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Human rights situations that require the Council's attention

Written statement* submitted by CIVICUS - World Alliance for Citizen Participation, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Freedom of expression and association in Myanmar

This submission focuses on restrictions on freedom of expression and association in Myanmar since the military junta seized power in a coup on 1 February 2021. Prior to the coup, civic space and freedoms of expression, association, and peaceful assembly were already curtailed. Following the coup, the junta established an illegitimate governing body, the State Administration Council, which began enacting a range of legal and administrative changes to further restrict the space for freedom of expression and association in Myanmar. Human rights defenders, journalists, lawyers, trade union and labour rights activists, health and aid workers, and civil society organisations face an increasingly hostile operating environment. The military coup has also exacerbated the already dire situation for ethnic and religious minorities in the country.

Arrest and criminalisation of activists

Following the coup, the military changed provisions in the Penal Code and the Criminal Procedure Code to broaden their power to arrest, detain, and prosecute individuals engaging in anti-coup activities or open criticism of the military. These laws have been used to target human rights defenders and civil society activists and leaders. According to The Assistance Association for Political Prisoners (Burma), as of 18 May 2022, 10,685 people are currently under detention.

A new provision to the Penal Code, Section 505-A, was added which criminalises comments that could “cause fear,” spread “false news, [or] agitates directly or indirectly a criminal offence against a government employee”. Violations of this section are punishable by up to three years in prison.¹ In December 2021, Aye Aung, a former member of the All-Burma Federation of Student Unions (ABFSU), was sentenced to three years jail under Section 505a for his role in anti-coup protests in Yangon’s Tamwe Township in March 2021.² On 10 March 2022, democracy activist Mya Aye was sentenced to two years in prison by a court inside Insein Prison. Mya Aye, one of the leaders of the 88 Generation, was arrested on 1 February 2021 - following the coup - on hate speech charges under Article 505(c) of the Penal Code for incitement.³

The crime of ‘sedition’ in Section 124-A of the Penal Code was amended to expand the prohibition of statements or signs which ‘bring into hatred or contempt’ or ‘excite disaffection’ towards the government to now include statements relating to the military and military personnel. the maximum penalty was increased from three to 20 years’ imprisonment.

The junta has also used the Counter-Terrorism Law to target activists. On 21 January 2022, two pro-democracy figures were sentenced to death by the military tribunal for alleged involvement in terrorist activities. Phyo Zeyar Thaw, a member of the National League for Democracy (NLD), was arrested in November 2021. Democracy activist Kyaw Min Yu received the same sentence.⁴

Many activists have been sentenced by the junta’s secret military courts. The courts appear to take orders from top divisional military commanders, reducing the chances of successfully appealing a decision, given that the highest authority in the military tribunal system is the chairman of the State Administration Council.⁵

The junta has used a range of other tactics to threaten, intimidate, and harass human rights defenders and civil society activists including raiding their homes and offices and targeting their family members, including children.

Journalists at risk

The junta has systematically targeted journalists since the coup; at least 135 journalists have been jailed since the junta seized power in February 2021, and others routinely face harassment, arrest and death for doing their jobs.⁶ As of 4 April 2022, 55 journalists – 42 men and 13 women – remained in detention.⁷

On 14 December 2022, freelance photographer Soe Naing died from injuries sustained during interrogation after his arrest covering a protest. On 6 January 2022, another journalist, Salai Thudin from Chin State, was killed. He was the founder and editor-in-chief of the Khonumthung News Agency.⁸

On 19 January 2022, the junta arrested two journalists in southern Myanmar. Reporter Ko Zaw, reporter Ma Moe Myint and designer Ko Thar Gyi from Dawei Watch, an online news outlet based in Dawei, the capital of Tanintharyi Region, were detained at their homes. On 2 February 2022, Thurin Kyaw, founder of the independent outlet Media TOP 4, was beaten by unidentified attackers while he covered a rally in Yangon. He was arrested the following afternoon at his home.⁹

Journalists have been convicted and sentenced for incitement under Section 505(a) of the Myanmar Penal Code. Journalist Hantath Nyein was sentenced to two years jail on 21 March 2022. The following day, Than Htike Aung was handed the same charge in Dekkhina District Court in Naypyitaw, Myanmar's capital.¹⁰

On 25 April 2022, a court in Insein Prison indicted freelance journalist Soe Yarzar Tun under Section 52a of the Counter-Terrorism Law, which carries a prison sentence of up to seven years. It is likely that he was tortured under interrogation.¹¹

Communications blockade

Following the coup, the junta attempted to block various forms of communications to interfere with protestors organising and prevent citizens, journalists, media workers, human rights defenders, and activists to broadcast what was happening on the ground to the rest of the world. Multiple telecoms companies have been ordered to shut off various communications services, including mobile data, roaming and public wi-fi, for varying lengths of time.¹² These actions are in violation of the right to freedom of expression and access to information, which may only be restricted under limited conditions under international law.

Threats to civil society organisations in Myanmar

Many civil society organisations in Myanmar have been forced to reduce or suspend their operations or close their offices. Documents and files had to be moved to safer places in different locations, and civil society leaders, fearing for their lives, have been forced into hiding or to flee the country.

The junta plans to issue a new NGO registration law in 2022. The proposed draft of the law is much more restrictive than the current law; it mandates registration for all CSOs operating in the country, with non-registered organisations facing possible criminal sanctions. The scope of CSO activities is limited to vaguely-defined social services and excludes working on political, economic, and religious issues. Strict financial monitoring clauses on grounds of preventing irregular funding flows and terrorist activities are likely to be introduced.

The updated registration law, if passed, would pose severe security concerns for organisations and their staff. Once registered, it will be mandatory for organisations to provide annual financial statements, audit reports, and maintain updated profiles on the board members of the organisation.¹³

The junta has obstructed CSOs' ability to operate through intimidation, violence, and by blocking CSOs trying to deliver services to people in need through their use of checkpoints, blockades, and destroying aid supplies. In conflict areas, aerial attacks, shelling and landmines threaten the safety of CSO staff and aid workers as well as the communities they serve. Two Save the Children staff members were among at least 35 people who were killed on 24 December 2021 in an attack by the Myanmar military in Kayah State, in the east of the country.¹⁴

Abuse and hate speech against the Rohingya and other minorities

The Rohingya continue to experience discrimination, deprivation of citizenship rights and civil documentation, restrictions on freedom of movement and other violations. The right to seek justice and obtain redress for past violations remains unaddressed.¹⁵

Monitoring by the Burma Human Rights Network (BHRN) in March and April 2022 found that arbitrary arrests and restriction of movement continue to occur. On 31 March, ten Rohingya people were arrested on a bus at a checkpoint in Ann Township in Rakhine State by a joint team of military, police, and immigration officials. On 29 April, four Rohingya Muslim women were arrested at a checkpoint in Ann Township in Rakhine State on 29 April as they tried to travel to Yangon on a passenger bus.

BHRN has documented a steady increase in anti-Muslim hate speech. On 2 April, a post on the social media site Facebook includes fabricated information, suggesting that jihadists support the pro-democratic activities in Myanmar. It was liked by 439 Facebook users and shared among 21 users of the social media site. On 21 April a post on Facebook accused the pro-democracy group People Defence Force (PDF) of killing Buddhist monks with the support of Muslims.¹⁶

Recommendations

We call on the Human Rights Council to urge the military junta to:

- Immediately and unconditionally release all individuals including human rights defenders, journalists, protesters, politicians, civil society members detained or imprisoned solely for the peaceful exercise of their human rights;
- Cease targeting of, and reprisals against, human rights defenders, journalists, and members of civil society and their families;
- Allow unfettered Internet access and refrain from imposing any further restrictions against the use of the internet;
- Remove legal and policy measures that unwarrantedly limit the right to association;
- Halt the use of hate speech and incitement to violence that has proliferated online;
- Relinquish power so that a legitimate, democratically elected government can be formed.
- Ensure full, unimpeded access of humanitarian workers to all areas of the country.
- Cooperate with and grant unfettered access to the UN Special Rapporteur on the situation of human rights in Myanmar and the UN Special Envoy.

We further call on UN Member States to:

- Engage with the National Unity Government (NUG);
- Urge the Security Council to, or in their national capacity, immediately impose a comprehensive arms embargo on Myanmar;
- Urge the Security Council to, or in their national capacity, immediately impose targeted economic sanctions on the Myanmar military, its leaders, and its sources of revenue, including on its oil and gas sectors, in line with the call from the Special Rapporteur on the situation of human rights in Myanmar;
- Ban the export to Myanmar of technologies that could be used by the junta to monitor, surveil, target and repress the Myanmar people and CSOs;
- Cooperate with international mechanisms to meaningfully implement the ASEAN five-point consensus and to hold the junta accountable for its crimes;
- Take proactive steps in providing humanitarian assistance and provide material and diplomatic support to civil society, journalists and activists at risk;

- Urge the National Unity Government to abolish the 1982 citizenship law that persecute Rohingya and Muslim minorities in Myanmar.

Burma Human Rights Network (BHRN), NGO(s) without consultative status, also share the views expressed in this statement.

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