁷⁴ Interview, 15 June 2021.

²⁷⁵ Interview, 21 June 2021.

²⁷⁶ Interview, 6 July 2021.

²⁷⁷ Interviews, June-August 2021.

²⁷⁸ Interview, 23 June 2021.

²⁷⁹ Interview, 3 July 2021.



Photo: An anti-coup strike held in Yangon to commemorate Myanmar National Day on 29 November 2021. Banners read: 'Yangoner's strike' and 'Let's march and fight until victory.' By Myanmar Pressphoto Agency.

7.3 Funding and sustainability challenges

In addition to physical safety and security concerns, civil society groups have also been grappling with how to adapt to new and ever-changing contexts while also maintaining funding for their operations.

Civil society members report that one of their primary needs is emergency funding to cover protection support for at risk civil society members and humanitarian support for other communities. Protection needs varied, but tended to include things like safehouses, emergency relocation, transportation costs, legal assistance, communications equipment, SIM cards, VPNs and other digital security measures. Humanitarian support also varied, but could include food, medicines, cash assistance, and dignity kits for women and girls. Interviewees said that while some donors were quick to respond and offer emergency funding, this was not always the case.

While most interviewees said they were able to secure emergency funding, this was often in the form of restricted grants, and only a few interviewees said their donors had allowed them to reallocate existing funding to emergency response. *'Our donors only allow us to use the money for the purpose it was given, so we had to find other sources for emergency support such as safehouses for our journalists,'* said the head of a media organisation operating in western Myanmar, who explained that for security reasons, they had to rent safehouses in several locations for his staff.²⁸⁰ Where donor organisations did allow reallocation

²⁸⁰ Interview, 1 July 2021.

of funds, it was often smaller donors with a long history of working on Myanmar who offered much more flexibility.

Several interviewees explained that one of the benefits of emergency grants is the relatively flexible reporting requirements. However, given the needs, greater support is necessary. This in turn poses new challenges, as the head of a network of CSOs explained:

*'We had significant needs for emergency funding in the months following the coup. We managed to secure funds from some donors—up to US\$20,000, but anything more than that and we have to be audited, and that is super difficult in the current context. We can't name the people who received the money—if it leaks it poses real security risks to the people we support.'*²⁸¹

Senior staff members of CSOs also said they faced challenges when it came to longer term funding and projects given the completely different operating environment in the country post-coup. Most said they had to completely change their plans but struggled to find ways to make new plans that fit with the priorities of their donors and the agreed parameters of their existing projects. The head of a women's rights organisation explained:

*'We had to change most activities and reallocate our budget. Most donors accepted the changes, but some we had to negotiate with really hard. We had to brainstorm new ways to fit our work with their priorities. We've been managing to [adapt] so far, but that doesn't mean it's easy. It's a lot of effort.'*²⁸²

The head of another organisation which coordinates civil society groups across the country expressed concern about what it would mean if they were unable to implement their projects as originally planned:

*'We've asked for extensions and changes, and some donors have agreed but not all. We're worried that if we don't implement the project as agreed, we won't be able to submit new funding proposals and that will affect our ability to operate in the future.'*²⁸³

Financial and narrative reporting has posed still more challenges. As described above, many organisations were forced to shut their offices and remove, hide, or even destroy documents they thought may compromise staff or partners. Interviewees from organisations providing support to individuals and communities in need also explained that it was no longer safe for them to keep detailed information about every individual they helped, saying that this posed serious security risks. They also explained that it would not be possible to provide certain types of documentation—for example, documents containing details about safehouses, office locations, or meeting venues, and means and routes of transportation. *'A lot needs to be overhauled with the current financial reporting requirements to reflect the reality and security risks on the ground,'* said one interviewee who assists civil society groups in southern Myanmar to secure funding.²⁸⁴

Others noted more practical concerns about narrative and financial reporting. For example, collecting and keeping receipts is much more challenging, especially when people are often on the move or must operate covertly. Narrative reporting is also challenging, especially given the increased demands and stress people are facing. An overwhelming call from all interviewees was for greater flexibility and openness to creative solutions. Some even provided examples. The head of one organisation explained that one of their donors had allowed for audio reporting, sent by voice message, which was then transcribed and formally recorded by the donor in question.²⁸⁵

²⁸¹ Interview, 29 June 2021.

²⁸² Interview, 6 July 2021.

²⁸³ Interview, 29 June 2021.

²⁸⁴ Interview, 29 June 2021.

²⁸⁵ Interview, 29 June 2021.

While some donors have been flexible when it comes to financial and narrative reporting of project activities, others have been less so, in part because they have their own reporting requirements or internal policies that do not allow for flexibility. For example, in one instance, the head of an organisation working on interfaith tolerance and anti-discrimination explained that in April 2021, an international donor organisation asked him for audit documents as part of reporting on a project they had conducted jointly in 2020:

*'We have a big challenge with our audit. A previous donor wants our 2020 audit report. Every year we do this report and have audit reports going back years. We never missed one. But this year it was impossible. [The donor] asked for it in April but at that time we were facing huge risks to our safety and the safety of our families. It was also difficult to pay staff, including auditing staff. But this donor was insisting that we give the 2020 audit report because they need it for their own records. It's difficult to know how we can provide this kind of information given the situation in Myanmar at the moment.'*²⁸⁶

Looking to the future, several interviewees expressed concern about long-term funding and support for their organisations and Myanmar civil society groups more generally. *'Many donors are still adopting a wait and see approach,'* noted an INGO staff member still working in Myanmar.²⁸⁷ Civil society groups also fear that some donors might reduce their support for work in Myanmar or prioritise support for certain areas, such as humanitarian support, over others. Many interviewees said that donors should commit to longer term projects to help ensure civil society can continue to operate. The head of a media organisation explained:

*'Finding new donors can be hard, and it's time consuming, as you have to build new relationships, understand the different requirements, and there is often a lot of admin to do. At the moment, our donors support projects for one year at a time. It would be much better if they committed to longer term grants. If we knew we had the support we would feel safer and more sustainable.'*²⁸⁸

Another concern is ensuring that civil society groups across the country receive support and assistance. This is particularly the case for smaller grassroots organisations and youth groups operating in remote or rural parts of Myanmar who may not have the knowledge or connections to seek such funding. A staff member of an INGO that has been helping civil society groups apply for funding said:

*'One challenge is that all the forms to apply for support are in English. It's really difficult for a lot of people to fill them in. My major concern is that there is a focus on established groups and activists working in major cities, where people have access, contacts, and language skills. There are so many grassroots organisations working at the village level and in ethnic states—they need support too.'*²⁸⁹

7.4 Challenges around organisation registration

'We're an officially registered organisation. Our registration will expire this year. We're worried if we don't extend the registration there will be problems, for example, we might be declared an unlawful association which would put our staff at risk of arrest, or they could freeze our bank accounts and seize all our money.'

*Head of a women-centred organisation.*²⁹⁰

Another challenge facing civil society groups—specifically non-governmental organisations—is around organisational registration. The registration of organisations is regulated by the Associations Registration

²⁸⁶ Interview, 3 July 2021.

²⁸⁷ Interview, 28 June 2021.

²⁸⁸ Interview, 1 July 2021.

²⁸⁹ Interview, 29 June 2021.

²⁹⁰ Interview, 6 July 2021.

Law, which was enacted in 2014. The law provides for the registration of both local organisations and INGOs.²⁹¹ Under the law, registration is voluntary, and while many local organisations in the country have chosen not to register under the law, others are registered. This has allowed them, among other things, to open organisation bank accounts in the country, engage in advocacy with senior government officials, and receive funding from international donors who require partners to be officially registered.²⁹² Most humanitarian and development INGOs operating in Myanmar are registered.

Since the coup, some senior staff from registered local civil society groups have expressed concern that this status may make them targets, in particular as military authorities have details about organisational executives, addresses, and activities.²⁹³ Requirements to regularly report on organisational activities is another security concern for registered organisations, as it will be dangerous to share full details about the work they are doing. *'Every four months, we had to report to the government office and once a year we had to submit a report to the Ministry of Home Affairs. We will have to think carefully how we do this this year, as we can't tell them about the full extent of our work,'* said the head of one registered organisation.²⁹⁴ Reports that the military regime is considering amending the law to make registration mandatory are extremely worrying.²⁹⁵ In addition to violating the right to freedom of association, this would pose security concerns for organisations and their staff, as they would be required to report regularly on their activities to the military regime.

Another concern for registered organisations is the status of their registration, which is granted on a five-year basis. Several interviewees said they were not sure if they would renew their registration. On the one hand, they noted that registration was essential for accessing bank accounts and receiving funding from certain donors. However, on the other hand, they were worried that registering would be perceived as legitimising the military regime, for which they could face backlash from other CSOs.²⁹⁶ *'I worry about registering under the military. It could be seen as collaborating with them and also could create social punishment online for me and for the team. It's something I worry about a lot,'* said the head of one local organisation planning to continue operations in the country.²⁹⁷

INGOs, in particular humanitarian organisations, are facing similar challenges when it comes to registration. The registration of more than two dozen INGOs is due to expire in 2021.²⁹⁸ Registration is required for INGOs to operate effectively in the country. It is needed to access banking services, secure proper visas for international staff, and in some areas such as Rakhine State, to obtain authorisation to travel and provide humanitarian assistance to displaced populations and other communities in need. INGO registration requires agreeing to a Memorandum of Understanding (MoU) with relevant government ministries, which in the current context would mean engaging with military-controlled ministries. Non-renewal would effectively require halting operations and risk the organisation being expelled from the country and could expose national staff to heightened risk of arrest, detention, or harassment by the military regime.

As is the case for registered local organisations, INGOs are concerned that renewing MoUs and registration would be perceived as legitimising the military regime and could create risks for staff. *'It's been*

²⁹¹ The draft law defines a local organisation as 'local non-profit civil society, organized with five or more persons for the benefit of state and citizens in line with the fundamental rights stated in the constitution and also either for an objective or for an activity or for common interests of the members. The expression includes branches of the organisation,' while International Non-Governmental Organisations are defined as 'organisation formed in a foreign country and registered with Union Registration Committee with intention to perform any social activity within the country' (Section 2).

²⁹² Interviews, June-August 2021. See also, The Irrawaddy, Civil Society and MPs Draft 'Progressive' Association Registration Law, 21 October 2013, <https://www.irrawaddy.com/news/burma/csos-mps-draft-progressive-association-registration-law.html/>.

²⁹³ Interview, June-August 2021.

²⁹⁴ Interview, 3 July 2021.

²⁹⁵ Interviews, June and September 2021.

²⁹⁶ Interviews, June-September 2021.

²⁹⁷ Interview, 3 July 2021.

²⁹⁸ Interview, 28 June 2021.

a big discussion among INGOs. There are real fears of being seen as legitimising the military, while at the same time, concerns that staff could be harassed or subjected to social punishment,' said one INGO staff member.²⁹⁹ As the situation in Myanmar has become more violent, some senior INGO staff have also expressed concern about the physical security of staff operating on the ground, stressing that there needs to be better understanding of humanitarian principles, and that engagement was not the same as recognition.³⁰⁰ Another concern is the impact registration renewal might have on relationships with local partners. For some local groups, any engagement with the military regime is a deal breaker: *'Some of our donors or international partners are thinking to engage with the military. We have been very clearly saying in meetings that if they sign an MoU with SAC or put in place programmes or plans involving SAC, we will no longer engage with them,'* explained the head of an organisation working on human rights and the environment.³⁰¹

Other civil society actors are also grappling with the question of legal status under the military regime. Lawyers, many of whom are required to renew their licences every 12 months, are facing questions about whether to apply for a new licence. *'Those whose licenses are up for renewal definitely feel pressure to stop engaging with the SAC's legal system, but at the same time, this is their profession, and many want to continue to support people who are caught up in the system,'* explained an international lawyer working with legal aid networks in the country. *'As time goes on, it becomes harder and harder not to engage in some way with the SAC.'*³⁰² Some media organisations are also questioning whether they should apply for licences to operate under the military regime. *'We were trying to renew our publishing license, but now we've given up—we would have to hand over private details about the organisation and our staff, and it's just too risky now,'* said the head of a media agency based in western Myanmar.³⁰³

Registered and unregistered groups alike must be allowed to function freely and be able to enjoy the right to freedom of association on equal terms. While all groups in the country are at risk from the military regardless of their registration status, it is essential that donors and other international actors do not impose demands or conditions for organisations to register under the military regime. In this regard, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated that 'not only legally registered associations, but also individuals—and therefore associations which have no legal status, such as unregistered associations—are eligible to access funding.'³⁰⁴

7.5 Mental health

A less visible impact of the coup, but none the less serious, has been the toll the crisis has taken on people's mental health. For many, this crisis come in addition to the stress caused by the COVID-19 pandemic—a devastating third wave hit the country in late May 2021—and years of conflict, oppression, and human rights violations under previous military regimes.

CSOs working on mental health issues or providing counselling services report increasing concern about the impact the situation is having on the wellbeing of the general population.³⁰⁵ The head of one organisation which provides counselling explained:

²⁹⁹ Interview, 28 June 2021.

³⁰⁰ Interviews, September-October 2021.

³⁰¹ Interview, 7 July 2021.

³⁰² Interview, 1 October 2021.

³⁰³ Interview, 1 July 2021.

³⁰⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, UN Doc: A/HRC/23/39, 24 April 2013, para. 17, <https://undocs.org/A/HRC/23/39>.

³⁰⁵ Al Jazeera, Coup, COVID take toll on young people's mental health in Myanmar, 25 August 2021, <https://www.aljazeera.com/news/2021/8/25/coup-covid-takes-toll-on-young-peoples-mental-health-in-myanmar>; and Myanmar Now, 'It's OK not to be OK': Finding support amid trauma and grief, 12 June 2021, <https://www.myanmar-now.org/en/news/its-ok-not-to-be-ok-finding-support-amid-trauma-and-grief>.

‘Our counsellors are seeing many symptoms of trauma among clients since the coup. People are reporting insomnia and difficulties sleeping, difficulties concentrating, feelings of dread, powerlessness, and sometimes dissociation with what’s happening. Some people have physical symptoms like headaches, dizziness, and panic attacks. Many people are also grieving the loss of loved ones—either those killed or detained during the coup, or people who died because of COVID-19. Young people are especially affected, and we are seeing and hearing of more cases of drugs use. They feel their future has been taken away from them.’³⁰⁶



Photo: Protesters in Aung Lan, Magway on 22 March 2021. By Myanmar Pressphoto Agency.

While there are organisations working to provide assistance and support, resources are limited, and the need is much greater than the availability of counsellors and trained professionals. Even prior to the coup, mental health awareness and access to mental health services was extremely limited, with social stigma meaning that the issue is often not discussed.

Civil society activists are no less affected by the mental health impacts of the coup and the pandemic. One interviewee who worked on documenting military atrocities said that vicarious trauma was a particular concern. *‘Images are being shared on social media—of bodies, people who have been beaten. Every day*

³⁰⁶ Interview, 1 October 2021.

*there are new atrocities, it's taking a toll on people's mental health, including those working to report on what's happening.*³⁰⁷ Several interviewees describe feeling helpless about the situation and the insecurity they are living under. *'Mentally it's tough. Every night I worry. Nowhere is safe. They can get us any time,'* said one youth activist who was in hiding.³⁰⁸

Even those who managed to flee to safety continue to experience stress and anxiety about what is happening in the country, and fears for their loved ones who remain. *'I've not been sleeping, not eating. I cry every day,'* said one activist.³⁰⁹ Some of those who've fled have been forced to cut off contact with the family members for fear that continued communication could put them at risk, *'I worry about my family back in Myanmar,'* said a journalist.³¹⁰

In the short and long term, it will be essential to ensure support for organisations providing mental health awareness and assistance and providing the opportunity for civil society activists and leaders to rest, recharge, and support them to take steps to protect their psychological and emotional well-being.

³⁰⁷ Interview, 29 June 2021.

³⁰⁸ Interview, 23 June 2021.

³⁰⁹ Interview, 6 July 2021.

³¹⁰ Interview, 23 June 2021.

8. CONCLUSION AND RECOMMENDATIONS

The space for civil society has contracted significantly since the Myanmar military seized power on 1 February 2021. Human rights defenders, journalists, lawyers, trade union and labour rights activists, health workers, and humanitarians have faced an increasingly hostile operating environment. They must contend with the risk of arrest and detention, legal and administrative restrictions on their operations, threats to their lives, physical and digital security, and mental wellbeing, and the safety of their families and colleagues. Freedoms of expression, association, and peaceful assembly, which are essential for creating an environment where civil society groups can flourish, remain heavily curtailed.

Civil society groups play a vital role in their communities and country. They create space for people to participate in public life and have their voices heard and can help empower and support vulnerable minority groups. Civil society organisations also often play a vital role in service provision and delivery. This is especially the case in Myanmar at the moment, both because the military lacks the interest or expertise to provide such services but also because international organisations often find their operations extremely limited. At the regional and international levels, civil society groups provide information about the situation in the country and advise governments, donors, and other stakeholders on how best to support the people of the country and promote strategies for change.

With the situation in Myanmar showing no sign of improving, there is an urgent need for robust, coordinated, and sustained international action both to push the Myanmar military to stop its appalling violations and to ensure that civil society groups—whether operating inside or outside the country—are able to continue their important work.

To the Myanmar military

- Immediately and unconditionally release all individuals arbitrarily detained, including those arrested for their exercise of the rights to freedom of expression, association, or peaceful assembly.
- Ensure all detainees are not tortured and are given prompt access to lawyers of their choosing, family members, and healthcare they may require.
- Grant international observers and monitors full and sustained access to all detention sites.
- Allow humanitarian workers full, unimpeded, and sustained access to all parts of Myanmar.
- Grant media workers and human rights observers full and unfettered access to all parts of Myanmar.
- Cooperate fully with the UN Special Rapporteur on the situation of human rights in Myanmar and the UN Special Envoy, granting them full and unfettered access to all parts of the country and allowing them to meet freely with a wide range of actors, including military officials, politicians, civil society activists, and other stakeholders.
- Cease and refrain from future reprisals against those meeting with journalists, UN experts, and others documenting human rights violations in Myanmar.

To all governments

- Urge the Myanmar military to immediately end violations of international human rights law, international humanitarian law, and international criminal law; to ensure the protection of civilians; to release all those arbitrarily detained; and to engage in dialogue aimed at the restoration of democracy in the country.
- Ban the export to Myanmar of technologies that could be used to surveil or otherwise repress the population.
- Promote the protection of human rights defenders by maintaining adequate contact with these individuals, putting their cases before the relevant authorities—with their informed consent—to urge them to comply with their human rights obligations, and offering them tangible recognition and support.

- Extend the visas of all Myanmar nationals on their territory to ensure they are not forced back to a country where their lives or safety would be at risk.
- Expedite requests for visas for human rights defenders, journalists, and other civil society activists, as well as their dependents, to ensure they can leave Myanmar and seek safety overseas.

To the National Unity Government

- Ensure ongoing consultation with civil society leaders and activists, and prioritise the inclusion of representatives from ethnic and religious minority communities, as well as women, youth, older people, and people from other marginalized groups.
- Cooperate fully with international efforts to ensure accountability for past and ongoing human rights violations and crimes under international law.
- Explore ways to help minimize the risk to individuals who engage with the National Unity Government and Committee Representing the Pyidaungsu Hluttaw from inside Myanmar, for example by adopting secure mechanisms for communication and submission of information.

To the Association of Southeast Asian Nations (ASEAN) and its Member States

- Use all multilateral and unilateral forums to urge the Myanmar military to immediately end violations of international human rights law, international humanitarian law, and international criminal law; to ensure the protection of civilians; and release all those arbitrarily detained.
- Ensure no financial or other support is given to the Myanmar military or its subsidiaries and conduct rigorous and ongoing assessments of all projects and assistance to ensure they are implemented in a way which does not contribute to military violations.
- Actively consult with civil society organizations and activists from Myanmar, ensuring the inclusion of a wide range of voices and perspectives, in particular representatives of ethnic and religious minority communities, women, youth, older people, and other marginalized groups.
- Support the adoption of strong resolutions on Myanmar in international forums, including at the UN Human Rights Council and UN General Assembly.
- Cooperate fully with the UN Special Rapporteur on human rights in Myanmar and the UN Special Envoy, including allowing them access to Myanmar communities residing within state borders.
- Cooperate fully with the Independent Investigative Mechanism for Myanmar and any other international initiatives to investigate human rights violations and crimes under international law and bring perpetrators to justice.

To Myanmar's neighbours, in particular Thailand, Bangladesh, and India

- Allow individuals fleeing violence and human rights violations in Myanmar to enter and remain in their territory until such time that they can safely return, or, if a safe return is not possible, devise policies to provide for their continued presence in the country.
- Ensure that individuals are not criminalised, detained, or otherwise punished solely for their method of arrival into the country.
- Respect the principle of non-refoulement, and do not, under any circumstances, return individuals to a country where they face risk of persecution, torture, violence, or other serious human rights violations or abuses.
- Ensure full, unfettered humanitarian access to refugees and other communities displaced from Myanmar and facilitate cross-border provision of aid and assistance to enable civil society and other organisations to support communities in need.

To donor governments providing financial support and other assistance to civil society organisations, non-governmental organisations, and international non-governmental organisations working in or on Myanmar

- Continue to provide funding to Myanmar civil society organisations in country and in exile, adopting creative solutions to address the increasingly limited operating space.
- Review all international aid and development projects to ensure no financial or other support is given to the Myanmar military or its subsidiaries and conduct rigorous and ongoing assessments of all projects and assistance to ensure they are implemented in a way which does not contribute to military violations.
- Provide ongoing international cooperation and assistance to Myanmar's neighbours that host those forced to flee human rights violations in Myanmar.
- Increase financial support and assistance to human rights defenders, journalists, and other civil society activists forced to flee Myanmar for their safety, ensuring they have access to an adequate standard of living, healthcare, and education. Such support should extend to dependents and address the specific needs and responsibilities of women human rights defenders.
- Fund scholarships, learning, employment, and training opportunities for civil society activists, journalists, and human rights defenders forced to flee Myanmar to support their professional development. Work with universities, journalist networks, and other institutions to expand the number of such opportunities, paying particular attention to the needs of women and people from ethnic minority communities.

To all donors providing financial support and other assistance to civil society organisations, non-governmental organisations, and international non-governmental organisations working in or on Myanmar

- Continue to provide funding to Myanmar civil society organisations in country and in exile, adopting creative solutions to address the increasingly limited operating space in Myanmar and neighbouring countries.
- Respect the autonomy of civil society organisations, ensuring that they lead in identifying key areas of work and setting priorities.
- Undertake regular consultation with civil society leaders and activists to ascertain their needs and how best they can be supported. Ensure that women-centred, youth, and grassroots organisations, and those working in ethnic minority and conflict-affected areas, are consulted.
- Commit to long term support for civil society organisations working in or on Myanmar, and where possible, increase the timeframe of project funding to ensure financial stability, security, and sustainability of such operations.
- Undertake regular assessments of the situation in the country to understand the local political, social, and economic contexts in which civil society organisations operate, in particular those working in ethnic minority and conflict-affected areas or working on sensitive issues such as human rights.
- Ensure funding for organisations working on a diverse range of issues across the country, including humanitarian assistance, health and service delivery, human rights, interfaith tolerance, and non-violent action.

Funding and reporting

- Provide core funding to non-governmental organisations and civil society organisations, including staff salaries, to ensure long term stability and financial security.

- Allow greater flexibility for financial and narrative reporting, in particular to minimise security and other risks to civil society organisations, their staff, and those they work with.
- Explore ways to manage exchange rate volatility, such as fixing costs in hard currency and allowing contingency funds for cost changes and informal fees for cash withdrawal.
- Explore new ways to conduct money and cash transfers, especially where established methods place civil society groups at increased security and other risks.
- Allow for no-cost extensions, in particular for organisations who have been unable to implement certain activities because of coup-related restrictions.
- Consider reducing narrative reporting requirements or allowing reports to be filed verbally or in other informal formats.
- Reconsider how audits are conducted. Grant greater flexibility with regard to reporting timelines and assess and mitigate security risks associated with audits.
- Allocate additional financial support to ensure that local civil society groups are not forced to absorb the fees associated with multiple foreign currency transfers.
- Establish mechanisms for quicker distribution of emergency funding.
- Increase financial assistance to cross-border groups, in particular those providing cross-border aid and assistance.

Safety and security

- Increase financial and other support for relocation of civil society activists and human rights defenders, ensuring they have sufficient support for an adequate standard of living, as well as access to healthcare and education. Such support should extend to dependents and should address the specific needs and responsibilities of women human rights defenders.
- Expedite requests for emergency funding for relocation and evacuation of human rights defenders, civil society activists, and their dependents.
- Ensure sustained funding for physical security measures for human rights defenders and activists still in country, including safe houses, in accordance with their wishes.
- Support civil society organisations to improve their digital security, including by funding or providing digital security training and supporting the purchase of equipment and software such as virtual private networks, encrypted laptops, and secure methods of communication.

Advocacy

- Undertake advocacy with individual governments, companies, or international bodies to raise awareness about the severity of the situation in Myanmar and urge them to press the military to end abuses, protect civilians, and release all arbitrarily detained individuals.
- Where safe and with their informed consent, facilitate civil society activists to engage in national, regional, and international fora to raise concerns about the situation in Myanmar.

Mental health and wellbeing

- Invest in mental health and psycho-social support, both by funding organisations that provide such services and by providing support to human rights defenders and civil society activists to seek and receive such services.

To United Nations bodies

The UN Security Council

- Refer the situation in Myanmar to the International Criminal Court.
- Impose a comprehensive arms embargo on Myanmar that covers the direct and indirect supply, sale, and transfer, including transit and trans-shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance.

- Impose targeted financial sanctions against senior officials responsible for serious violations and crimes, in addition to military owned and controlled companies.
- Hold regular, open public meetings on the situation in Myanmar and adopt a resolution or resolutions, as necessary.

To The UN Special Rapporteur on the situation on human rights in Myanmar and the UN High Commissioner for Human Rights

- Provide intersessional ad hoc reports and briefings on the situation in Myanmar, including restrictions and attacks on civil society, of civic space and attacks on human rights defenders, and share these concerns and findings with the UN Human Rights Council, UN Security Council, General Assembly, and others, as requested by the Human Rights Council at its 46th session.