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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of
the High Commissioner and the Secretary-General**

Human rights situations that require the Council's attention

Situation of human rights in Myanmar since 1 February 2021

Report of the United Nations High Commissioner for Human*

* The present report was submitted after the deadline to include the most recent information.

I. Introduction and methodology

1. In resolution 46/21, the Human Rights Council requested, *inter alia*, the High Commissioner for Human Rights to provide a comprehensive report on the overall human rights situation in Myanmar at its 49th session, with a particular focus on accountability regarding alleged violations of international human rights and humanitarian law, rule of law and security sector reform since 1 February 2021, as well as on implementation of recommendations on the human rights situation of Rohingya Muslims and other minorities.
2. The present report covers human rights concerns documented by OHCHR since 1 February 2021. It analyses the most egregious violations committed by the Myanmar military (Tatmadaw), highlighting trends and patterns over a year of martial rule, and coming to preliminary conclusions as to violations of international human rights, humanitarian and criminal law.
3. This report relies upon primary and secondary source material collected and subjected to credibility assessments. Without access to Myanmar, OHCHR applied consistent methodology of information-gathering, including remote interviews and meetings with over 155 victims, victims' advocates, and witnesses of human rights violations. First-hand information was corroborated with satellite imagery, verified multimedia files, and credible open-source information.¹ Factual determinations of cases, incidents, and patterns were made where there were reasonable grounds to believe that incidents had occurred as described. Given the serious security risks that individuals in Myanmar have been exposed to since 1 February, OHCHR has prioritized the safety of victims, witnesses, and interlocutors above other considerations.

II. Context

4. Alleging electoral fraud in the November 2020 elections, the Tatmadaw launched a coup on 1 February. It established a so-called "State Administration Council" (SAC) that moved quickly to manipulate the legal framework facilitating military rule,² imposing telecommunications shutdowns,³ annulling the 2020 election results, and, eventually, declaring itself a "provisional government" with the Commander-in-Chief as "prime minister".⁴ Shortly thereafter, National League for Democracy (NLD) parliamentarians who won seats in the 2020 elections established the "Committee Representing the Pyidaungsu Hluttaw" (CRPH), which then formed a "National Unity Government" (NUG) opposing the military.⁵
5. Nationwide opposition to the military coup manifested through peaceful mass protests and a Civil Disobedience Movement (CDM) that brought government and other services to a standstill. Education was adversely affected when thousands of striking teachers were suspended from their jobs and children stayed away from school. Already under-resourced healthcare structures further weakened due to attacks against health professionals and successive waves of the COVID-19 pandemic. Myanmar's economy contracted by an estimated 18 per cent during the fiscal year,⁶ leaving almost half of the population living in poverty.⁷ An estimated 1.6 million jobs were lost in 2021, with women disproportionately impacted.⁸
6. Myanmar is facing violence on a massive scale. Arbitrary detentions, unnecessary and disproportionate use of force against peaceful protesters, extrajudicial killings, as well as ill-

¹ Including: Assistance Association for Political Prisoners (Burma), 2021 Coup Daily Briefings; Armed Conflict Location and Event Data Project (ACLED).

² A/HRC/48/67, paras 7-12.

³ *Ibid.*, paras. 13-18.

⁴ *Ibid.*, para. 7.

⁵ *Ibid.*, paras. 70-74.

⁶ World Bank Myanmar Economic Monitor Contending with Constraints, January 2022, p. 5.

⁷ UNDP, Impact of the Twin Crises on Human Welfare in Myanmar, November 2021, p. 5.

⁸ ILO, Employment in Myanmar in 2021: A rapid assessment, p. 3.

treatment and torture in custody have characterized the Tatmadaw's seizure of power.⁹ In response to such mounting repression, individuals across the country formed community-based groups for neighbourhood watch, as others began launching attacks against security forces. Simultaneously, armed conflicts in Myanmar's border areas have continued and resurged, particularly in Kachin, Kayin and Shan states. In May 2021, the NUG announced the formation of People's Defence Forces (PDF) as forerunner to the "Federal Democratic Armed Forces", with a proliferation of groups nationwide publicly aligning themselves with the NUG or ethnic armed organizations (EAOs). These armed elements have conducted attacks in all states, regions, and union territory. There were also reports of hundreds of targeted killings of individuals perceived as being pro-military, mostly for which no party claimed responsibility.

7. Post-coup armed elements have formal and informal alliances between themselves, the NUG and/or EAOs, while others act alone in a single township. In September 2021, the NUG declared a "people's defensive war" against the military and called for a national uprising. Armed resistance against violent military rule has increased and intensified, with armed clashes and attacks in each state, region, and union territory, and in around 220 out of 330 townships. There are also pro-military armed elements called Pyu Saw Htee, some of which are reportedly trained by the Tatmadaw or made up of retired Tatmadaw soldiers. In some situations, Pyu Saw Htee groups operate jointly with the Tatmadaw or carry out their own attacks and raids on villages reportedly using weapons supplied by the Tatmadaw.

8. Unlike the rest of the country, the situation in Rakhine State stabilized somewhat due to an informal ceasefire between the Tatmadaw and the Arakan Army since November 2020. Tensions between the two parties have however remained high with serious concerns that hostilities could resume at any time, particularly following sporadic armed clashes in northern Rakhine in the final weeks of 2021.

9. Actions taken by the international community in response to the situation in Myanmar have remained limited in scope and impact on the ground. Despite having agreed a five-point consensus at an ASEAN Leaders' Meeting in April 2021, tangible results have not been achieved. In 2021, following a Special Session in February, the Human Rights Council heard oral updates from the High Commissioner and Special Rapporteur at successive sessions and adopted resolutions in March and September. The General Assembly adopted resolutions in June and November. Both the SAC and the NUG are seeking international recognition as the due government of Myanmar.

III. Legal framework

A. International human rights law

10. Myanmar is party to several human rights treaties,¹⁰ and is bound by customary international human rights law, such as the prohibition on arbitrary deprivation of life; torture and cruel, inhuman or degrading treatment; arbitrary deprivation of liberty; and aspects of the right to a fair trial.¹¹ Under this framework, authorities in Myanmar are bound to respect, protect, promote and fulfil the human rights of all persons within its territory or under its jurisdiction or control. Several human rights standards are further relevant to the effective protection of the right to life, notably the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.¹²

⁹ A/HRC/48/67, paras. 21-41; A/HRC/48/CRP.2, paras. 4-38.

¹⁰ Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography, Convention on the Rights of Persons with Disabilities.

¹¹ A/HRC/43/35, para. 4.-

¹² A/HRC/48/67, para. 29.

11. While armed groups and other non-State actors cannot become parties to international human rights instruments, it is accepted that where they exercise government-like functions and control over a territory, they must respect human rights standards when their conduct affects the human rights of individuals under their control¹³

B. International humanitarian law

12. In addition to international human rights law, this report considers compliance with international humanitarian law in relation to incidents occurring within the context of non-international armed conflicts that are taking place in the country. In such contexts, both sets of norms apply in a complementary and mutually reinforcing manner.

13. For a situation of violence to be characterized as a non-international armed conflict there must be protracted armed violence between government forces and one or more non-State armed groups, or between two or more non-State armed groups, on the territory of the State, which meets two cumulative requirements: (i) armed violence must reach a minimum level of intensity which cannot be addressed through routine peacetime policing, measured by the weapons used, duration and other factors, and (ii) the parties involved must show a minimum of organization that allows them to be capable of engaging sustained armed violence and implementing the basic obligations of international humanitarian law.¹⁴

14. Analysing whether international humanitarian law applies to a particular circumstance is challenging due to the complexity, variety, and fragmented nature of Myanmar in terms of its geography, multiplicity of armed actors, territorial control, pre-existing armed conflicts, and rapid developments including shifting areas affected by violence. Accessing relevant and reliable information remains challenging and further analysis is required for comprehensive determination.

15. OHCHR has concluded that a number of pre-existing non-international armed conflicts are ongoing in Myanmar, including between the Tatmadaw and EAOs in Kachin, Kayin, Rakhine and Shan states. As outlined in international jurisprudence, temporary ceasefire agreements do not equate to a general conclusion of peace, and the armed conflict continues to exist.¹⁵

16. Regarding confrontations between the Tatmadaw and various post-coup armed elements, there are reasonable grounds to believe the intensity threshold of violence has been met as demonstrated by several facts, including: prevalence of attacks; geographic and temporal spread of clashes; numbers of civilians forced to flee due to violence; types of weapons used. This can be noted in certain areas of the country, namely Magway and Sagaing regions and Chin and Kayah states.¹⁶

17. Anti-coup armed elements have varying levels of organization, command structures, training and weaponry, and many are not regularly active. Some groups have based themselves at camps outside of populated areas or inside empty villages after populations had fled, while others live amongst the population, their presence endangering residents. These new armed elements generally lack a supply of weaponry and many use homemade hunting rifles and remote-detonated improvised explosive devices to ambush Tatmadaw convoys. Although in October 2021 the NUG formed a Central Command and Coordination Committee (C3C) in collaboration with some EAOs to establish a chain of command and to coordinate military operations across the country, it is unclear to what extent its command and control over the many groups is effective. For most new armed elements, the required elements of organization have yet to be met.

18. Post-coup armed elements in ethnic states, particularly Chin, Kachin, Kayah and Kayin, appear to be under the command of or allied with EAOs. This is the case for the Chinland Defence Force and the Karenni Nationalities Defence Force, and PDFs in Kachin

¹³ A/HRC/47/CRP.2, para. 26.

¹⁴ International Committee of the Red Cross (ICRC), Commentary of 2016 on Geneva Convention I, Article 3, paras. 423-429.

¹⁵ ICTY, *Prosecutor v. Tadic*, IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, para. 70, 2 October 1995.

¹⁶ ICTY, *Prosecutor v. Tarulovski*, IT-04-82-T, Public Judgment, para. 177, 10 July 2008.

and Kayin states. It therefore appears that those groups have joined the EAOs that are parties to the pre-existing a non-international armed conflicts with the Tatmadaw. All parties are bound by Common Article 3 of the Geneva Conventions as well as relevant rules of customary international humanitarian law,¹⁷ including those regulating the conduct of hostilities.

IV. Human rights violations and abuses stemming from anti-coup repression

19. Within Myanmar's continuously evolving context, a human rights catastrophe and humanitarian emergency has unfolded, impacting on the enjoyment of basic rights by all communities across the country.

A. Right to life

20. Credible sources show that between 1 February 2021 to 31 January 2022 at least 1,500 persons died at the hands of security forces and their affiliates, separate and apart from civilian deaths in pre-existing armed conflicts. Figures indicate the overwhelming majority of victims were men with over 1,300 deaths (87 per cent). Over 100 children (7 per cent) – including at least 90 boys and 15 girls – were killed. Of these, at least 19 children appear to be below the age of 13; and over a quarter of total victims killed were reportedly aged between 18 and 29 (inclusive).

21. Based on available data, Sagaing Region had the highest numbers of fatalities reported, at least 420 deaths, with Yangon and Mandalay regions following closely with about 275 and 265 respectively. Over four-fifths of fatalities recorded occurred in the seven predominantly Burman regions while over one-third of the total killed occurred in February and March 2021 alone. Over 60 per cent of total deaths resulted from the alleged use of small arms-fire, with about 200 persons reportedly shot in their heads.

22. Analysis of available data indicates that deaths resulting from actions of security forces and their affiliates, whether by commission or omission, occurred mostly in the following: (i) during protests; (ii) whilst in custody of security forces and their affiliates; and (iii) in the context of “clearance operations”. Chronological and tactical analyses show clear patterns which indicate a systematic approach underlying the military's strategy endorsed by command structures at a policy level.

23. Security forces first employed lethal force at peaceful assemblies. In many instances, police and military personnel used live ammunition to force the dispersal of demonstrations including directing them at individuals. Interviewees described snipers being stationed near protest sites. One source reported their relative had been shot in the back by such a marksman at a protest in March in Shan State. Another witness recalled seeing snipers stationed in a tree inside a monastery compound that was taken over by security forces near a protest site in Bago. When security forces violently cracked down on that protest site on 9 April 2021, even injured demonstrators were not spared. Soldiers specifically targeted protesters who were trying to ferry injured persons away on motorcycles to obtain medical assistance, killing at least one already injured person.

24. Following violent dispersal of these anti-military demonstrations, security forces also chased down suspected protestors, killing bystanders along the way. During the 9 April Bago crackdown, security forces shot and killed a resident in the latter's own house compound as they chased after protestors in that neighbourhood. The unnecessary or disproportionate use of force by the security forces against peaceful protesters violates numerous rights, including the rights to security of person, and to freedom of expression and assembly. Where such use of force resulted in the death of protesters, it amounts to arbitrary deprivation of life.

25. In tracking down individuals wanted for anti-military activism, the Tatmadaw carried out violent raids into private accommodations and other infrastructures, including entire

¹⁷ ICRC, Customary International Humanitarian Law Database.

neighbourhoods and places of worship. This resulted in individuals killed during searches and arrest operations.

26. Over 20 per cent of fatalities occurred in custody (about 325 people including 16 children), with a significant increase in the number of cases from July onward. While there was a reported average of 12 cases per month between February and June, figures steadily increased since July with an average of 38 cases, and a spike of 70 deaths in December. This would seem to coincide with the Tatmadaw's operations that aimed to identify and root out support for the anti-coup armed elements. Deaths in detention resulted either from lack of adequate medical attention to victims' injuries suffered consequent to crackdowns and raids, or as result of cruel and inhuman treatment and torture especially during interrogation. Approximately half of those who died in custody reportedly did so within the first 48 hours of detention.

27. Multiple interviewees indicated that they remained unaware of the whereabouts of numerous detainees, that corpses were disposed of without informing or receiving the consent of families, or that information about relatives was simply withheld when requested. In one case, a 17-year-old child who was detained on suspicion of involvement in PDF training died in custody, with the body cremated and remains buried without consent of the family. In the few instances that the remains were returned, the bodies exhibited signs of abuse. One interviewee reported being arrested along with a relative, taken to a police station, and interrogated multiple times. Upon release, the interviewee learned their relative had died of a heart attack, despite having been previously reported to be in good health. Upon collecting the relative's body, the source described the body as having multiple facial fractures, bloody head wounds, and bruises and burn marks on other parts of the body.

28. Individuals have also been killed by security forces during "clearance operations." Beginning in July 2021, a series of mass killings during military operations have been reported. In July in Sagaing Region, military forces launched a series of operations in seven villages of Kani Township which resulted in the Tatmadaw's alleged killing of up to 40 villagers, including a 14-year-old and two elderly persons. In one village, Tatmadaw arrested and killed nine people, whose remains were later found abandoned in the forest by villagers after the soldiers left. Corpses had been bound, with hands and – in some cases – feet tied behind their backs, and they bore visible wounds consistent with the use of knives and sticks. Similarly in early December in another township in Sagaing, Tatmadaw soldiers in Done Taw Village allegedly killed and burnt alive 11 individuals, including five children with the youngest being 14 years old, inside a hut where they were detained. Villagers confirmed that the victims were farmers who had remained in the village as all other residents had fled due to previous Tatmadaw attacks.

29. On 24 December, the Tatmadaw burned the bodies of up to 40 women, men, and children inside trucks in Mo So village, Hpruso Township in Kayah State. Those who found the remains saw some of the victims' hands were tied, and some bodies were in positions that appeared as though they were trying to escape and had been burned alive. Among the dead were two humanitarian workers and several young children.

B. Right to liberty and security of person; prohibition against torture and ill-treatment

30. Since 1 February, the SAC amended laws illegally to confer unchecked powers of arrest and detention upon security forces, which have been used to target and intimidate individuals opposing military rule. Initially, the military detained hundreds of individuals from the executive and legislative branches of government, and over time targeted doctors, nurses, celebrities, students, educators, and others for their criticism of the coup, for participation in peaceful demonstrations or the CDM, or for support of the CRPH and NUG – aiming at those with influence in galvanizing civic opposition.

31. Credible sources indicate that between 1 February 2021 and 31 January 2022, the SAC and its affiliated armed elements detained at least 11,742 individuals – 9,307 men (79 per cent) and 2,349 women (20 per cent) – including 240 children (2 per cent). Additionally, another 1,971 individuals were wanted by the SAC, forcing them to go into hiding.

32. Of the 11,742 detained, over one-quarter (29 per cent) were in Yangon Region and just over half (51 per cent) concentrated in the regions of Yangon, Mandalay and Sagaing.

Overall, almost four-fifths (79 per cent) of those detained by the SAC were from the seven region/states of Yangon, Mandalay, Sagaing, Bago, Shan, Tanintharyi and Magway.

33. Indicating the use of consistent tactics and that command structures of security forces endorsed such actions at a policy level, arrests and detentions occurred mostly:

(a) During protests: In response to peaceful anti-coup protests, military and police deployed large numbers of troops that “surrounded and trapped” or chased down protestors in residential areas. Security forces regularly used ill-treatment against those in custody, and lethal force against fleeing demonstrators.¹⁸ Security forces reportedly arrested by-standers, including street vendors and workers, during crackdowns.

(b) In private residences: Typically, dozens of soldiers (including from military intelligence) accompanied by smaller numbers of police and local administrators, would descend on residences in search of wanted individuals. Frequently, such raids involved significant aggression, including verbal abuse, property damage and physical assault. When persons being sought were absent, security forces sometimes detained family members, to force wanted individuals to surrender.

(c) On the streets: Credible sources reported that security forces arrested individuals known locally to oppose the coup. In areas with heightened activity by armed elements, small groups of individuals who were found on the road with basic supplies were detained on grounds of associating with these actors.

(d) During “clearance operations”: Credible sources stated that in rural settings, individuals found with hunting rifles or other weaponry, reportedly used for livelihood purposes, were arrested for weapons possession.

34. Journalists were consistently at risk of arrest for reporting on unfolding developments in the country, with a minimum of 137 media workers having been detained over the year, and at least 60 remaining in custody.

35. Separately, the Tatmadaw also targeted NLD members, government officials, and parliamentarians for arbitrary arrest and detention, including President Win Myint and State Counsellor Aung San Suu Kyi. In November 2021, the NLD Central Working Committee indicated over 570 members had been arrested, of whom 12 had died shortly after being detained and another died weeks after release following eight months’ detention.¹⁹ Approximately 463 NLD-affiliated individuals reportedly remain in detention, indicating that the SAC was targeting individuals based on their party affiliation, persecuting them on political grounds.

36. Multiple sources explained that detention procedures evolved. In the first weeks, individuals were generally detained in police stations or prisons immediately following arrest. Over time, military authorities first sent detainees to military interrogation centres, prior to their transfers to police stations and onwards to prisons, or directly to prisons. Individuals spent varying durations at military facilities, and increasingly faced torture and other forms of ill-treatment during interrogations.

37. In Yangon Region, interviewees described detainees being held for an average of two weeks at military facilities, undergoing questioning by groups of five or more interrogators, and being ill-treated until providing some information. In Mandalay Region, one interviewee noted individuals were almost always sent to military interrogation centres for one to three weeks, after September 2021, during which they were exposed to abusive treatment possibly amounting to torture. Another interviewee reported that since July 2021 in Ayeyarwaddy Region, the military generally kept detainees in their custody and subjected them to treatment that may amount to torture: beatings and verbal abuse; suspension from ceilings without food or water; forced to stand in solitary confinement for extended periods; dripping water on the shaved frontal region of the scalp; electrocution, sometimes coupled with injection of unidentified drugs; forced nudity in front of others and sexual violence, including rape; and forced ingestion of lard by Muslims. While interrogations initially focused on identifying

¹⁸ A/HRC/48/CRP.2, paras. 10-35.

¹⁹ Irrawaddy, “Myanmar’s Ousted NLD Says Over 570 Members Arrested by Junta So Far”, 1 December 2021.

leadership and support for protests, they later focused on inquiries about detainees' ties with NUG/CRPH/PDFs.

38. In Magway Region, a credible source stated that detainees were left alone for the first couple of days during which time military intelligence officers would carry out social media tracking of the individuals, and then used results yielded to carry out interrogations, led by an officer at the rank of "major". While not all detainees were initially subject to ill-treatment, the interviewee noted those who appeared to be of South Asian descent were "guaranteed beaten". In time, however, all were subjected to violence regardless of ethnicity, sex, or age. In Tanintharyi Region, interviewees separately identified a lieutenant colonel who led their interrogations and who directed infliction of torture and other forms of ill-treatment at military facilities.

39. Sources across several locations indicated that towards the end of military custody, police received instructions to move detainees from military facilities, and to lay specific charges. Police brought detainees to local police stations when the official remand period started, with the police building cases based on instructions received. During this period, authorities did not systematically inform family members or lawyers about detainees' whereabouts, and suspended family visitations at prisons beginning 1 February alleging COVID-19 related risks. Interviewees explained that the only way to find out whether an individual was in prison was to send a food packet with the individual's personal details: if the packet was not returned to the sender, it meant the individual was being held in detention. Upon expiration of official remand periods, individuals reported being transferred to prisons. From the foregoing, there are reasonable grounds to conclude that security forces are responsible for arbitrary arrest and detention, enforced disappearances, and/or ill-treatment often amounting to torture.

40. These violations were enabled by the SAC's instrumentalization of the law – notably through amendment and use of the Penal and Criminal Procedure Codes – to provide a veneer of legality for their otherwise illegitimate and unlawful actions.²⁰ This includes subversion of the judicial process with establishment of "special courts" within prison compounds to try detainees; introduction of military tribunals in townships under Martial Law; as well as amendments to the Legal Aid Law narrowing the scope of State-funded legal aid to only the trial stage of proceedings, and removing guarantees of independence for legal aid providers operating under a State-funded scheme. Numerous interviewees described a complete lack of judicial independence. Upon sentencing, one interviewee was told by the court that, "You are innocent, but I have to listen to someone else. Please forgive me."²¹

41. Other infringements on fair trial rights included cumbersome procedures preventing detainees from securing powers of attorney, meeting and consulting with their lawyers before trial, and authorities' harassment and threats against defence counsel. An interviewee recalled being intimidated by prosecution witnesses after objecting to a picture of a signed confession being introduced as evidence.

42. Between 1 February 2021 and 31 January 2022, at least 740 individuals were sentenced – including 84 persons and two children, to death, following trials that did not meet fair trial standards.

43. Although the SAC has on several occasions released prisoners en masse, most of these individuals were charged or convicted of criminal offences prior to 1 February. Following the October 2021 pardon,²² some individuals who were to be released received new charges before stepping out of the prison gates. Others were rearrested within days of their release.

44. Persons released from detention described harsh prison conditions, including significant overcrowding. Physical distancing was impossible and there was no treatment for those who contracted COVID-19. Interviewees held in three different prisons across Myanmar also described a similar situation of some convicts given effective delegated authority by prison authorities to "discipline" political detainees leading to widespread extortion and abuse.

²⁰ A/HRC/48/67, paras. 8-10.

²¹ Online Interview with OHCHR, ES13.

²² Global New Light of Myanmar, "1,316 detainees, 4,320 defendants pardoned on Thadingyut occasion", 19 October 2021.

V. Impact of insecurity, armed conflicts, and other forms of violence on human rights

45. Myanmar is wrought with devastation that has destroyed the increasingly prosperous lives that many around the country had in recent years begun to enjoy. Concurrently, ethnic minorities who have been persecuted for decades face intensified violence and insecurity. In attempting to crush armed opposition, the Tatmadaw continued its “Four Cuts Policy”, conducting offensives using airstrikes, helicopter gunships, artillery, and mortars. Indiscriminate attacks often in populated areas, in flagrant disregard for human life and property were reported. Tatmadaw forces committed many violations during “clearance operations”, combing areas in search of members of armed groups and arresting, torturing, and summarily executing individuals, as well as looting and destroying property. In these operations, individuals were demonstrably at high risk of harm from small arms fire, which killed over 400 individuals; while airstrikes, mortar and artillery shelling and other explosions killed approximately 150 persons. For example, in September 2021, Tatmadaw forces, occupying a school, launched an artillery attack in Kone Thar village in Kayah State, ostensibly targeting positions of the Karenni Nationalities Defence Force. Shell explosions caused residents to flee. Thereafter, Tatmadaw units searched the village, shot and killed three civilians before burning their bodies, and shot and killed an elderly man who had remained behind. During their occupation of the village, Tatmadaw units destroyed 26 buildings and damaged 13 others.

46. Many armed actors persistently used landmines and hidden improvised explosive devices, killing and injuring individuals around the country. Landmines or explosive remnants of war accounted for over 88 deaths,²³ with at least 600 reported incidents of landmine usage. Tatmadaw units allegedly planted landmines in empty villages to prevent displaced persons from returning. Several instances of detonations reportedly resulted in deaths and injuries in different locations around the country.

47. In at least 85 reported incidents, the Tatmadaw forced individuals to perform labour and act as human shields as their troops advanced. In September 2021 in Mon State, the Tatmadaw forced 400 villagers from Bilin Township to work, requiring them to transport goods through the jungle. Elsewhere in Kale Township, Sagaing Region, the Tatmadaw attacked a PDF camp, detained 12 people including 10 PDF members and two volunteer nurses and summarily executed three of them, including one nurse. Light infantry units forced the nine remaining, all of whom were women, to walk ahead as human shields. All reportedly remain in detention.

Internet shutdowns, displacement and restrictions on humanitarian aid

48. Internet shutdowns continue to be used by the Tatmadaw to stifle populations’ ability to access information and communicate. Since August 2021, 25 townships across conflict and violence affected areas of Myanmar have been in a vacuum without any form of internet and in some cases also without fixed and mobile phone lines. Doing so in situations of violence endangers civilians, violates their rights to freedom of expression and access to information and further hampers humanitarian actors’ ability to provide effective assistance.

49. Tatmadaw “clearance operations”, airstrikes and use of heavy weapons in populated areas purposely instil fear in villagers, forcibly displacing local populations. This has resulted in over 441,500 people being displaced from their homes around the country since February 2021. This included at least 240,000 people in Kayah and Kayin states and other parts of south-east Myanmar, 191,500 people in Chin State, and Sagaing and Magway regions, as well as 10,000 people in Shan and Kachin states.²⁴ More than 15,000 people have crossed the border to India or Thailand.²⁵ Many more people have been temporarily displaced and there is a large, pre-existing protracted-displaced population including over 220,000 persons in Rakhine State and over 106,000 on Kachin and northern Shan states.²⁶

50. Military authorities largely blocked humanitarian access to new and pre-existing areas of need, through delayed or denied travel authorizations, tightened bureaucratic

²³ OCHA, “Myanmar Humanitarian Update No. 15”, 15 February 2022.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

requirements, or establishment of new roadblocks and checkpoints. Disruptions in supply chains and failure of the banking sector, because of the coup, also impacted humanitarian access and response. Military authorities also specifically stopped humanitarian agencies from distributing aid to populations they perceived to be affiliated with opposition. Since October in Kayah State, the military required organizations to seek permission to transport more than 10 bags of rice, significantly impacting on delivery of food assistance. In Chin State, the military deliberately blocked travel routes which restricted essential deliveries, further exacerbating the situation. In several instances, Tatmadaw targeted people assisting internally displaced persons (IDPs), burning food and other items. Security forces also arrested volunteers assisting IDPs in Kayah and Chin states, and at least 30 displaced persons reportedly died due to preventable health problems in Mindat Township in Chin State resulting from no access to healthcare. In areas affected by armed conflicts these restrictions could amount to a violation of the obligation of parties to the conflict to allow and facilitate unimpeded passage of humanitarian relief for civilians in need. As a result of arbitrary access restrictions, affected communities lack access to food, healthcare, shelter, safe drinking water and sanitation facilities and are at increased risk of disease including COVID-19. IDPs struggle to realize their basic rights including food, health, education and work, and their displacement is impacting future food security due to their inability to plant and harvest crops.

Property destruction and attacks on health and education

51. Over 400 Tatmadaw attacks on populated areas involved property destruction, destroying thousands of houses and other buildings including churches and food stores. It has been well-documented that arson is a hallmark of Tatmadaw operations, mostly perpetrated after villagers are displaced. Most egregiously, in Thantlang town in Chin State, Tatmadaw Light Infantry Brigade 222 burned over 900 buildings over the course of at least 23 successive attacks in the town from September, including two non-government organization offices, eight churches and 12 other religious buildings, continuing a trend of Tatmadaw forces targeting Chin ethnic and religious minorities. There were over 250 mass burnings across Magway and Sagaing regions since the middle of the year. Satellite imagery obtained by OHCHR of the largest burnings reveals that 171 buildings were destroyed and 36 damaged in June 2021 when the Tatmadaw attacked Kin Ma Village in Magway Region.

52. Attacks on the rights to education and health persisted, with 450 attacks on schools, school personnel and use of schools for military purposes reported, the majority of which were in Mandalay, Magway, Sagaing and Yangon. Furthermore, there have been 286 attacks on healthcare, including attacks on facilities, vehicles, personnel and patients.

Abuses and violations by anti-Tatmadaw actors

53. Several iterations of a NUG-issued “code of conduct for people’s defence forces” contain provisions on key international standards and references to the Geneva Conventions. Similarly, their “guidelines on the detention of prisoners of war and military prisoners by the people’s defence organizations” also refer to the Geneva Conventions and provide for humane treatment of detainees. Serious long-standing issues, however, including forced recruitment, child recruitment, and landmine use by anti-Tatmadaw actors continue to be reported.

54. Since May, 543 individuals have reportedly been killed due to their perceived support of the military. Victims include at least 166 local administrators appointed by, or otherwise linked to, the SAC, or their family members, 47 members of the pro-military Union Solidarity and Development Party, and 214 alleged military informants. While the vast majority were men, 48 were women, and at least eight were children, including an eight-month-old baby. It is not possible to attribute most of these deaths to particular actors, but anti-coup armed elements claimed responsibility for 95 incidents.

55. While attacks by anti-coup armed elements have primarily targeted the Tatmadaw, some have also been directed against property and buildings that have an apparent or perceived military affiliation, including ward and village tract offices, Government buildings, and — increasingly from June — towers believed to be used by the partly military-owned MyTel telecommunications network, with around 150 towers attacked by anti-military groups. Credible reports indicated several individuals have died during those attacks. Telecommunications towers have a predominantly civilian use, and their destruction further impacts individuals’ rights to freedom of expression and access to information.

VI. Human rights situation of the Rohingya community

56. 30. Although the security situation in Rakhine State has remained relatively stable, the overall human rights situation of the Rohingya community has seen no improvement. Previously identified patterns of discrimination, such as deprivation of citizenship rights and civil documentation, restrictions on freedom of movement, access to health and education services, as well as livelihood opportunities remain. Similarly lacking are the right to return for refugees and displaced persons, not to mention justice, and redress for past violations, which remain completely unaddressed and continue to negatively affect every aspect of daily life of this community. Interviewees and interlocutors unanimously stated that so long as the Tatmadaw enjoys impunity and exerts influence on Myanmar civil and political life, further deterioration in human rights for the Rohingya community can be expected.

57. An example of this are the actions taken by military authorities to further restrict freedom of movement for Rohingya. According to interviewees and other sources, the Military National Registration and Citizenship Department in October reintroduced a process where Rohingya who do not possess National Verification Cards (NVCs) must receive temporary travel authorization for movements between Buthidaung and Maungdaw townships in Rakhine State. On 25 November 2021, Buthidaung's Township General Administration Department imposed the requirement of Form 4, a travel permit issued by the Immigration Department, for all "Bengalis" (used as a derogatory and exclusionary term), further cementing disenfranchisement of the Rohingya. Rohingya reported that all these processes are characterized by continuous extortion. One person reported that informal fees for each permit may be over 25,000 Myanmar Kyat (approximately US\$15), without accounting for other arbitrary payments demanded at each security checkpoint. Sources also reported that Rohingya receive travel authorizations with significantly limited temporal durations, for example as short as three days despite a request for one month. These and other existing restrictions severely compromise access to services and sustainable livelihoods, prolonging dependence on humanitarian assistance, exacerbating vulnerabilities and protection risks, prompting negative coping mechanisms, including accepting significantly underpaid jobs to secure some form of earnings, in addition to entrenching segregation and discrimination.

58. Conditions in Rakhine State remain unconducive for safe, voluntary, dignified, and sustainable returns of refugees and IDPs. Due primarily to security concerns in the camps in Cox's Bazar, however, some families decided to return to Myanmar. Consistent with Tatmadaw policies aimed at excluding Rohingya from life in Myanmar, these individuals were arrested, charged, and prosecuted for illegal entry. Similarly, Rohingya rescued at sea while undertaking perilous journeys either from Bangladesh or Myanmar to third countries, or moving inside Myanmar, face arrest and prosecution.

59. Humanitarian access continues to be time-limited, location specific, restricted in its scope of activities, subject to several layers of approvals, particularly for villages and sites in remote locations, where humanitarian needs are greatest. Although a COVID-19 vaccination campaign is being rolled out in Rakhine State, costs related to travel and relevant authorizations, as well as access and availability, are reported as hindering effective coverage for Rohingya.

60. Military authorities reportedly intend to move forward with implementation of the national IDP camp closure strategy, developed under the previous civilian government, although they have not yet addressed fundamental issues of citizenship, freedom of movement, and housing, land and property rights. Engagements with affected communities have been described as cursory.

61. In Bangladesh, interviewees from Cox's Bazar and Bashan Char continue to express serious security and economic concerns. All interviewees from Cox's Bazar indicated that the security situation has dramatically worsened with criminal groups, such as ARSA and the Munnah group, fighting daily to gain control in the camps and threatening, beating, kidnapping, and killing unaffiliated camp residents. One of these killings occurred on 29 September 2021 targeting Mohib Ullah, a prominent Rohingya human rights defender who had received numerous threats and who was the first Rohingya to directly address the Human Rights Council in March 2019. In addition to representing a dramatic loss for the Rohingya and human rights communities, this execution has sent a chilling signal within the Rohingya community.

VII. Accountability

62. This section outlines possible international crimes, including war crimes and crimes against humanity, as well as ongoing international accountability efforts.

A. International criminal law

63. War crimes may be committed in a non-international armed conflict when serious violations of Common Article 3 or customary international humanitarian law occur. Crimes against humanity under customary international law may be perpetrated where certain acts are committed as part of a widespread or systematic attack directed against a civilian population.

64. Credible allegations of crimes documented in this and previous reports represent only a fraction of the violations and abuses the Myanmar people have been exposed to since 1 February 2021. Patterns of arbitrary arrest and detention, torture, and other forms of cruel and inhuman, as well as killings countrywide, particularly in Yangon, Mandalay, Sagaing, Bago, Magway, and Tanintharyi regions seems to indicate the targeting of individuals based on their political and professional affiliations and for exercising political rights. With calculated changes to the legal and judicial systems, those deprived of liberty were systematically taken into military custody and subjected to torture and other forms of cruel treatment, sometimes resulting in deaths. In the contexts of peaceful anti-coup protests and military “clearance operations”, tactics adopted by the Tatmadaw – including targeted shots-to-the-head and immolation of victims – suggest that such conduct is not misconduct or misbehaviour of a few, but rather the result of instructions handed down through the command structure to use of lethal force targeting civilians. Taking into consideration the extent, type, and level of atrocity of Tatmadaw’s actions, it is highly improbable that soldiers acted independently outside the chain of command.

65. Consistent with the preliminary analysis of the Independent Investigative Mechanisms for Myanmar to the Human Rights Council,²⁷ this report also concludes that there are reasonable grounds to believe that acts by the Tatmadaw were carried out in the context of a widespread and systematic attack directed against civilian populations, and in apparent pursuance of an organisational policy. Since 1 February 2021 acts that may amount to crimes against humanity may have been committed, in particular, murder, forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, persecution against any identifiable group or collectively on political grounds, enforced disappearances, and other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. When linked to an armed conflict, some of these acts may also amount to war crimes. Additionally, in the conduct of hostilities, deliberate attacks against civilians and civilian objects, using human shields and forced displacement, have occurred and constitute serious violations of international humanitarian law which may amount to war crimes.

66. Since the coup, there has been no information on any investigations or prosecutions of soldiers within Myanmar for violations committed. This further entrenches the total impunity enjoyed by Tatmadaw forces over past decades.

B. Ongoing accountability efforts

67. Various international human rights mechanisms have consistently stressed that accountability, rule of law and security sector reform are fundamental for any lasting peace or transformative change in Myanmar. Successive Special Rapporteurs since 1992 have pointed to the centrality of accountability in remedying Myanmar’s situation.²⁸ Likewise, the Independent International Fact-Finding Mission made extensive recommendations in its 2018 and 2019 reports.²⁹ These included taking steps towards accountability at the national level, security sector reform including civilian oversight of security forces, and law reform.

²⁷ A/HRC/48/18.

²⁸ See, for example: A/HRC/28/72, paras. 57-61; and A/76/314, para. 103.

²⁹ See, for example: A/HRC/39/64, paras. 100-115; and A/HRC/42/CRP.6, paras. 19-22.

Even bodies established by the Myanmar government to probe human rights issues, despite their lack of independence, also made some pertinent recommendations, which were reportedly accepted but never implemented.

68. Significantly, the NUG in August 2021 filed a declaration under Article 12(3) of the Rome Statute of the International Criminal Court, purporting to accept its jurisdiction with respect to international crimes committed in Myanmar since 1 July 2002. The Court has yet to express a public position on this issue.

69. Further steps have been taken at the international level. Proceedings initiated by The Gambia on application of the Genocide Convention before the International Court of Justice continue, with the Court considering preliminary objections by Myanmar to The Gambia's application. After the Court's order of provisional measures, both the SAC and NUG reportedly transmitted biannual reports on their implementation to the Court, however, Those submissions not having been made public, it is not possible externally to assess the veracity or accuracy of their contents. At the same time, the International Criminal Court is continuing its investigation into the "Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar", with respect to certain crimes subject to its territorial jurisdiction. For its part, the Independent Investigative Mechanism for Myanmar continues with its mandate to facilitate the work of courts of competent jurisdiction. The Mechanism has indicated that its preliminary analysis of information collected concerning events since 1 February 2021 indicating that crimes against humanity, including murder, persecution, imprisonment, sexual violence, enforced disappearance and torture, have likely been committed.³⁰

70. At the national level, on 26 November 2021, the Second Chamber of the Federal Criminal Court of Argentina overruled an earlier decision by a lower court on procedural issues, affirming the competence of Argentinian courts to investigate violations against Rohingya under universal jurisdiction.

71. While these steps are all significant, the breadth and scale of violations of international law suffered by people of Myanmar call urgently for broader measures of justice and accountability that address more comprehensively the full range of violations that have been and continue to be suffered across the country. Sustained serious violations of international law demand a firm, unified, and resolute international response to effectively protect the human rights of the people of Myanmar.

VIII. Conclusion and recommendations

72. **Since February 2021, Myanmar has experienced a significant regression in the enjoyment of human rights encompassing the full gamut of civil, political, economic, and social rights. Over 1,500 individuals have died in the act of exercising their fundamental rights and freedoms or whilst in the custody of those who had an obligation to protect them. Over 10,000 persons have languished in prison, arbitrarily detained, with hundreds if not thousands having been subjected to torture.**

73. **Myanmar is caught in a downward spiral of violence, characterized by increasingly brutal repression against those opposed to military rule or perceived as such, violent resistance to the coup, and several active non-international armed conflicts. Civilians are not just being caught in the crossfire, but rather are being deliberately targeted. Tatmadaw forces continue to use explosive weapons with wide area effects in populated areas. These include the increasing reliance on air power, including helicopter gunships and air-strikes. Over 440,000 persons have been displaced by armed clashes since 1 February with as many as 14.4 million people now being listed as in urgent humanitarian need.**

74. **Action is urgently needed to stem the pace at which individuals are being stripped of their rights, their lives and their livelihoods. Myanmar's military has created an environment in which meaningful negotiations and dialogues cannot occur and in which the people of Myanmar have no voice. Thus far, international efforts to encourage a lessening of violence and de-escalation of rhetoric and provocation have**

³⁰ A/HRC/48/18, paras. 30-35. See also: <https://iimm.un.org/wp-content/uploads/2021/10/2021-10-29-IIMM-Bulletin-October-2021-English-language.pdf>.

fallen on deaf ears. Announced nationwide ceasefires have not reduced military operations or counter-strikes by armed opponents. Raids on residences and detentions of activists, political opponents or others suspected of dissent occur with unrelenting regularity. Humanitarian operations remain stalled while access is not facilitated. These dynamics must change dramatically to create the basis for political discussions or a negotiated solution.

75. Throughout the tumult and violence of the past year, the will of the people has clearly not been broken. They remain committed to see a return to democracy and to institutions that reflect their will and aspirations. The democratic movement has begun to articulate a more inclusive vision for the future of the country which must be nurtured and supported. This includes envisioning a “peaceful Federal Democracy Union which guarantees freedom, justice and equality”, with key values including “Democracy Rights, Gender Equality and basic Human Rights”, eventually recognizing the crimes and injustices of the past, including against Rohingya and other minorities, and calls for accountability for the violations that have occurred and construction of judicial institutions capable of functioning independent of external political pressures or edicts.³¹ To restore trust in justice, it is imperative to establish fully independent, impartial and effective judicial institutions with no ties to the Tatmadaw. The international community must do everything within its power to support the people of Myanmar and turn this human rights catastrophe into one of opportunity.

76. In light of these findings and the present situation, the High Commissioner reiterates her previous recommendations to the military authorities to:

(a) cease all violence and attacks immediately against the Myanmar population in all parts of the country, in line with the five-point consensus agreed in the ASEAN leaders meeting of April 2021;

(b) release immediately all prisoners detained, prosecuted and/or sentenced in relation to acts of political expression, free association, and rights to protest and free assembly. Discontinue politically-motivated prosecutions, including those targeting members of the democratically-elected Government, members of political parties, civil society, human rights defenders or other persons targeted for opposition to the coup;

She further recommends that all parties in Myanmar:

(c) cooperate fully with the Special Envoys of the United Nations Secretary-General and ASEAN presidency to develop the basis for a broad-based dialogue with all parties and stakeholders, including women, youth and minority community representatives;

(d) facilitate unrestricted access to humanitarian assistance providers immediately, including both international and local service providers for delivery through non-State modalities;

(e) respect human rights norms fully and comply with international humanitarian law, where applicable;

(f) cooperate fully with international accountability mechanisms, including both those examining actions of the Myanmar authorities, including its military forces, concerning the Rohingya crisis as well as the events since February 2021;

She also recommends that the international community:

(g) extend protection for all individuals crossing international borders, including members of the Rohingya population, provide immediate humanitarian assistance and ensure any returns movements are conducted in a dignified and voluntary manner, fully consistent with the requirements of international law;

(h) support the referral of the situation in Myanmar to the International Criminal Court, whether by the United Nations Security Council or by duly recognised national authorities;

³¹ See further A/HRC/48/67 paras. 70-74.

(i) ensure that any political solution to the present crisis makes full allowance for transitional justice measures and eschews amnesties for serious human rights violations and international crimes;

(j) take immediate action to prevent the supply of arms to the Myanmar military or other armed parties in the country, in accordance with the call of the UN General Assembly, and apply other targeted sanctions on military economic interests as appropriate;

(k) encourage businesses that maintain operations within Myanmar to cease working with military owned or affiliated entities in line with the recommendations of the Special Rapporteur and Independent International Fact-Finding Mission and ensure full divestment of such businesses from joint ventures or other revenue-sharing arrangements with the Myanmar military or businesses under their influence.

She recommends that the United Nations system:

(l) renew efforts within its system to implement the “Rosenthal Report” recommendations fully, as well as other past independent reviews into UN action, in order to strengthen the UN’s ability to prevent and to respond to human rights-related crises and undertake all necessary efforts to ensure a coherent, strategic response in Myanmar, aimed to strengthen human rights centred protection in a mutually enforcing manner.
