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Human rights situations that require the Council's attention

Written statement* submitted by Centre pour les Droits Civils et Politiques - Centre CCPR, 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.

[30 May 2023]

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



Myanmar: Responsibility of All the United Nations Member States to Save the People

The Situation Requires Urgent Action from All

The multidimensional crisis in Myanmar continues to deteriorate day by day. Numerous reports have been documenting various and serious violations of international human rights and humanitarian law, including crimes against humanity and war crimes. A number of calls, including the resolution of the UN Security Council and 5 Point Consensus of ASEAN, have been blatantly ignored by the junta who continues and even intensifying its atrocity towards people of Myanmar with total impunity. Despite mounting evidence of the junta's atrocity, the need for accountability and numerous recommendations not to do so, there are still State and private actors, including State-owned companies and inter-governmental agencies, that continue engaging and trading with the junta and its affiliates, providing them, directly or indirectly and intentionally or unintentionally, with revenues, funds, resources and weapons.

As far as we could monitor between January and April 2023, grave violation of civil and political rights have been continuously committed by the junta, including extra-judicial killings, arbitrary detention, torture and ill-treatment, forced displacement, and severe restrictions and violations of the fundamental freedoms, while the situation on the ground can be much direr as many cases remain unreported and people are also affected by natural disasters, economic and financial problems. There were also some cases human rights violations were reportedly committed by other actors involved in the conflict.

Concerning the need of the people of Myanmar, documentation and investigation of cases alone are not enough. Efforts of civil society, international and regional bodies, including this Council and ASEAN, must be complemented and strengthened by all UN Member States. Urgent actions from all are required to hold perpetrators accountable, end violence, deliver much needed humanitarian assistance to those on the ground, address responsibility of State-owned and private entities as well as inter-governmental agencies providing resources, revenues and weapons to the junta, and to provide assistance and capacity building for the people in Myanmar to find long lasting solution and realise the rule of law and a peaceful society where human rights of all are protected.

Instrumentalisation and Collapsed Justice System

As reported by the UN High Commissioner in his report to the Council's 52nd session (A/HRC/52/21), the junta has been unilaterally amending and adopting laws and using the entire justice system to suppress dissident. Reports from the ground indicate that, up to date, people continue to be arbitrarily arrested and detained, tried in civilian or military courts under the control of the junta, which largely disregard due process, violate the right to fair trial, and convict the accused in merely pro forma process typically under the section 505 of the Penal Code or the Counter-Terrorism Law with harsh maximum punishments, including disproportionately long imprisonment, as well as life and death sentences. Torture in detention and during interrogation, and the use of forced confession in trials are rampant. In almost all cases that could be monitored up to now, the accused were denied of the access to lawyers and family members. Judges typically disregard actual evidences presented and largely reject bail requests and the right to appeal.

It has also been reported from the ground that detainees are exposed to unsanitary conditions of detention, provided dirty food and water, and denied access to medical treatment. Various types of torture are reportedly committed during interrogation and detention, in several cases leading to deaths in custody. Several of the bodies that could be recovered allegedly bore signs of torture, some mutilated, dismembered, or burnt. According to the data from the Assistance Association for Political Prisoners, more than 170 individuals have died in detention between January and April 2023, and more than 1170 in total since 1 February 2021. The junta also continues to intimidate and arrest defence lawyers, especially those defending political detainees. At least five lawyers were reportedly arrested by the junta in 2023, and at least 50 since the coup.

The expansion of the martial law by the junta in February 2023 is another grave concern as it illegitimately gave the power to it and its regional commanders to weaponise laws and justice system and commit further abuses with all impunity. Indeed, especially in the areas under martial law, extrajudicial killings of civilians, including air strikes, burning down of villages, brutal massacre and torture are continuing or even intensifying.

Silent Countries

Concerning the deteriorating situation in the country, which urgently requires decisive and coordinated actions from the international community, it is highly regrettable and deplorable that there are still a number of countries at the Human Rights Council who remain silent on the issue. According to the research and analysis conducted by the Centre about the statements made by States at the 29th Special Session and during relevant discussions from 46th to 52nd Regular Sessions of the Council¹:

- Among 54 African States, more than 40, including eight current HRC Member States, have not spoken at all on Myanmar since the coup in February 2021;
- Among 54 Asia-Pacific States, excluding Myanmar, more than 30, including four current Council Member States, have not spoken at all on Myanmar since the coup in February 2021;
- Among 23 Eastern European States, about one third, including three current HRC Member States, have not spoken at all on Myanmar since the coup in February 2021 (although some of them have been a part of statements made by regional body or groups of countries);
- Among 33 Latin American and Caribbean States, more than 25, including five current HRC Member States, have not spoken at all on Myanmar since the coup in February 2021; and
- Among 28 Western European and Other States, four have not spoken at all on Myanmar since the coup in February 2021 (although one of them has been a part of statements made by a regional body).

In addition, there are more than 20 States that have joined relevant discussion on Myanmar at the HRC only once since the coup in February 2021, more than 10 of them are current HRC Member States, while some of them have been a part of statements made by regional body or groups of States. As the situation in Myanmar requires attention and action from the entire international community, these silent or quiet States must be urged to speak up and take action. In case of Myanmar, silent is not neutral, but indifference. Moreover, for the Member States of the Human Rights Council, remaining silent or quiet on such cases of grave human rights situation amount to the neglect of their fundamental duties to protect and promote human rights.

Need for Specification of Actors and the Accountability of the Junta

Another finding of the Centre pour les Droits Civils et Politiques - Centre CCPR's research and analysis of the statements presented by States at the Human Rights Council since February 2021 is that, when calling for action, several States have not been specifying by whom the actions should be taken, or using vague terms, making their calls for action less effective, and in some cases more problematic. For example, at the 52nd session of the Council, only 40 % of calls for actions made by States were addressed to specified actors, while several States were using vague terms as shown below, which in some cases gave the impression that they were recognising the legitimacy of the junta or ignoring the junta's accountability.

- "Myanmar": several States called on or urged "Myanmar" to take actions. However, given the unresolved issue concerning the representation of the country at the UN level and also the situation on the ground, there is obviously no actor that can be called as or take action as "Myanmar", thus making the call less effective. In some cases, it appeared

that the term “Myanmar” was referring to the junta, which was more problematic as it gave the impression that the States concerned were seeing the junta as the representative of Myanmar.

- “Authority”: some States called on “the authorities”, “the authorities in Myanmar” or “Myanmar authorities” in their statements. Similar to the term “Myanmar”, there is currently no actor that can be called as such, as the legitimate authority of Myanmar was illegally thrown out by the military in February 2021 and no authority should be given to the junta in this regard.
- “Military authorities”: a few States called on “the military authorities” in Myanmar. The term is clear to whom it is referring, but highly problematic as it can be interpreted that the States concerned are recognizing the military as legitimate authority in Myanmar.

While the UN Credential Committee continues deferring its decision on the representation of Myanmar, States and all other stakeholders should avoid any vague terms when calling for actions. Furthermore, accountability of the junta for gross violations of international human rights and humanitarian law must be clearly addressed, and any actions, including the usage of vague terms, must be avoided that might recognise legitimacy or authority of the junta.

1 <https://ccprcentre.org/ccprpages/what-are-countries-saying-about-myanmar-at-the-un-hrc>