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Human rights situations that require the Council's attention

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

Summary

Thirteen months after launching a coup against the government, an illegal military junta has waged a relentless war against the people of Myanmar and their fundamental rights. The results have been devastating. Junta forces have killed at least 1,600 civilians and displaced over 500,000. Half of the population has fallen into poverty. The World Health Organization is now projecting that there will be over 47,000 preventable deaths in Myanmar this year. Thirteen million people face food insecurity.

This report highlights some of the most serious human rights violations in Myanmar during the period September 2021 through February 2022. It documents the military's violent attacks on civilian populations, including airstrikes, mortaring, arson, extrajudicial killings, and the use of forced labor and human shields. The report describes the junta's campaign to arrest and imprison activists, journalists, peaceful protesters and other opponents. It documents the junta's criminalization of fundamental rights such as freedom of speech and assembly. It also shares the experiences of those who have faced torture and other ill-treatment during periods of detention. Many of these attacks constitute probable crimes against humanity and/or war crimes, and perpetrators must be brought to justice.

The report describes the efforts of the people of Myanmar to oppose the military junta and defend their nation. Led by large numbers of young people, including many young women, protest organizers have demonstrated great skill, tenacity and creativity in the mobilization of opposition despite the near constant threat of imprisonment or death. The Special Rapporteur is inspired by their conviction and tireless efforts.

To succeed, the people of Myanmar need a much stronger level of support from the international community. The report concludes with specific recommendations that he urges UN Security Council and Member States to take.

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

** The annexes are reproduced as received.

Contents

	<i>Page</i>
I. Introduction.....	3
II. The junta’s violence and attacks on civilians.....	4
A. Attacks on civilians.....	4
B. Forced displacement.....	5
C. Destruction of civilian property.....	6
D. Killings of civilians.....	7
E. Forced labor and using civilians as human shields.....	8
III. Humanitarian emergency.....	8
A. Obstruction of delivery of humanitarian aid.....	9
IV. The junta’s persecution of its opponents.....	10
A. Ongoing non-violent opposition.....	10
B. Attacks on peaceful protesters.....	10
C. Arbitrary arrest and detention.....	11
D. Torture, other ill-treatment, and deaths in custody.....	12
E. Politically motivated trials and convictions.....	12
V. The rights of women and girls.....	13
A. Gender-based violence.....	13
VI. Children’s rights.....	14
VII. Freedom of expression, assembly and association.....	15
A. Media freedom.....	15
B. Internet restrictions.....	16
C. Surveillance.....	16
VIII. The human rights of the Rohingya.....	17
IX. International response.....	18
X. Recommendations.....	18
Annex I – Graphic: Armed engagements and other attacks in Myanmar, 1 February 21 - 28 March 2022.....	21
Annex II – December 2021 Bangladesh mission findings and conclusions.....	22
A. Cox’s Bazar Camps.....	23
B. Bhasan Char.....	26
C. Conclusions on Bangladesh Mission.....	27

I. Introduction

1. More than 13 months after overthrowing a democratically elected government, the Myanmar junta has intensified its war against the people of Myanmar. The military has escalated its indiscriminate attacks against civilians using jet fighters, attack helicopters and heavy artillery, and soldiers have burned entire villages to the ground. Civilians and combatants have been tortured, raped, executed and used as human shields.

2. The scale of these atrocities is immense. According to conservative estimates, at least 1,600 civilians have been killed by the junta's forces. Nearly 10,000 people are currently detained because of their opposition to military rule, and the junta has amended the legal code to further criminalize the exercise of fundamental rights including the rights to freedom of expression and assembly. More than 500,000 people have been displaced since the coup bringing the current number of internally displaced persons (IDPs) in Myanmar to over 800,000. Tens of thousands who have sought safety in Bangladesh, India and Thailand have joined the approximately one million refugees from Myanmar in neighboring countries.

3. Many of the junta's human rights violations constitute probable crimes against humanity and war crimes. Those responsible must be held to account.

4. This report highlights some of the most serious human rights concerns in Myanmar during the period September 2021 through February 2022. It documents the military's violent attacks on civilian populations, including airstrikes, mortaring, arson, extrajudicial killings, and the use of forced labor and human shields. These attacks have created and exacerbated the dire humanitarian crisis that now grips the country, threatening the livelihoods, health and lives of millions. The report describes the junta's campaign to arrest and imprison thousands of activists, journalists, peaceful protesters and other opponents. It also shares the experiences of those who have faced torture and other ill-treatment during periods of detention. The Special Rapporteur describes the particular dangers and human rights challenges faced by women and children and outlines the junta's efforts to criminalize and otherwise suppress fundamental rights and freedoms. This report also describes the dire human rights situation for Rohingya populations in Rakhine State, including those who are confined to IDP camps.

5. In December 2021, the Special Rapporteur traveled to Bangladesh, as part of his overall assessment of the human rights situation of the Rohingya people of Myanmar. In an annex to this report, the Special Rapporteur reflects on his trip, noting the role that the people and government of Bangladesh played in saving untold numbers of Rohingya as they fled the genocidal attacks of the Myanmar military in Rakhine State. He makes recommendations with respect to the protection of and support to Rohingya in the refugee camps in Cox's Bazar and on Bhasan Char island.

6. The report follows the publication in February 2022 of the Special Rapporteur's conference paper on arms sales to the Myanmar military (A/HRC/49/CRP.1). It underscores concerns raised in the paper, namely that several nations continue to sell or authorize the transfer of weapons of war to the Myanmar military, despite knowledge that the weapons are almost certain to be used in attacks against civilians. These transfers violate international law.

7. Many people in Myanmar—including the victims of human rights abuses and their family members, some of whom are highlighted in this report—have told the Special Rapporteur that they are profoundly disappointed with the failure of the international community to act decisively to help prevent atrocities and hold perpetrators accountable. The Special Rapporteur reiterates his call to the UN Security Council to adopt a resolution imposing an arms embargo and targeted economic sanctions against the Myanmar military and referring the situation in Myanmar to the International Criminal Court. He elaborates steps that Member States should take in the absence of Security Council action. The Special Rapporteur notes the strong and swift action taken by Member States on behalf of the people of Ukraine and implores the international community to act similarly to protect the people of Myanmar. They too are under siege by a brutal and relentless military attack.

8. The Special Rapporteur reiterates his deep admiration for the courage and resilience of the Myanmar people. He has been inspired by the bravery of survivors of human rights violations who have taken great personal risks to speak with him, by the resourcefulness of activists who have found new and creative ways to challenge military rule, and by the resilience of communities that have repeatedly rebounded from attacks over many months, years or decades. The Special Rapporteur is honored to share their stories, and their words, in this report. He is also grateful to the non-governmental and civil society organizations, human rights defenders, local human rights groups, Member States and United Nations programs and agencies that contributed to this report.

II. The junta's violence and attacks on civilians

9. The military continues to attack civilian populations using airstrikes, mortar fire, indiscriminate gunfire and arson. People in the custody of junta forces have been executed, tortured, raped and used as forced labor and human shields. Hundreds of thousands of civilians have been impacted by these grave human rights violations.

10. The junta's attacks on civilians have been perpetrated on a widespread and systematic basis. The Special Rapporteur stresses that these attacks constitute probable crimes against humanity including the crimes of murder, enslavement, forcible transfer, torture, rape and sexual violence. When the junta's attacks occur in the context of armed conflict, they constitute probable war crimes, including the crimes of wilful killing, torture and inhumane treatment, destruction of property, compelling service in hostile forces, unlawful transfer, pillaging, rape, sexual violence and displacing civilians. The perpetrators and architects of these crimes must be held to account. Given that these crimes have been committed with impunity by the Myanmar military for decades, and the fact that they have been orchestrated at the highest level of the military chain of command, the international community must act to ensure accountability.

11. During the reporting period, Chin and Kayah States and Sagaing and Magway Regions suffered a steep rise in violence, with junta forces targeting civilian populations and opposition armed groups countering with asymmetrical attacks on military units. Meanwhile, conflict has intensified in ethnic areas long affected by war, including Shan, Kachin and Kayin States. A ceasefire between the military and Arakan Army in Rakhine State that has been in place since late 2020 appears increasingly shaky.

A. Attacks on civilians

12. In the past six months, the Myanmar military's targeting of civilians has intensified significantly. The Armed Conflict Location & Event Data Project (ACLED), which aggregates media and NGO reporting, recorded 1,143 attacks on civilians, 81 airstrikes and 256 attacks using heavy artillery between 1 September 2021 and 25 February 2022.¹ In Sagaing Region alone, 470 such attacks were registered during this period, compared to 213 attacks in the seven months following the coup and three in the year preceding the coup. The actual numbers may be higher. See Annex 1 for a map showing violent attacks throughout the country since the coup.

13. The military has utilized jet fighters, helicopters, heavy artillery and light weaponry to attack civilians. The military's tactics are clear violations of the principle of distinction, a fundamental tenet of international humanitarian law which requires that combatants distinguish between civilian and military targets.

14. The military's use of aerial bombardment against civilian populations has escalated significantly. An intense bombing campaign is currently underway in Kayah State and

¹ Armed Conflict Location & Event Data Project (ACLED), <https://acleddata.com/data-export-tool/>, data exported 3 March 2022 (Myanmar data filtered for sub-event type "Attack" under the "Violence against civilians" type and sub-event types "Air/drone strike" and "Shelling/artillery/missile attack" under the event type "Explosions/Remote violence." The Special Rapporteur utilizes ACLED data as representative of the intensity of fighting and cannot vouch for its absolute accuracy.).

bordering areas in southern Shan State, where the military faces stiff resistance from PDFs, the Karenni Nationalities Defense Force and the Karenni Army. Instead of limiting its attacks to combatants from these groups, the military has targeted civilians, including by striking the region's larger towns. The military has also pursued civilians as they flee, launching attacks on places where IDPs are sheltering.

15. A 26-year-old Karenni man who works to help IDPs and is himself displaced described the situation in Kayah State:

In the past, we've faced restrictions on transportation or travel. But now they are using the armed operations and airstrikes against us everywhere. There is not a day that we don't hear the sound of the helicopters and fighter jets. Sometimes they use the airstrikes to target the resistance. But they also target the civilians and IDPs. Sometimes even if they aren't attacking, the helicopters are flying around in the sky and looking for people. They have another kind of airplane they just use for surveillance. One or two days after that airplane comes, the jets will come to bomb. Since the airstrikes target the civilians, we don't feel secure. We feel like all of Karenni state has turned into a battlefield. For us, the IDPs, we fled from one place to another. Sometimes we flee because of the airstrikes, sometimes because of the fighting.²

16. The Special Rapporteur spoke with a Karenni man who lost two daughters, aged 15 and 12, while sheltering with other IDPs on 17 January 2022. The man explained:

At about 1am, the camp was bombarded. My two daughters were among the victims. They were sisters. I am not sure if it was the shrapnel or the bomb itself that dropped between my daughters. The two girls were thrown in different directions. The stomach and lower body were blown to pieces.³

17. He further described the dire situation for those who have been displaced, saying that as attacks on IDP locations continued, villagers had to flee deeper into forested areas. Thousands in his area were struggling to find food and water. He concluded by saying, "We would like the UN to know the true situation in Karenni State and Myanmar. The human rights in our country are being violated. Can you help us any way to gain true justice and true freedom?"

18. The Special Rapporteur reviewed reports of attacks in the area of Lay Kay Kaw, a town near the Thailand-Myanmar border in Kayah State. Beginning in December 2021, the military has indiscriminately attacked the area with heavy artillery, jet fighters and helicopters, resulting in civilian casualties and causing approximately 10,000 to flee the area, with several thousand crossing the border into Thailand. The military has reportedly shelled locations where IDPs were sheltering.

19. In first-hand testimony shared with the Special Rapporteur by the Karen Human Rights Group, a 17-year-old female IDP from the Lay Kay Kaw area described near constant attacks by the junta in December 2021: "The SAC launch mortars so we were afraid to stay. ... We have been fleeing for five days and each day we slept in a different place. ... When the fighting happens at the place where we flee, we need to flee to another place."⁴ A 51-year old day-laborer and father of four said, "During the airstrikes, SAC dropped bombs and fired machine guns [from helicopters and jets] so bullets [and bombs] fell from the sky just like rain. ... We did not feel secure to stay anymore, and then we had to flee."⁵

B. Forced displacement

20. The junta's relentless targeting of civilians and rampant human rights violations have contributed to widespread displacement, compounding the humanitarian crisis. As of 28

² Interview with Myanmar Human Rights Project, Schell Center for International Human Rights at Yale Law School, 11 March 2022.

³ Interview with Special Rapporteur, 19 January 2022.

⁴ Karen Human Rights Group interview shared with the Special Rapporteur.

⁵ Ibid.

February 2022, there were 873,000 IDPs in Myanmar, according to UNHCR.⁶ 503,000 people have been displaced since the coup, with 235,000 displaced since 1 December 2021. This is a dramatic increase in displacement in a country already suffering from many protracted conflicts.

21. The intense fighting in Kayah State, coupled with the military's airstrikes targeting towns and other civilian locations, has led to massive new displacement. Recent reports indicate that more than half of Kayah State's 300,000 people have been displaced because of the persistent airstrikes and attacks by the military,⁷ including 80 percent of the population of Loikaw, Kayah State's capital.⁸ More than 170,000 people have been displaced in Sagaing Region since the coup.⁹

22. Although many IDPs in situations of protracted displacement reside in IDP camps with rudimentary infrastructure, many of the newly displaced are sheltering in forested areas or other hiding places with only the supplies they were able to carry when fleeing their homes. They often lack access to food, drinking water, sanitation and medical supplies.

C. Destruction of civilian property

23. After civilians have fled their homes because of military aerial attacks and shelling, soldiers and pro-junta militias will often destroy homes, churches, schools and other civilian structures. The military appears to be using arson and the destruction of civilian property in a widespread and systematic manner, looting and burning villages and large sections of towns to the ground in several parts of the country. According to Data for Myanmar, as of 7 March 2022, the military and its allies have burned approximately 6,719 civilian structures since the coup.¹⁰ More than 4,500 of these structures have been destroyed since the beginning of the year.

24. In September 2021, after an attack in Chin State that reportedly killed dozens of Myanmar military soldiers, the military bombed civilian areas and burned homes in Thantlang Town. In the months since, junta forces have burned hundreds of homes and civilian structures in Thantlang. Satellite imagery and drone footage show the extent of destruction and corroborate witness testimony suggesting the responsibility of the military.¹¹ Leaked military documents authorizing operations to "clear" the area suggest a planned campaign of arson. The documents described a "special clearance operation" in Chin State commencing in October 2021 during which soldiers were authorized to use "ground zero level" tactics.¹² Nearly all of Thantlang's civilian population has been displaced. Soldiers have also burned several nearby villages.

25. Since late January 2022, the military has carried out a massive and coordinated campaign of arson in Sagaing Region, with the apparent aim of rooting out resistance from PDFs and other anti-coup armed groups in the region. Over 1,000 buildings were reportedly burned in several villages in the span of just five days.

⁶ UNCHR, Myanmar Emergency Update, 1 March 2022, <https://reporting.unhcr.org/document/1848>.

⁷ See, for example, Karenni Human Rights Group and Network for Human Rights Documentation – Burma, "The World Must Know," February 2022, <https://progressivevoicemyanmar.org/wp-content/uploads/2022/02/FINAL-The-World-Must-Know.pdf>. More recent reports by NGOs on the ground in Kayah State indicate that the total displaced population may have reached 200,000.

⁸ UNHCR, Myanmar Emergency Overview Map, 17 January 2022, https://reliefweb.int/sites/reliefweb.int/files/resources/220117_SE%20MM_Displacement%20Overview_Final.pdf.

⁹ UNCHR, *supra* note 6.

¹⁰ Data for Myanmar, 9 March 2022, <https://www.facebook.com/data4myanmar/posts/1571395406561992>.

¹¹ See, for example, Carolina Jordá Álvarez, Human Rights Watch, "A Month of Fires in Thantlang, Myanmar: Satellite Imagery, Thermal Anomalies Data Show Numerous Burnings," 30 November 2021, <https://www.hrw.org/news/2021/11/30/month-fires-thantlang-myanmar>.

¹² Meg Kelly, et al, "'Bum it all down': How Myanmar's military razed villages to crush a growing resistance," Washington Post, 23 December 2021, <https://www.washingtonpost.com/world/interactive/2021/myanmar-military-burn-villages-tatmadaw/>.

26. The military has also burned homes during its recent attacks in Kayah State. In early March 2022, a Karenni man whose home in Demoso Township had been burned down two days prior described the situation in his area while fleeing fresh attacks:

My village was burned down by the junta. There are no villagers left in my village. All of the villages in my area are the same. In some villages, they only burned three or four houses and then they moved on to the next village. In other villages, they burned all of the houses. If they saw any villagers, they shot at them or burned them alive. The villagers are very terrified.¹³

D. Killings of civilians

27. Estimates of deaths at the hands of military or pro-junta forces vary widely, reflecting methodological differences, the difficulty of recording deaths nationwide, and the magnitude of atrocities committed by the junta. Civilian deaths likely number at least 1,600 and could be much higher.¹⁴ The Special Rapporteur separately addresses murders resulting from torture below.

28. In addition to fatalities associated with indiscriminate attacks, the military has repeatedly executed individuals in its custody, at times in mass murders of detained civilians. On 24 December 2021, soldiers massacred at least 35 civilians in Hpruso Township, Kayah State.¹⁵ The victims included women, at least one child and two aid workers affiliated with Save the Children, a humanitarian organization. The bodies of many victims had been burned beyond recognition. The hands of some of the victims appear to have been bound before they were murdered. Military personnel and pro-junta groups have routinely burned the bodies of victims, apparently in an attempt to conceal evidence or spread terror among the local population.

29. The Special Rapporteur spoke with the mother of a 15-year-old boy who was one of those murdered on 24 December 2021. She told the Special Rapporteur that her son was riding in a truck and helping to make a gas delivery to earn money on the day soldiers murdered him:

Early that morning he picked up my phone call, but later I could not communicate with him anymore. I didn't know what happened to my son. Later the news was reported about the killings, and people told me about what happened. ... I did not get the body. I didn't dare to go there. I just asked the wife of the driver [with whom he was riding], and she said that she saw my son's clothes. ... In the morning, he left without expecting that he would be killed. I don't know why my son and the others were killed. ... We hate the brutal act of killing people. We feel a lot of pain. Sometimes we cry while we are eating because we miss our son so much.¹⁶

30. The Special Rapporteur spoke with a young activist who fled Yangon after he was attacked during peaceful protests and police issued a warrant issued for his arrest. The activist is now in hiding in Sagaing Region and recalled frequently fleeing military attacks, including by helicopters firing machine guns into villages where he was hiding. Only days before he

¹³ Interview with Myanmar Human Rights Project, Schell Center for International Human Rights at Yale Law School, 5 March 2022.

¹⁴ See, for example, Assistance Association for Political Prisoners-Burma, "Daily Briefing in Relation to the Military Coup," 11 March 2022, <https://aappb.org/?p=20551> (reporting 1652 killings by junta forces); ALTSEAN Burma, "Coup Watch Special Edition: A year of struggle in Burma," 9 February 2022, <https://progressivevoicemyanmar.org/wp-content/uploads/2022/02/2056-CoupWatch-special-edition.pdf> ("2,610 civilians ... killed as a result of coup-related violence.").

¹⁵ See, SC/14754, Security Council Press Statement on Situation in Myanmar, 29 December 2021, <https://www.un.org/press/en/2021/sc14754.doc.htm#>; Fortify Rights, "Ongoing War Crimes in Karenni (Kayah) State, Myanmar: May 2021 – January 2022," February 2022, <https://www.fortifyrights.org/downloads/Ongoing%20War%20Crimes%20in%20Karenni%20%28Kayah%29%20State%2C%20Myanmar%20-%20Fortify%20Rights%20Flash%20Report%20-%20EN.pdf>, p. 16-21.

¹⁶ Interview with Myanmar Human Rights Project, Schell Center for International Human Rights at Yale Law School, 11 March 2022.

spoke to the Special Rapporteur, he fled a village that was under attack by the military and upon his return he and other villagers discovered nine badly burned bodies. He told the Special Rapporteur:

When the military came into the village, we ran away from the village for our safety. [Later] we came back and saw nine bodies. We checked the bodies. We saw that the military had shot them in the head. We saw that their brains were leaking out the back of their heads.¹⁷

31. Opposition groups have also carried out targeted killings of non-combatants, including police officers, junta-appointed officials and alleged informants. The Special Rapporteur reiterates that the killing of non-combatants or those placed hors de combat—including wounded or detained fighters—violate the right to life, regardless of the political and military affiliations of the victims.

E. Forced labor and using civilians as human shields

32. The Special Rapporteur is concerned that the escalation of armed conflict and displacement throughout the country is accompanied by a rise in forced labor, with patterns repeating those seen in previous cycles of violence and unrest over several decades. The Special Rapporteur reviewed firsthand accounts of forced labor collected by NGOs, including descriptions of cases involving up to 100 victims. The International Labour Organization indicated that its forced labor monitoring had been disrupted by the coup, but that community-based organizations reported an increase in forced labor by the military. Some victims of forced labor have also reportedly been executed.

33. Human rights groups and media have reported on the military's use of civilians as human shields, including during firefights with opposition armed groups. Some of those used as human shields in conflict zones have been minors, according to credible information shared with the Special Rapporteur.

34. The Special Rapporteur is concerned about reports of forced recruitment by the Myanmar military, including minors. Given the proliferation of conflict fronts in Myanmar and analysis of military manpower, defections and recruitment pressures, the Special Rapporteur is concerned that there will be a return to the widespread use of forced and underage recruitment by the military.

III. Humanitarian emergency

35. The junta is directly responsible for the rapidly deteriorating humanitarian situation in Myanmar, which threatens human rights enumerated in the Universal Declaration of Human Rights, including the rights to food, shelter, health, and an adequate standard of living. The junta's obstruction of humanitarian aid and attacks on aid workers in the context of armed conflict, as described below, violate international humanitarian law.¹⁸

36. The military junta has driven Myanmar into a humanitarian catastrophe marked by crumbling health infrastructure, half the nation falling into poverty, rampant inflation, fuel price increases, the COVID-19 pandemic and the obstruction of aid delivery. The UN Office for the Coordination of Humanitarian Affairs (OCHA) estimates that a four-fold increase in funding from the donor community is needed to meet targets for humanitarian assistance in Myanmar, with further support needed for refugee populations in Bangladesh and Thailand. Even if those targets are met, millions in need of aid will go without. The Special Rapporteur is deeply concerned that, without stronger action from the international community, they will become considerably worse, resulting in untold numbers of deaths and suffering on a massive scale.

¹⁷ Interview with Special Rapporteur, 6 March 2022.

¹⁸ International Committee of the Red Cross, "Rule 55, Access for Humanitarian Relief to Civilians in Need," Customary IHL Database, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule55.

37. The World Health Organization estimates that health service disruptions, unless rectified, will result in an additional 47,156 avoidable deaths in 2022.¹⁹ Late last year, the United Nations Development Programme predicted that nearly half of Myanmar's population would be in poverty by early 2022 and that urban poverty would triple because of the pandemic and the unfolding political crisis.²⁰ More than 13 million people currently face moderate or severe food insecurity.²¹ OCHA estimates that 14.4 million people require humanitarian assistance in 2022.²²

38. The lack of trust in the junta continues to undermine public health programs, including the response to the COVID-19 pandemic. Myanmar's vaccination rate is the lowest among ASEAN countries and COVID-19 tests are hard to secure, leaving the population extremely susceptible to future waves of infection and creating an environment that could give rise to new variants.²³

A. Obstruction of delivery of humanitarian aid

39. The junta has responded to the deepening crisis in Myanmar by weaponizing desperately needed humanitarian aid. The Special Rapporteur received credible reports that junta authorities have expressly ordered village leaders to not accept aid from international non-governmental organizations (INGOs) without prior authorization. Humanitarian actors have had to contend with multiple checkpoints along transportation routes, with workers being subjected to invasive searches, including of their mobile devices. Authorities regularly confiscate or destroy food, medicine, clothing and other goods.

40. Humanitarian organizations' concerns for the safety of their staff have also impacted the delivery of aid. INGO staff have frequently been arrested or detained. Representatives of local organizations who play a critical role in the delivery of aid face an even greater risk. The populations most urgently in need of assistance are often those that humanitarian organizations have the most difficulty reaching.

41. Junta forces have routinely attacked health workers and infrastructure. A study by Physicians for Human Rights documented 128 attacks on health facilities, the arrest of 286 health workers, and the killing of 30 health workers in the year following the coup.²⁴ Medics treating opposition armed groups face acute risks, including the threat of arrest, detention, torture and sexual violence. In November 2021, soldiers detained nine female medics, including teenagers, during a raid on a PDF camp in Kalay Township, Sagaing Region. Reports indicate that at least some of the detainees may have been tortured while in detention.

42. UN agencies and humanitarian organizations have warned that the junta's imposition of bureaucratic hurdles has delayed or prevented the delivery of aid.²⁵ Organizations have

¹⁹ OCHA, Humanitarian Needs Overview 2022, December 2021, <https://reliefweb.int/report/myanmar/myanmar-humanitarian-needs-overview-2022-december-2021>, p. 34.

²⁰ UNDP, "Myanmar urban poverty rates set to triple, new United Nations survey finds," 1 December 2021, <https://www.undp.org/press-releases/myanmar-urban-poverty-rates-set-triple-new-united-nations-survey-finds>.

²¹ OCHA, Humanitarian Response Plan, Myanmar, January 2022, https://reliefweb.int/sites/reliefweb.int/files/resources/mmr_humanitarian_response_plan_2022-final.pdf, p. 10.

²² Ibid.

²³ As of 26 February, 45,202,278 vaccine doses had been administered, enough to administer two doses to roughly 42 percent of the population. World Health Organization, COVID-19 Emergency Dashboard: Myanmar, <https://covid19.who.int/region/searo/country/mm>.

²⁴ Physicians for Human Rights, "Our Health Workers are Working in Fear: After Myanmar's Military Coup, One Year of Targeted Violence against Health Care," January 2022, https://phr.org/wp-content/uploads/2022/01/PHR_Report_Our-Health-Workers-Are-Working-in-Fear_One-year-anniversary-of-the-Myanmar-Coup_January-2022-Reduced.pdf. See also, World Health Organization, Surveillance System for Attacks on Health Care (SSA), Myanmar, 1 September 2021 – 22 February 2022, accessed 22 February 2022, <https://extranet.who.int/ssa/Index.aspx>.

²⁵ See, for example, UN OHCHA, Myanmar Humanitarian Update No. 15, 15 February 2022, <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-15-15-february-2022>.

experienced long delays in the authorization of travel or the approval of memorandums of understandings. The junta has also used the COVID-19 pandemic as a pretext for imposing travel restrictions that impede access to IDPs.

IV. The junta's persecution of its opponents

43. The junta's suppression of opposition and dissent violate numerous human rights including the rights to freedom of expression, assembly, association, to life, to a fair trial, and to be free from arbitrary detention and torture. These actions contribute to ongoing widespread and systematic attacks on the civilian population and thus likely constitute crimes against humanity, including the crimes of murder, deprivation of liberty, torture, rape, sexual violence, persecution and other inhumane acts. The perpetrators of these acts must be held accountable.

A. Ongoing non-violent opposition

44. Led by large numbers of young people, including many young women, protest organizers have demonstrated great skill, tenacity and creativity in the mobilization of opposition despite the near constant threat of imprisonment or death. To save the lives of protesters from a military that has no reservations about shooting directly into crowds, protest leaders have adapted their tactics. Smaller "flash protests" are often held in the early morning hours. "Silent Strikes" have been organized to give large numbers of people safe ways to demonstrate. Despite orders and threats from the military junta for the public not to participate, large numbers of people refused to go out in towns and cities throughout the country on 10 December 2021, International Human Rights Day, and on 1 February 2022, the anniversary of the junta's attempted coup.

45. More than a year after the coup, thousands of civil servants, health workers, teachers and lawyers continue to participate in a nationwide Civil Disobedience Movement (CDM) by refusing employment at state institutions. Activists have organized crowdsourcing initiatives to provide financial support to individuals and families that have foregone paychecks to demonstrate their opposition to military rule. The CDM has played an important role in undermining the junta's efforts to gain control of the country.

46. The Special Rapporteur spoke with a shopkeeper who described how she refuses to sell goods made by companies connected to the military in an attempt to deprive the junta of funds. She said:

As you know, in Myanmar they arrest whoever they want. They will arrest the mother. If they can't get the mother, they will take the children. That's how it is. We can't make any moves. Our hands and legs are tied. We cannot explain the SAC's violence to other countries. So why boycott? As long as we buy their products, it's like we're supporting them, making them even richer. That's why it's important to remember that every person's action counts. We all have to act together. We'll keep up this attitude. We won't buy their goods, nor will we sell to them.²⁶

B. Attacks on peaceful protesters

47. Given the risk mitigation strategies adopted by protest organizers, there have been fewer fatalities and injuries resulting from attacks by junta forces than in the months immediately following the coup. It is important to note that this does not reflect a change in the tactics of the junta, which continues to use deadly force against peaceful protesters.

48. On 5 December 2021, a military truck moving at high speed rammed a group of dozens of individuals participating in a peaceful flash mob protest in Yangon's Kyimyindaing Township. During the attack authorities also opened fire with live ammunition. Local media reported at least four fatalities and 15 arrests at the scene of the

²⁶ Interview with Special Rapporteur, 17 January 2022.

attack. The *Global New Light of Myanmar*—a junta-controlled publication—described the incident as a “crowd dispersal operation” conducted “in line with the regulations,” despite the fact that the violent and unprovoked attack on peaceful protesters was caught on camera by several protesters and residents of the neighborhood.²⁷

49. A young protest leader who narrowly avoided arrest on 5 December 2021 told the Special Rapporteur what he saw:

We arrived at the strike location, and the strike group and public from Yangon met together and started the protest. The strike title was “Freedom from Fear.” The soldiers arrived only one minute after the protest leaders started shouting. The soldiers yelled at the protesters loudly and swore at the protesters. Some of my friends didn’t see the military truck coming. ... I yelled, “The military truck is coming.” But they didn’t hear me because the people were shouting loudly. They continued with their protest. I still cannot forget the sound of the military attacking the people. I can’t get it out of my mind. Some people were able to avoid the truck, but others didn’t see it and were hit. Some people were stuck under the truck.²⁸

50. Authorities have rammed peaceful protesters with vehicles on several occasions over the past six months. An 11 September 2021 attack on protesters riding motorbikes left one woman dead. During a “Six Twos” protest in Monywa, Sagaing Region, a pregnant woman reportedly suffered a miscarriage after being knocked from a motorbike and soldiers reportedly opened fire on two young men, injuring and arresting one.

C. Arbitrary arrest and detention

51. In the past six months, the junta has continued its campaign to suppress dissent, arresting and detaining activists, journalists, peaceful protesters, civil society leaders and politicians. According to AAPP-B, as of 11 March 2022, 12,598 persons had been arrested in relation to their pro-democracy activities or opposition to military rule since the 1 February 2021 coup.²⁹ Of this total, 9,588 remain in detention. Authorities have issued arrest warrants for a further 1,973 individuals.

52. The Special Rapporteur has continued to receive credible reports of the targeting of the family members of individuals who have managed to evade arrest. Authorities have detained the children or elderly relatives of people with outstanding arrest warrants. AAPP-B has documented the arrest of 320 individuals who have been “detained as a hostage,” 266 of whom reportedly remain in custody as of 7 March 2022.

D. Torture, other ill-treatment, and deaths in custody

53. The Myanmar military has continued to use torture and ill-treatment in prisons, police stations, military bases and other places of detention. Given the lack of access to the thousands of individuals currently being detained by the junta, it is difficult to ascertain the full scope of violations suffered by those in detention. However, the Special Rapporteur’s direct engagement with individuals released from custody, media reports, letters

²⁷ “Press release on circulating misinformation about crowd dispersal of security forces in Kyimyindine Township,” *Global New Light of Myanmar*, 7 December 2021, <https://www.gnlm.com.mm/press-release-on-circulating-misinformation-about-crowd-dispersal-of-security-forces-in-kyimyindine-township/>. The officer who organized the attack on the protesters was reportedly honored for “outstanding performance under military rule” during an Independence Day ceremony on 4 January 2022. “Yangon Vehicle Ramming Commander Honored by Myanmar Junta Leader,” *Irrawaddy*, 6 January 2022, <https://www.irrawaddy.com/news/burma/yangon-vehicle-ramming-commander-honored-by-myanmar-junta-leader.html>.

²⁸ Interview with Special Rapporteur, 5 March 2022.

²⁹ Assistance Association for Political Prisoners-Burma, “Daily Briefing in Relation to the Military Coup,” 11 March 2022, <https://aappb.org/?p=20551>.

surreptitiously sent by detainees and reports by lawyers who have had contact with detained clients paint a picture of grievous abuse that continues on a massive scale.³⁰

54. Accounts from torture victims and eyewitnesses indicate that security forces have used torture to extract information or confessions during interrogation sessions and have also tortured detainees as a means of punishment or retribution. Methods employed include punching, kicking, stabbing, striking with sticks or rods, beating with the butts of guns, shocking with electrical devices, burning skin and genitalia, ripping out fingernails, stress positions, and deprivation of food and water. Accounts of torture frequently involve the use of tactics designed to humiliate victims. Many female detainees—and some male detainees—have suffered sexual harassment, sexual assault or rape. Some torture victims have been minors. Those injured during torture or interrogation sessions rarely receive any sort of medical treatment.

55. The Special Rapporteur spoke to a former university student who is now a protest leader in Yangon. After being arrested in July 2021, he was tortured. He told the Special Rapporteur:

Once, on 30 July 2021, about 30–40 police and soldiers attacked us. They opened fire on us using rubber bullets and real bullets. Out of 30 of them, about ten were wearing civilian clothes. The rest were wearing uniforms. They arrested me and took me to the interrogation center. They tortured me and did not give me any water. They beat me with a bamboo stick, but it was not a normal bamboo stick. There was a cloth wrapped around it and they poured oil on it and then set it on fire. They also accused me because I had a flag from our university group. They also pulled out bullets and said they were mine. But they were not mine. They were just accusing me.³¹

56. The protest leader was subsequently released. Despite his experience, he continues his work as a protest leader. He told the Special Rapporteur:

I think about two things. First, I know that what we need is federal democracy. But second, I am also afraid of the military's weapons. When I compare those two things, I know what is more important. I know it's more important to have democracy. So I continue to join the protests.

57. The UN Human Rights Office has identified at least 325 people, including 16 children, who have died in custody (A/HRC/49/72).

E. Politically motivated trials and convictions

58. The rule of law has completely collapsed since the military coup, negating modest improvements made during the preceding decade of civilian rule.³² “Trials” have been held behind closed doors and inside prisons, preventing access by the public or media. Individuals have been convicted based on confessions extracted by torture or “secret” evidence that is never presented in court. According to AAPP-B, at least 955 individuals have been convicted on politically motivated charges since the coup, including more than 100 convicted in absentia.³³

59. In December 2021, President Win Myint and State Counsellor Aung San Suu Kyi were convicted of incitement and violating COVID-19 restrictions, and in January 2022 Aung San Suu Kyi was convicted of illegally importing walkie talkies. She faces more than a dozen additional charges. The junta has also detained hundreds of members of the NLD,

³⁰ See, for example, Victoria Milko and Kristen Gelineau, “Myanmar military uses systematic torture across country,” Associated Press, 28 October 2021, <https://apnews.com/article/myanmar-torture-military-prisons-insein-abuse-390fe5b49337be82ce91639e93e0192f>.

³¹ Interview with Special Rapporteur, 4 March 2022.

³² See, International Commission of Jurists, “Myanmar: A year after military takeover, no rule of law or judicial independence,” 10 February 2022, <https://www.icj.org/myanmar-a-year-after-military-takeover-no-rule-of-law-or-judicial-independence/>.

³³ AAPP-B, supra note 29.

including 13 out of 14 former regional and state NLD Chief Ministers. Some have already been convicted.

V. The rights of women and girls

60. For more than two decades, Myanmar has failed to meet its obligations under the Convention on the Elimination of All Forms of Discrimination against Women, a treaty to which it acceded in 1997. Since the February 2021 coup, the junta has been directly responsible for a spiraling human rights crisis for women and girls, including abuses that constitute crimes against humanity and war crimes.

61. Armed conflict, civil strife and the COVID-19 pandemic have greatly increased the risks faced by women and girls across Myanmar. Women and girls in conflict zones are particularly vulnerable to human rights violations, including sexual violence, arbitrary detention and forced labor. The Special Rapporteur fears that the violence and instability plaguing Myanmar may force some women into prostitution or early marriage or make them more vulnerable to human trafficking. Humanitarian organizations told the Special Rapporteur that dozens of women are being trafficked from IDP camps each month, with men sometimes selling their female relatives to traffickers.

A. Gender-based violence

62. The Special Rapporteur is gravely concerned about reports of sexual harassment, sexual assault and rape in detention sites and conflict zones in Myanmar. For decades, the Myanmar military has used sexual violence and other crimes against women as a weapon of war. Rape and sexual violence are crimes against humanity or war crimes—depending on the context in which they are committed—under the Rome Statute of the International Criminal Court.

63. According to the Women’s League of Burma (WLB), cases of rape, gender-based violence, sexual harassment and sexual abuse of minors have increased significantly since the coup. WLB’s General Secretary, Naw Hser Hser, told the Special Rapporteur about cases her organization had documented in recent months, including the rape of a 62-year-old woman and a new mother. She expressed the frustration of women living in fear within a system where those who commit sexual violence can do so with impunity:

The military junta always uses sexual violence as a strategy, even before the coup. If the conflict happens in Karen State, there is rape. If there is an attack against the Rohingya, there is rape. ... There is no judicial system since the military coup. We can’t go to any court. We are just hoping that the international community can help with protection. We hope that they can help bring the case to the ICC. ... These are all crimes that have been committed for many years. There needs to be accountability.³⁴

64. A young female activist who was detained in Insein Prison for eight months after being arrested at a peaceful protest in March 2021 told the Special Rapporteur about how she was beaten during interrogation sessions and shared a crowded room and single toilet with more than 100 other inmates. She talked about her experience and the sexual harassment and gender-based violence that is all too common in detention facilities. She also described the sexual assault of other women and LGBT detainees who may have been targeted because of their sexual orientation.

65. Apart from military-inflicted sexual violence, calls to gender-based violence hotlines have reportedly doubled or tripled in the past two years. The Special Rapporteur is deeply concerned that the COVID-19 pandemic, economic turmoil, and disruption of daily routines following the coup have created the conditions for gender-based violence to proliferate in the private sphere. The breakdown in government functions and widespread distrust of authorities has severely limited avenues for victims to seek redress or assistance.

³⁴ Interview with Special Rapporteur, 3 March 2022.

66. Organizations serving victims of gender-based violence have been greatly impacted by the severely constrained operating environment described above. The lack of access to funds for these organizations coincides with increased costs to victims by the shifting of many health-related services to private clinics. Many women refuse healthcare services when they are referred to military hospitals.

VI. Children's rights

67. The junta's widespread and systematic human rights violations, the collapse of public services following the coup, and the COVID-19 pandemic have had a devastating impact on children in Myanmar. Not only have the junta's indiscriminate attacks on civilians often included child victims, but children have also at times been the specific targets of the junta's violence and human rights violations. Moreover, the crisis in public health and education have threatened the lives and wellbeing of children and will have a long-term impact on their development. The junta's treatment of children violate Myanmar's obligations under the UN Convention on the Rights of the Child, a treaty which it acceded to in 1991 and may constitute war crimes or crimes against humanity.

68. According to reports from NGOs and UN agencies, more than 100 children have been killed by junta forces since the coup.³⁵ These deaths have been the result of attacks on peaceful protesters, indiscriminate airstrikes and artillery attacks, executions and the use of children as human shields. Four children were reportedly among the victims in the 24 December 2021 massacre of at least 35 people in Hpruso Township, Kayah State.³⁶ A gruesome massacre of 11 in Salinyi Township, Sagaing Region on 7 December 2021 reportedly included five teenagers. Many children are also impacted by landmines. UNICEF recorded 19 deaths and 55 injuries of children by landmines in 2021.³⁷

69. According to AAPP-B, as of 11 March 2022, 188 children were detained as political prisoners, many because of their involvement in peaceful protests.³⁸ 25 of those currently being held hostage in such circumstances are minors.³⁹ Many of these children have been detained because of their relation to individuals who have evaded arrest. Children have often been denied access to lawyers and family members. Some have been tortured and denied medical care for their injuries.

70. The Special Rapporteur is extremely concerned about the recruitment of children as soldiers and the use of children as human shields. The ILO has noted an increase in the forced recruitment of young persons by groups aligned with the Myanmar military.⁴⁰ Some have reportedly been killed while being forced to serve the military. The Special Rapporteur is concerned by reports that the children of military personnel aged 15 years and older have been forced to undergo military training. The Special Rapporteur also reviewed reports concerning recruitment of young teenagers by ethnic armed groups.

71. The combined effect of the COVID-19 pandemic and the military coup have massively disrupted education in Myanmar. In May 2021, 12 million children were estimated

³⁵ See, UNICEF, Myanmar Country Office, Humanitarian Situation Report, 1 January – 31 December 2021, <https://www.unicef.org/media/114711/file/Myanmar%20Humanitarian%20Situation%20Report,%2031%20December%202021.pdf>.

³⁶ UNICEF, "UNICEF condemns reported killing of at least 35 people, including four children and two humanitarian workers, in Kayah State, Myanmar," 28 December 2021, <https://www.unicef.org/eap/press-releases/unicef-condemns-reported-killing-least-35-people-including-four-children-and-two>.

³⁷ UNICEF, "Landmines / ERW Incidents Information," January – December 2021, https://www.unicef.org/myanmar/media/7431/file/Myanmar_Landmine_ERW_Incidents_Information.pdf.

³⁸ AAPP-B, "Under Detention List," 11 March 2022.

³⁹ AAPP-B, "Hostage List", 7 March 2022.

⁴⁰ International Labour Organization, Governing Body, Follow-up to the resolutions concerning Myanmar adopted by the International Labour Conference at its 102nd (2013) and 109th (2021), 25 February 2022.

to have missed more than a year of schooling because of the COVID-19 pandemic.⁴¹ However, after pandemic restrictions were lifted in late 2021, many teachers stayed away from the classroom as part of the Civil Disobedience Movement and many families made the decision to not send their children to government-run schools.⁴² Armed conflict, displacement and other security concerns have also impeded access to education. Attendance rates for government schools are estimated to be below 50 percent.⁴³

72. Junta forces have also occupied and attacked schools in conflict areas, further disrupting education and threatening the lives of student and teachers. According to credible information shared with the Special Rapporteur, there were more than 200 attacks on schools and school personnel in 2021. Junta forces have also occupied schools. In February 2022, soldiers reportedly held 80 schoolchildren hostage for two days in Yinmabin Township, Sagaing Region.

73. The collapse of health services has also had a major impact on children. The disruption of routine immunizations for children is likely to have a long-term impact on public health in Myanmar. Nearly one million children have missed regular vaccine doses since the coup. The World Health Organization estimates that the impact of missed routine immunizations could result in 33,000 deaths.⁴⁴

VII. Freedom of expression, assembly and association

74. In the wake of the coup, the junta has vigorously cracked down on fundamental freedoms, changing the legal code to limit speech, severely restricting internet access, and clamping down on civil society. These actions violate the rights to freedom of expression, assembly and association.

A. Media freedom

75. The junta has been relentless in its attacks on journalists, undoubtedly realizing that truthful, independent reporting threatens its own false narratives. According to the Committee to Protect Journalists, in 2021, Myanmar became the world's second worst jailer of journalists.⁴⁵ Authorities have arrested more than 100 journalists since the coup, dozens of whom remain behind bars. At least three journalists have been killed and some have been tortured.

76. On 1 November 2021, the junta made draconian amendments to the Television and Radio Broadcasting Law, codifying their control over broadcast media. The law, which was first adopted in 2015, had already authorized inappropriate governmental control over broadcast media. The junta's new amendments replaced fines for infractions of the law—including failure to comply with censorship orders—with grossly disproportionate criminal penalties of up to five years' imprisonment.⁴⁶ The amendments expanded the scope of the

⁴¹ Save the Children, UNICEF and UNESCO, "Education at risk: A generation of children in Myanmar must have safe, appropriate and inclusive opportunities to continue their learning," 20 May 2021, <https://www.unicef.org/eap/press-releases/education-risk-generation-children-myanmar-must-have-safe-appropriate-and-inclusive>.

⁴² UNICEF, *supra* note 35.

⁴³ UNICEF, Myanmar Country Office, Humanitarian Situation Report No. 9, 29 November – 30 December 2021, <https://www.unicef.org/myanmar/media/7416/file/UNICEF%20Myanmar%20Humanitarian%20Situation%20Report%20No.%209-2021.pdf>.

⁴⁴ OCHA, *supra* note 19.

⁴⁵ Committee to Protect Journalists, "Number of journalists behind bars reaches global high," 9 December 2021, <https://cpj.org/reports/2021/12/number-of-journalists-behind-bars-reaches-global-high/>.

⁴⁶ 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, 1 November 2021, as reported in *Global New Light of Myanmar*, 2 November 2021, https://cdn.myanmarseo.com/file/client-cdn/2021/11/PDesz1jd-2_Nov_21_gnlm.pdf.

law to cover “other technology” that allows people to receive radio or television programming, likely implicating the use of social media and other online platforms to share audio or video files.

77. In the face of these immense challenges, many professional and citizen journalists have taken great personal risks to report on armed conflict and human rights violations by the junta. They have often adopted new methodologies—operating underground, reporting anonymously or under pseudonyms, and utilizing virtual private networks (VPNs) or encryption technology.

B. Internet restrictions

78. Following the February 2021 coup, the junta blocked access to social media and messaging platforms and imposed rolling nationwide internet blackouts. Since the middle of 2021, authorities have largely refrained from nationwide internet blackouts and instead have imposed local internet shutdowns in conflict zones and areas where opposition forces are strong. Social media and messaging platforms remain blocked nationwide and can only be accessed using VPNs. However, authorities have begun searching phones at checkpoints and during household searches, arresting those with VPN software installed.

79. The junta has begun to establish what can be described as a digital dictatorship. A draft Cyber Security Law would ban the use of VPNs with users facing up to three years’ imprisonment and empower authorities to block online content or restrict internet access without judicial oversight. Penalties include up to three years’ imprisonment for “creating misinformation and disinformation with the intent of causing public panic, loss of trust or social division.” Other provisions erode online privacy and increase the risk of invasive surveillance and arbitrary arrest and imprisonment.⁴⁷

C. Surveillance

80. In recent months, the junta has taken steps to increase its ability to surveil communications to dangerous new levels, significantly impacting the rights to privacy and freedom of expression.

81. In September 2021, Telenor—a Norwegian company that is one of Myanmar’s four major telecommunications providers—revealed that authorities had demanded it activate surveillance technology on its networks. Telenor stated that it would not comply with the order voluntarily and, on 16 February 2022, indicated on its website that it had not activated the technology on its Myanmar network.

82. It was later reported that Telenor had complied with government data requests affecting thousands of customers. Telenor has been by far the most transparent telecommunications company in Myanmar, and it seems very likely that the other providers have complied with government orders to both provide data and activate surveillance technology.

83. Telenor’s planned exit from Myanmar continues to raise concerns about the handover of data connected to Telenor’s 18 million Myanmar customers. In late 2021, it was reported that Telenor Myanmar would be sold to a joint venture between M1 Group and Shwe Byain Phyu group, a Myanmar company with business ties to the military.⁴⁸ Activists who purchased a Telenor SIM card because of the company’s commitment to transparency and human rights now fear that the military will gain unrestricted access to their call data, threatening their safety and that of their family, colleagues and other contacts.

84. One activist who fled the country in 2021 told the Special Rapporteur:

⁴⁷ Access Now, “Analysis: the Myanmar junta’s Cybersecurity Law would be a disaster for human rights,” 27 January 2022, <https://www.accessnow.org/analysis-myanmar-cybersecurity-law/>.

⁴⁸ See, for example, Justice for Myanmar, “Telenor Myanmar’s Buyers Have Financed Atrocities and Cosied Up to Dictators,” 9 July 2021, <https://www.justiceformyanmar.org/stories/telenor-myanmars-buyers-have-financed-atrocities-and-cosied-up-to-dictators>.

I feel very unsafe. When Telenor transfers the data, it can be searched with software. Then they will know everyone I've been connected to. I can hide, but there are people that cannot hide: my mom, my brother, my friends. ... No one is safe. Even if we are in hiding, no one is safe right now. [Telenor] said they are following the law. There is no law under the terrorist military. They even arrest people just because we are clapping our hands. Where is the law?⁴⁹

VIII. The human rights of the Rohingya

85. The roughly 600,000 Rohingya in Rakhine State continue to have their human rights systematically violated.⁵⁰ More than 130,000 remain confined to IDP camps and even those living in villages are denied the right to move freely. Most villagers need to apply for permission to travel between locations in Rakhine State, a system that is enforced at checkpoints manned by security forces throughout the region. Since the coup, Rohingya have faced renewed arrest for undocumented travel and, as of mid-2021, 67 Rohingya were on trial while 58 had been convicted and sentenced up to two years for travel outside of Rakhine State. Travel restrictions and nighttime curfews can have life-and-death consequences, especially for those seeking treatment for acute medical conditions. An outbreak of diarrhea in Rohingya IDP camps that began in January 2022 has led to deaths that could have been prevented by timely medical treatment.

86. The Rohingya continue to be effectively cut off from access to citizenship in Myanmar. Few Rohingya are able to meet the documentary hurdles imposed by the 1982 Citizenship Law, which is applied in an extremely discriminatory manner against the Rohingya. Rohingya persons are by-and-large unwilling to accept National Verification cards (NVC) because of the stipulation that they register as “Bengali,” effectively identifying them as foreigners.

87. No progress has been made towards the safe, dignified and voluntary return of Rohingya who were driven from their homes. Many of the properties which belonged to Rohingya in villages from which they were driven by attacks in 2012, 2016 and 2017 have been razed and are now the site of new commercial projects, government buildings or military installations.⁵¹ Given current conditions, the Special Rapporteur considers the situation in Rakhine State to be un conducive to the voluntary, sustainable return of Rohingya refugees from Bangladesh.

IX. International response

88. The people of Myanmar are profoundly disappointed in the response of the UN and international community to the crisis that has followed the coup. Thirteen months after the Myanmar military launched a brutal assault on the people of Myanmar, a Security Council resolution has yet to even be proposed. There has been no effort to restrict the military junta's access to the international banking system or its access to weapons, and no Member State is known to have frozen assets after the United States did so immediately following the coup. There has yet to be a broad-based, coordinated approach among nations to impose stronger economic pressure on the junta, including the creation of a multinational task force to identify, hunt down and freeze the assets of the military and its cronies, as the Special Rapporteur has continued to urge.

89. On the first anniversary of the coup, the Security Council issued a press statement expressing “deep concern” regarding violence in the country. It called for the release of State Counsellor Aung San Suu Kyi, President Win Myint and others arbitrarily detained. Activists in Myanmar have repeatedly expressed to the Special Rapporteur their exasperation with the

⁴⁹ Meeting with Special Rapporteur, 14 February 2022.

⁵⁰ See Annex 1 to A/76/314, Section III, describing human rights violations the Rohingya faced in Myanmar as of September 2021, which persist during this reporting period.
<https://www.ohchr.org/Documents/Countries/MM/GA76report-annex-SR-Myanmar.pdf>.

⁵¹ See, for example, Amnesty International, “Myanmar: Remaking Rakhine State,” 12 March 2018, <https://www.amnesty.org/en/documents/asa16/8018/2018/en/>.

ritual expressions of “concern” by the international community that are not accompanied by action. The Security Council has failed to exercise its Chapter VII powers to take, or even consider, concrete actions to address the crisis in Myanmar.

90. As described in the Special Rapporteur’s recent conference paper, a number of Member States, including two permanent members of the Security Council, continued to transfer arms to the Myanmar military after the February 2021 coup. A larger number of nations transferred arms to Myanmar prior to the coup but after the Independent International Fact-Finding Mission on Myanmar (IFFM) delivered its 2018 report describing the military’s perpetration of atrocity crimes in Kachin, Rakhine and Shan States. These transfers represent probable violations of international humanitarian law, treaty law and customary international law on State responsibility.

91. In the absence of Security Council action, some individual Member States have taken steps to try to reduce the junta’s capacity to perpetrate grave human rights abuses. These have included the imposition of sanctions on individuals or institutions. For example, on 21 February 2022, the European Union took the important step of imposing sanctions on the Myanma Oil and Gas Enterprise.

92. If the political will does not exist for a Security Council resolution, then coordinated action by Member States, such as those actions that followed within four days of the invasion of Ukraine, should be immediately considered.

X. Recommendations

93. **The Special Rapporteur recommends that the military junta immediately:**

(a) **Stand down. Relinquish power so that a legitimate, democratically elected parliament can convene and a government can be formed;**

(b) **Give clear and unequivocal orders to security forces to end their attacks on the people of Myanmar and refrain from human rights violations and violations of international humanitarian law;**

(c) **Stop blocking the delivery of humanitarian aid to vulnerable populations, including IDPs, and take proactive steps to facilitate aid delivery by national and international NGOs;**

(d) **Respect the exercise of the rights to freedom of expression, assembly and association, including by ending the targeting of activists, journalists, human rights defenders, opposition political figures and peaceful protesters and unconditionally releasing those detained for exercising their rights; and**

(e) **Cooperate fully with UN officials and international accountability mechanisms, including the Special Rapporteur and other UN Special Procedures, the Special Envoy of the Secretary-General on Myanmar, the Independent Investigatory Mechanism for Myanmar, and the International Criminal Court.**

94. **The Special Rapporteur recommends that the United Nations and its organs:**

(a) **Adopt a Security Council resolution that (i) imposes a comprehensive arms embargo on Myanmar, including on jet fuel to the military; (ii) imposes targeted economic sanctions on the Myanmar military, its leaders, and its sources of revenue, including the Myanma Oil and Gas Enterprise, (iii) refers the situation in Myanmar to the International Criminal Court. The prospect of a veto by a Member State in the UN Security Council should not deter other members from placing a resolution before the Council for consideration, debate and a vote;**

(b) **At minimum, adopt a Security Council resolution establishing an arms embargo that specifically outlaws the sale of those weapons and associated munitions that are killing Myanmar civilians, including, jet aircraft, attack helicopters, armored vehicles, light and heavy artillery, missiles and rockets that can attack ground targets, artillery shells, and small arms; and**

(c) Recognize the National Unity Government as a trusted source and partner to address the crisis in Myanmar, including in the provision of humanitarian, health, education and other support for civilian populations.

95. The Special Rapporteur recommends UN Member States to:

(a) Immediately halt the sale or transfer of weapons and dual-use technology to Myanmar and ensure that aviation fuel is not transferred to the Myanmar military;

(b) Organize a coalition of nations with the goal of exerting strong, sustained pressure on the military junta including through coordinated, targeted economic sanctions and embargoes of weapons and dual-use technology; sanctions should be enforced to the fullest possible extent and should target military-owned or controlled enterprises, including the Myanma Oil and Gas Enterprise;

(c) Establish a multinational task force to identify, hunt down and freeze the assets of the military and its cronies;

Sanction those individuals and entities involved in the import and export of arms to Myanmar including Myanmar-based individuals and entities that serve as intermediaries in the weapons trade;⁵²

(d) Deprive the junta of legitimacy by refusing recognition before international bodies, including the United Nations, and disinviting junta officials from international forums and functions;

(e) Recognize the National Unity Government as representing the sovereign will of the people of Myanmar and as a trusted source and partner to engage in the distribution of humanitarian, health, education and other support for the people of Myanmar;

(f) Support efforts to hold perpetrators of atrocity crimes accountable in impartial and independent courts, including the International Criminal Court, International Court of Justice and national courts in countries with universal jurisdiction laws; and

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

96. The Special Rapporteur recommends that donors providing support to Myanmar civil society and the humanitarian and human rights response to the coup:

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

(b) Adopt creative solutions to address operational challenges for organizations in Myanmar, including by relaxing reporting requirements, adopting alternative methods of transferring funds, refraining from requiring registration with Myanmar authorities, and shifting from restricted grants to core funding whenever possible.

97. The Special Rapporteur recommends that the National Unity Government:

(a) Promote and advance the National Unity Government-PDF code of conduct, which provides guidance on the laws of armed conflict and treatment of civilians, and take all measures necessary to stop extrajudicial killings and other rights violations;

⁵² See, e.g., Justice for Myanmar, "Military-linked companies procured USD millions in arms and military equipment," 7 February 2022, <https://www.justiceformyanmar.org/stories/military-linked-companies-procured-usd-millions-in-arms-and-military-equipment>.

(b) Continue efforts to secure the necessary resources to address the needs of the people of Myanmar, including COVID-19 vaccines, humanitarian aid and other vital resources;

(c) Continue efforts to hold perpetrators of mass atrocity crimes accountable by an impartial and independent court, including the International Criminal Court; and

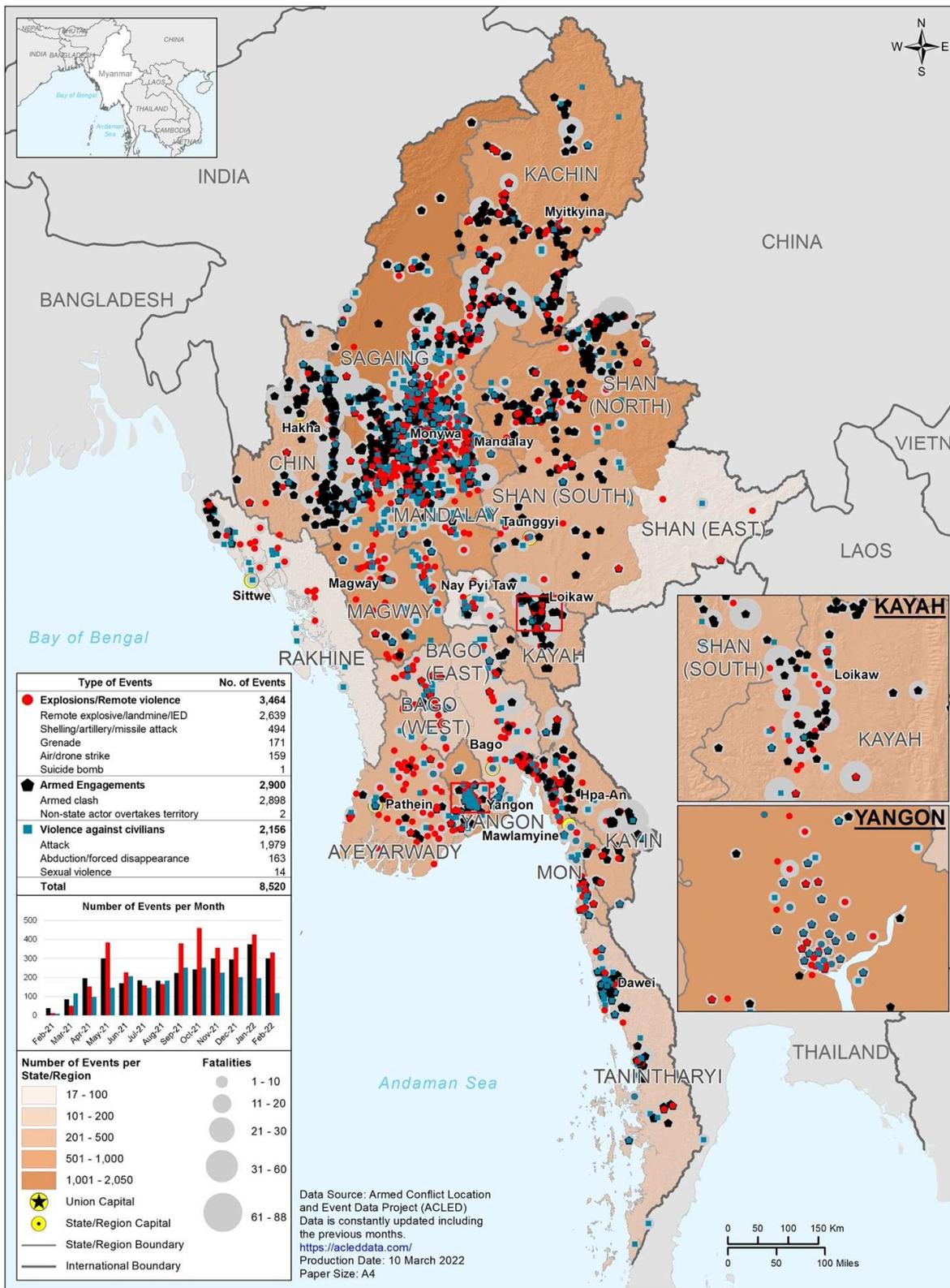
(d) Provide the international community, including Member States, with information, analysis and recommendations to support the people of Myanmar and to help generate the requisite pressure to free Myanmar from occupation by forces of an illegal military junta.

98. The Special Rapporteur recommends that the international business and investment community:

(a) Examine the extent to which their investments are exposed to arms manufacturers that have sold arms to the Myanmar military in support of its atrocity crimes and take action in accordance with their own human rights policies and the UN Guiding Principles on Business and Human Rights; and

(b) Terminate investments in companies engaged in business operations that provide substantial support to the Myanmar military junta.

Annex I – Graphic: Armed engagements and other attacks in Myanmar, 1 February 21 - 28 March 2022



Disclaimer: The boundaries and names shown, and the designations do not imply any opinion or endorsement of these terms by the United Nations.

Annex II – December 2021 Bangladesh mission findings and conclusions

1. Approximately 1 million Rohingya refugees are currently in Bangladesh where they were forced to flee following attacks by the Myanmar military that began in the 1990s. Over 700,000 arrived after escaping the Myanmar military's genocidal attacks in 2016 and 2017.
2. Providing shelter and support for victims of gross human rights violations and atrocity crimes for over a decade would be challenging for any nation under the best of circumstances. But for Bangladesh, categorized as a least developed country and one of the most densely populated in the world, it is an even greater challenge. It should come as no surprise, then, that some in Bangladeshi communities where Rohingya refugees are staying have exhibited signs of frustration, resentment and even hostility to both Rohingya refugees and the international community.
3. The Government and the people of Bangladesh deserve recognition and appreciation for saving the lives of untold numbers of Rohingya. Without Bangladesh sheltering the Rohingya when they were literally running for their lives—with the Myanmar military in some cases firing on them as they entered Bangladesh—the death toll would have been significantly higher.
4. The same military that ruthlessly attacked the Rohingya in Rakhine State and drove them to Bangladesh are now attacking communities throughout Myanmar, following an illegal attempted military coup in February 2021. This makes the prospect of the repatriation of the Rohingya to their home villages ever more distant. This tragic state of affairs is making the level of frustration even greater for some Bangladeshis and conditions for Rohingya refugees even more difficult and, in some instances, dangerous.
5. It is imperative that the international community provide the government and people of Bangladesh with the recognition that they deserve of the extraordinary role that they have played in saving and supporting the Rohingya. Even more importantly, it is critical that there be an increase in the level of support that the international community is willing to provide Bangladesh to meet its obligations. As part of their support to Bangladesh and the Rohingya, Member States should offer resettlement opportunities to Rohingya who seek voluntary resettlement. This should be done in coordination and in large numbers.
6. At the same time, the Rohingya community has the right to expect that their fundamental human rights will be respected, and their health and safety will be protected. It is important that the international community, including the United Nations, Member States and human rights and humanitarian organizations, advocate for and stand with the Rohingya when their human rights, health, safety, and other basic needs are threatened or compromised. The UN Human Rights Council is in an important position to help meet this responsibility. The Special Rapporteur travelled to Bangladesh, and is issuing this report, to assist the UN Human Rights Council to meet this critically important role.
7. The Special Rapporteur had the honor of meeting with Rohingya refugees in Cox's Bazar and on Bhasan Char island—where over 20,000 Rohingya have been relocated by the Government since December 2020—during his mission to Bangladesh from 13-19 December 2021. With very few exceptions, the dozens of refugees who the Special Rapporteur spoke with want to return to their homes in Rakhine State when conditions allow for a voluntary, safe, sustainable, and dignified return. Those conditions currently do not exist, and it will realistically be some time before they do. As such, the principle of non-refoulement must always be respected.
8. The following are some of the key issues raised by Rohingya refugees to the Special Rapporteur during his discussions with them in the Refugee Camps in Cox's Bazar as well as on Bhasan Char island.⁵³ He also includes the responses of the Government of Bangladesh.

53 For additional information on the Special Rapporteur's mission to Bangladesh, see "Mission to Bangladesh 13 - 19 December 2021: End of Mission Statement," UN Special Rapporteur on the situation of human rights in Myanmar-Tom Andrews, 19 Dec 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28001&LangID=E>.

A. Cox's Bazar Camps

9. *Security:* Rohingya living in the refugee camps in Cox's Bazar consistently highlighted security concerns within the camps as a major issue affecting their lives. While other criminal elements operate in the camps, refugees made it clear that their concerns stemmed, in large part, from violence and intimidation perpetrated by the Arakan Rohingya Salvation Army (ARSA)—a Rohingya-led non-state armed group active in the camps and in Myanmar.

10. The Special Rapporteur spoke with numerous Rohingya who—according to their own testimony—had either been kidnapped by ARSA, intimidated by ARSA, or who had family members killed by ARSA. Security concerns are especially pronounced for women and girls. For example, one individual's daughter was kidnapped to enter into a forced marriage with an ARSA member. Parents made clear that they fear for their children and particularly for their daughters' safety and are hesitant to allow them to move freely in the camps.

11. The Special Rapporteur spoke with numerous Rohingya civil society members and human rights defenders who have particular and very serious security concerns. The murder of human rights defender Mohibullah, demonstrates, in the starkest of terms, the threats faced by Rohingya activists. Many other Rohingya civil society actors and human rights defenders continue to receive death threats, including from organized criminal elements they identify as ARSA. Some of these individuals are living in hiding and have fled the camps. Others remain in the camp but are at high risk of violence. As a result of the threats to Rohingya human rights defenders, the Special Rapporteur has learned that a once vibrant Rohingya civil society is now barely functioning.

12. When the Special Rapporteur brought these security concerns to the Bangladesh Government, highlighting the dangers that the Rohingya claimed that ARSA was creating, senior officials were often dismissive of the claim and attributed security issues in the Cox's Bazaar camps to unspecified criminal gangs and miscreants.⁵⁴ These officials insisted that there is no ARSA presence in the refugee camps. Despite this, the Special Rapporteur takes note of recent arrests of high-ranking ARSA leaders in Bangladesh.⁵⁵

13. Security officials in the camps should work closely with the Rohingya community and thoroughly investigate all complaints attributed to ARSA—and all other criminal activity—and the impact that it is having on the community.

14. At the same time, the Bangladesh Government should work closely with UNHCR to ensure that Rohingya human rights defenders and civil society members under threat receive adequate protection, including through expeditious third-country resettlement. The Special Rapporteur urges that all those identified as having acute protection vulnerabilities, as well as their immediate family members, be resettled as soon as possible. Strong security measures should also be put in place that protect human rights defenders and civil society working in the camps.

15. Bangladesh should promote and protect the operations of Rohingya-led civil society, so that they can work together to identify and solve a full range of problems and challenges in the camps. This will help to amplify moderate voices to counteract hard line and armed actors and build confidence as solutions are identified and pursued.

16. The Special Rapporteur was informed that the barbed-wire fence surrounding the camps was constructed to protect Rohingya from criminal activities from the outside. Some of the Rohingya refugees with whom he spoke claimed, however, that the fencing was not only ineffective in achieving this purpose but made residents more vulnerable to dangers

⁵⁴ See also "UN rapporteur: Rohingya militants kill, abuse refugees in Bangladesh camps," Radio Free Asia, 20 Dec 2021, <https://www.rfa.org/english/news/myanmar/un-rohingya-12202021171519.html>

⁵⁵ Bangladesh arrests Rohingya cleric over murder of activist, France 24 (AFP), 6 March 2022, <https://www.france24.com/en/live-news/20220306-bangladesh-arrests-rohingya-cleric-over-murder-of-activist>; Bangladesh arrests brother of Rohingya armed group leader, Al Jazeera, 16 Jan 2022, <https://www.aljazeera.com/news/2022/1/16/bangladesh-arrests-brother-of-rohingya-insurgency-leader>.

such as fires. The Special Rapporteur encourages authorities to examine these concerns with the input of camp residents and that options, such as the construction of additional egress points, be considered.

17. The Special Rapporteur was informed that humanitarian organizations are facing challenges in providing aid, including complex administrative procedures and gaining access to those in need. He urges the government to work with humanitarian organizations and the Rohingya community to identify options to enhance the efficient and effective delivery of humanitarian aid.

18. *Education:* Nearly every Rohingya parent who the Special Rapporteur spoke with cited education shortfalls as their most pressing concern for their children. 52 percent of the estimated 918,841 Rohingya (or 477,797) in Bangladesh are children under the age of-18. The Special Rapporteur takes note that the education needs for the children and youth in camps are tremendous.⁵⁶ In 2021, an estimated 515,042 Rohingya aged 3-24 needed education opportunities. However, the Special Rapporteur notes 2021 funding targets in the Joint Response Plan only aimed to provide education, to 390,923 of them (100 percent of the 3-5 age group, 100 percent of 6-14, 70 percent of 15-18, and 15 percent of 19-24). According to the Inter-Sector Coordination Group (ISCG) Education Sector only 62 percent of the education plan was in fact funded (as of 30 October 2021). Bangladesh needs a significantly stronger level of support from the international community if this gap is going to be overcome.

19. A key source of education in the camps are government-approved Learning Centers, which teach primary children up to the age of 14. The Special Rapporteur is pleased to see the Bangladesh Government's Refugee Relief and Repatriation Commissioner's (RRRC) directive, ordering the reopening of all 3,000 Learning Centers in Cox's Bazar effective 2 March 2022, after being mostly closed due to COVID-19 since March 2020. If fully reopened, the Learning Centers should be able to provide education to 70 percent of primary school aged children. This is a positive step forward for Rohingya children and their families. The education needs of the remaining 30 percent of children needing access to education must also be addressed.

20. While noting the serious challenge in providing universal education in this complex environment, parents expressed concerns that the Learning Center curriculum, the Learning Competency Framework Approach (LCFA), was not rigorous—as it uses neither the Bangladesh nor Myanmar curriculum—and did not result in any formal certificate upon completions of grades. The Special Rapporteur is encouraged that the Bangladesh Government has authorized the implementation of the long-delayed (due to COVID) Myanmar Curriculum Pilot (MCP), which uses the same Myanmar curriculum as Myanmar primary and secondary education facilities. Approximately 400 Rohingya students were receiving an education under the MCP at the time of the Special Rapporteur's mission, with plans to roll it out to 10,000 students. The Special Rapporteur urges that this policy be swiftly and broadly implemented across all Learning Centers in the camps.

21. Alongside the Learning Centers, there are two additional forms of educational facilities critical to trying to meet the needs of Rohingya students: home-based/community-based learning centers (HBLCs/CBLFs) and, wholly Rohingya-run "private schools." HBLCs/CBLFs are also government approved, though are run by humanitarian organizations as alternatives for children who have difficulties attending or cannot attend Learning Centers. The Rohingya community itself set up private schools to address the deficit of education opportunities, in particular the lack of any educational opportunities beyond primary school education. The Special Rapporteur understands that HBLCs/CBLFs and private schools provide education to an estimated 60,000 Rohingya students, the majority of whom are girls.

22. On 13 December 2021, while the Special Rapporteur was in Bangladesh, the RRRC issued a directive, communicating a series of restrictive measures impacting refugees' access to education, including: (1) ordering home-based/community-based learning centers be

⁵⁶ UNHCR, Bangladesh Operational Update, Jan 2022, https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Bangladesh%20Operational%20Update_January%202022.pdf.

closed across camps with immediate effect; (2) abolishing all private learning centers, and (3) limiting the salaries of teachers to a maximum of 10,000 taka (approximately USD \$116) per month. The Special Rapporteur has received information that the Bangladesh Government has begun closing private schools throughout the refugee camps. He has also learned that the government is examining the HBLCs/CBLFs before making a final determination on their continued operations. The Special Rapporteur strongly believes that shutting down these educational facilities, when there is a significant shortfall of freely available educational opportunities for Rohingya children and young people, is counterproductive and would deny the right of education to many child refugees, particularly girls. An estimated 60,000 students will lose education opportunities if the circular is fully implemented, and the Special Rapporteur respectfully urges the Government of Bangladesh to reconsider.

23. A Bangladesh senior official responded to the Special Rapporteur's concerns regarding the education facility closures by stressing that (1) "these [Rohingya] are the people who have never been allowed to go to the schools in Myanmar," (2) there is a lack of qualified teachers in the Rohingya community to provide good education, and (3) there is a potential for radicalization to occur in the unauthorized private schools. The Special Rapporteur is concerned that a senior government official would dismiss concerns about education for Rohingya children because of the horrible conditions that Rohingya families faced in Rakhine State. Reducing teacher salaries—as the 13 December circular mandates—is counterproductive to recruiting better qualified teachers. To address the potential for radicalization, closer engagement with the Rohingya community, the promotion of a vibrant moderate Rohingya civil society, and similar measures would be a more equitable approach than the closure of all private schools.

24. *Livelihoods*: Livelihood opportunities for the Rohingya, including opportunities to work with humanitarian organizations and small-scale market activities, are an avenue for developing skills that enable them to contribute to the economy, support a family, enhance dignity, and provide a productive use of their time.

25. While on mission, the Special Rapporteur witnessed a particularly stark rolling back of livelihood opportunities. He visited what used to be a Rohingya market inside Kutapalong camp before Bangladesh officials destroyed it using heavy equipment just days prior. The destruction of the shops is part of an effort—ongoing since at least October 2021—to demolish "illegal" shops in all camps.⁵⁷ Standing on top of debris from the newly destroyed shops, a former shop owner told the Special Rapporteur, "I sold fruit, vegetables, biscuits. My shop made my life a little easier . . . I had been operating my shop for four years, after three months of arriving in Bangladesh from Myanmar. The Camp in Charge did not tell us why they were going to destroy my shop, only that it would be destroyed." The Bangladesh Government has destroyed thousands of these shops throughout numerous camps.

26. In response to the Special Rapporteur raising this issue, a senior Bangladesh Government official responded, "Livelihood opportunity is not the responsibility of Bangladesh" and that "if we allow unauthorized shops, they bring *yaabaa* (methamphetamine pills) . . . these shops are the real centers of *yaabaa*." The Special Rapporteur respectfully asks the Government of Bangladesh to reconsider its position on the issue of markets, and more broadly, encourages the Bangladesh government to expand livelihood opportunities, making options for youth and women a priority. Helping to create opportunities to earn money through legitimate activities, such as operating a shop or working with humanitarian organizations, can help to undermine illegitimate activity, including the marketing and use of illicit drugs.

27. *COVID-19 Vaccinations*: The Bangladesh Government has taken considerable efforts to vaccinate the Rohingya population in Cox's Bazar as they had been included in the national COVID-19 vaccination campaign, a step to be commended. As of the end of February 313,720 Rohingya are fully vaccinated. This is 73 percent of the targeted 18 and over population. An additional 65,600 people have received a first dose.

⁵⁷ Bangladesh authorities bulldoze 1,000 Rohingya shops, AFP, 12 Oct 2021, <https://www.msn.com/en-xl/news/newsworld/bangladesh-authorities-bulldoze-1000-rohingya-shops/ar-AARGqWs>.

B. Bhasan Char

28. Prior to the Special Rapporteur's mission, UNHCR, on behalf of the UN agencies involved in the Rohingya response, and the Bangladesh Government signed a Memorandum of Understanding (MOU) regarding the United Nation's involvement in protection humanitarian assistance on Bhasan Char. The MOU includes express commitments regarding protections for fundamental rights, including the right to voluntariness, the right to education, health care, and opportunities for livelihood. Regarding freedom of movement, the MOU explains that movement to and from the island will be permitted, with specific modalities to be determined.

29. Almost all Rohingya that the Special Rapporteur spoke with on Bhasan Char highlighted improved security on the island over security in Cox's Bazar. Women refugees expressed relief at no longer fearing attacks while going to use the bathrooms and had little to no fear that their daughters would be attacked.

30. The Government has obviously spent considerable resources in constructing the facilities on Bhasan Char. Structures, including residential housing, appear well constructed and are considerably stronger and more durable than those in Cox's Bazar. Unfortunately, accessibility for persons with disabilities was clearly not factored into the planning and construction process. Accessibility is the least expensive when done at the early stage of a development.

31. While Rohingya had fewer security concerns on the island, those Rohingya the Special Rapporteur spoke with were dismayed at the lack of critical services on Bhasan Char. What made this particularly problematic was the gap between what was promised and what the Rohingya found when they arrived on the island. Many spoke of being promised livelihood opportunities, schools for their children, and access to quality health care. All spoke of their disappointment and frustration with what actually existed.

32. At the time of the Special Rapporteur's mission, schooling was essentially non-existent on the island, with only very limited programming for a limited number of very young children. The Bangladesh Rural Advancement Committee (BRAC) NGO told the Special Rapporteur of plans to open 30 new Learning Centers in 2022. The Special Rapporteur urges that these plans come to fruition quickly. Even if they do, the Special Rapporteur is unaware of education opportunities being planned for children past primary school.

33. The Special Rapporteur toured two medical facilities on the island, one 20-bed hospital run as a joint Bangladesh Government/local NGO operation and one UNHCR-supported hospital, which was just beginning services. Physicians at the government-run hospital explained to the Special Rapporteur that they were capable of handling routine medical cases, however, where specialists or general anesthesia was required, patients would need to travel by boat to the mainland (to Noakhali). The Special Rapporteur met with refugees with various medical ailments, including a large untreated and undiagnosed goiter, a substantial and obvious eye problem, ambulatory problems, and dermatological issues. All of these individuals reported that they had not been able to have their ailments treated on the island and would need transportation to Noakhali. Some explained that this required payment for services with money they did not possess; thus, their medical conditions remained untreated.

34. The Special Rapporteur was briefed on substantial plans for livelihood programming, including fishing, sewing, skills training, and horticulture. Local NGOs and Government representatives reported, however, that only very limited and basic opportunities in these areas are currently available. The Special Rapporteur urges that the plans described to him are swiftly brought into fruition.

35. The biggest single concern raised by most who spoke with the Special Rapporteur, was freedom of movement to and from Cox's Bazar. At the time of the Special Rapporteur's visit, he learned that the Bangladesh Navy had provided one round trip to approximately 60 Rohingya to travel to Cox's Bazar, with plans to undertake two trips per month moving

forward. The Special Rapporteur arrived near the one-year anniversary of the first relocations to Bhasan Char, meaning for a year there were no movement opportunities.

36. For the principle of freedom of movement to be realized, there must be reliable, regularly scheduled, and free transportation to and from the island that can meet the needs of the Rohingya people. To give one example of the hardships that failing to provide freedom of movement creates, the Special Rapporteur spoke with a woman on Bhasan Char whose husband had remained in Cox's Bazar and became severely ill. She was devastated that she was unable to travel back to the mainland to visit him prior to his death due to the lack of freedom of movement.

37. In response to the Special Rapporteur raising concerns over freedom of movement, a senior Bangladesh official told him, "Freedom of movement is a relative term. Look at the Rohingya's situation in Myanmar." He added, "If we allow freedom of movement, they will escape. They might end up in Dhaka or different countries, or trafficked on a boat, and we want to protect the safety and security of the Rohingya people." The safety and security of the Rohingya on Bhasan Char is not enhanced by denying regular, reliable transportation to and from the island. In fact, just the opposite is true, particularly for those who have, or may develop, medical conditions that cannot be met on the island. The denial of the Rohingya's fundamental right to movement in Rakhine State, Myanmar should not be a basis for the denial of these rights on Bhasan Char. Unless they are in detention, Rohingya refugees cannot "escape."

38. The dichotomy between the realities on Bhasan Char compared to how it is presented to perspective inhabitants raises serious concerns about informed consent and thereby voluntariness in the relocation process.

39. The Special Rapporteur also received reports of coercion or pressure on Rohingya to relocate to Bhasan Char. While in Bangladesh the Special Rapporteur received reports, and spoke directly with an individual, who was part of a group directly threatened by local Bangladesh authorities with destruction of their property if they did not board buses for relocation to Bhasan Char. Those threatened ultimately refused and the situation reportedly deescalated with no one being sent to the island against their will. However, even after departing Bangladesh, the Special Rapporteur continued to receive reports of coercive actions, including of local authorities threatening to confiscate identity cards and relocation to Bhasan Char if certain individuals themselves did not convince family members to relocate. These disturbing developments should be investigated and those who are responsible should be held accountable.

40. When raising instances of potential involuntary transfers, or attempted coercion, senior Bangladesh officials maintained that there was "no coercion." To ensure that there are no future issues of involuntary transfers or lack of informed consent, the Special Rapporteur recommends a process by which an independent stakeholder, such as the UNHCR, monitors the process to enable the Government to ensure the voluntariness of everyone slated for relocation.

41. Above all, the Special Rapporteur maintains his position that further relocations to Bhasan Char should only occur when adequate services, freedom of movement, and voluntariness are established for those already living on the island, as well as ensuring that such services are sufficient to meet the needs of the projected population on the island. Increasing the population on the island, without first addressing the shortcomings noted, will make a difficult situation for many considerably worse.

C. Conclusions on Bangladesh Mission

42. In an exchange with senior officials at the conclusion of his mission, the Special Rapporteur was informed that the government of Bangladesh did not agree with many of his observations. The Special Rapporteur indicated that these observations were based on his own interactions since his arrival in Bangladesh, credible information provided by Rohingya with whom he met, as well as other interlocutors. He observed a pattern to the responses he received: If markets are allowed to provide livelihood opportunities, they will be used to sell

drugs; if greater freedom of movement is allowed, the Rohingya will “escape”; if private schools are permitted, they will breed extremists. The Special Rapporteur is concerned that dismissing these issues will not only deny fundamental rights, but is also self-defeating, fostering conditions that are against the interests of Rohingya refugees, the Bangladesh government and host communities. The Special Rapporteur urges that the government reexamine these issues and concerns and that Rohingya refugees be engaged and consulted toward the identification and pursuit of practical solutions that are of benefit to everyone.

43. The cause of this crisis, and the ultimate resolution of this crisis cannot be found in Bangladesh, but in Myanmar. The Special Rapporteur will do everything in his capacity to push for a stronger, more coordinated international response to this crisis, including the imposition of pressure on the Myanmar military and for concrete measures to hold the military junta fully accountable for this crisis, with the ultimate goal of repatriation of the Rohingya to their homelands in a voluntary, safe, sustainable, and dignified manner.

44. The Special Rapporteur is grateful for the cooperation and considerable effort the Government of Bangladesh undertook in providing him with access to camps in Cox’s Bazar and Bhasan Char. The Special Rapporteur would like to reiterate his appreciation to the government and people of Bangladesh whose willingness to open their communities to the Rohingya as they ran from a genocidal attack by the Myanmar military saved untold numbers of lives.