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Human rights situations that require the Council's attention

Written statement* submitted by Society for Threatened Peoples, a non-governmental organization in special consultative status

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

[22 August 2022]

* Issued as received, in the language of submission only.



Human Rights in Myanmar

More than 18 months ago, the Myanmar military started its coup against the country's democratically elected government, followed by an extensive and bloody campaign against the civilian population, with brutal crackdown on protests and a systematic oppression of ethnic minorities and the opposition.

Five years ago, the Rohingya became victims of extensive ethnic cleansing – meaning persecution and systematic attacks on the lives and the livelihoods of the Rohingya. The armed forces burned down entire villages, indiscriminately opening fire on houses and on villagers, forcing many of them to flee abroad or to try and find shelter in other parts of the country. Most of them found refuge in Bangladesh. More than 900,000 Rohingya are now living in huge refugee camps in Cox's Bazar alone. A few thousand were – some of them forcibly – brought to the island of Bhasan Char, the safety and habitability of which must be questioned. Others are meanwhile living in India, Pakistan, Malaysia, and in Thailand and the Gulf region. As early as in 2018, the Independent International Fact-Finding Mission for Myanmar stated that the crimes against the Rohingya and their general treatment should probably be seen as intended genocide.

The situation after the coup

More than one year has passed since the coup in Myanmar, and the people are more and more desperately trying to resist the military regime under junta leader Min Aung Hlaing. The Tatmadaw (Myanmar's armed forces) are taking more and more rigorous action against the country's own civilian population. Supporters of the protest movements and their families are threatened and become victims of arbitrary arrests. The number of detainees is growing on a daily basis – now amounting to 12,000 persons. The military is using disproportionate force against the protesters, and more than 2,000 people have lost their lives in the violence following the coup. According to reports on the conditions in the prisons, there is systematic physical and psychological abuse, cruelty, and torture. There are reports of sexual abuse and gender-based violence. Even family members of detainees are living in fear of repression.

Violent clashes with other armed groups in other parts of the country are a threat to the civilian population, and especially to women and children. Due to the widespread encroachments by the armed forces, people are still forced to leave their homes – and the number of internally displaced people has increased to 900,000 since the beginning of the coup. On July 25, 2022, four people were executed after a military court had found them guilty – including the democracy activist Kyaw Min Yu and Phyo Zeya Thaw.

The Independent Investigative Mechanism for Myanmar (IIMM) has brought forth an overwhelming amount of evidence for systematic crimes against humanity, committed by the military after the coup of February 1, 2022. Apart from the activities in Yangon, Nay Pyi Taw, Bago, Mandalay, Magway, and Sagaing, there are also attempts to investigate alleged crimes in Chin, Kayah, and Kayin, among other places. Restricted access to the state territory of Myanmar is a massive obstacle for efforts to shine a light on the atrocities. With inflation running high and with the Covid-19 pandemic, which was exacerbated due to the Tatmadaw's actions against the public health service, the economy and the social security networks are in a precarious state. More than half of the population are now living below the poverty line, and more than 3 million are dependent on humanitarian aid. The Tatmadaw have installed bureaucratic hurdles to restrict access to necessary aid.

The situation of the Rohingya

Shortly before the fifth anniversary of the beginning of the ruthless ethnic cleansing against the Rohingya in Rakhine state (August 25), it is hardly possible to see any real changes – not to mention improvements. There are still 130,000 deported and displaced Rohingya living in open refugee camps in which – deliberately – the problematic living conditions might well lead to a humanitarian catastrophe. The lack of appropriate housing, nutritious food, proper sanitation, and medical treatment is causing increased rates of illness and death. Under these

circumstances, it is not possible to guarantee a long-term survival of the people in the camps. The Rohingya are still massively restricted in their freedom of movement, the number of arrests has increased significantly during the last year, and the military regime is still denying the existence of the Rohingya as an independent ethnic-religious population group. The Rohingya are still excluded from the so-called National Unity Government/NUG – an alternative to the so-called State Administration Council established by the junta – even though other ethnic groups are represented in the so-called NUG. The many Rohingya who found refuge in one of the neighboring countries are not allowed to return to their homes in Myanmar.

-The weaknesses of international jurisdiction

The International Court of Justice (ICJ) has made an important step in this direction – in its ruling on the case of the Gambia v. Myanmar on 22 July 2022 – but it was not able to adequately solve a serious dilemma regarding the representation of Myanmar. Following the decision of the General Assembly of the UN to postpone the ruling – due to which the UN and the UN Family organizations did not have any binding guidelines – the ICJ decided to go for a procedural solution and to continue sending their communiqués to the addresses that were already on file: at the embassy in Brussels, which is controlled by the junta.

Now that the so-called NUG has withdrawn its objections against the beginning of the proceedings, the court can now try to answer the question whether Myanmar violated its obligations under international law to prevent a genocide of the Rohingya. The military has so far not only ignored the interim measures imposed by the ICJ – including mandatory protection for the Rohingya, as an extremely vulnerable group – but has even tightened its grip on them.

The Prosecuting Authority of the International Criminal Court also made an important step by initiating investigations to shine a light on the crimes against the Rohingya. The Commission for International Justice and Accountability found concrete evidence for systematic crimes against the Rohingya, and was able to identify Min Aung Hlaing, Major General Maung Maung Soe, and Thura San Lwin (Commander of the border police) in the chains of command. The UN Security Council still remains passive and has not yet decided on a resolution on Myanmar. It would be more efficient to take concerted steps regarding sanctions and embargos against the junta, to recognize the so-called NUG (which should let the Rohingya participate in governing the country), to initiate proceedings for crimes against humanity, and to provide humanitarian aid.

Society for Threatened Peoples calls on the Human Rights Council to demand that member states, the UN and the UN Family organizations, the confederations of states and nation states:

- take action to stop the open violence against the people and put an end to the violations of their most basic rights in Myanmar, to condemn these occurrences, and to ensure that the suffering of the Rohingya, of other ethnic minorities, and the civilian population of Myanmar will not become a forgotten crisis;
- appeal to the UN member states to support these demands to the UN Security Council, to immediately refer the situation in Myanmar to the International Criminal Court (ICC), so that the serious crimes of the armed forces can be investigated and prosecuted;
- ensure that the Human Rights Council will demand the European Union to put in place further sanctions against the military, its companies, and its business partners. It is necessary to bring about a complete weapons embargo to stop supplies of weapons and “dual-use”-goods to the military junta;
- closely monitor the parliamentary elections announced by the military, scheduled for August 2023, and to clearly point out any possible violations of international voting standards;

- urgently demand the Myanmar military to immediately stop its violent actions against the people of Myanmar, to stop persecuting minority groups, and to ensure an unhindered delivery and distribution of humanitarian aid;
 - urgently demand the military regime of Myanmar to grant independent observers and investigators – including those of the IIMM – unlimited access to the state territory;
 - appeal to the states of the Asia-Pacific region to step up their cooperation with the IIMM;
 - encourage the international community to prosecute those who are responsible for atrocities against the civilian population – by way of universal jurisdiction before national courts, following the example of Argentina;
 - to demand the Myanmar military to grant humanitarian and civil society aid organizations access to the people, allowing for humanitarian aid and development measures;
 - to exert influence on India and Thailand to improve the situation of refugees from Myanmar in the neighboring countries, and to provide support and necessary aid to them as well as to the societies of the host countries.
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