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人权理事会

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缅甸人权状况特别报告员托马斯·安德鲁斯的报告* **

摘要

缅甸人权状况特别报告员根据人权理事会第46/21号决议提交本报告。

非法军政府在发动反政府政变 13 个月后,对缅甸人民发动了无情的战争,侵害他们的基本权利。战争造成毁灭性的后果。军政府部队杀害了至少 1,600 名 平民,导致 50 多万人流离失所。一半人口陷入贫困。世界卫生组织现在预测,今年缅甸将有 47,000 多例可预防的死亡。1,300 万人面临粮食不安全。

特别报告员在报告中强调了 2021 年 9 月至 2022 年 2 月期间缅甸发生的一些最严重的侵犯人权行为。他记录了军队对平民的暴力袭击,包括空袭、迫击炮、纵火、法外处决以及使用强迫劳动和人盾。他描述了军政府逮捕和监禁活动人士、记者、和平抗议者和其他反对者的行动。他记录了军政府对言论和集会自由等基本权利的定罪。他还列举了人们在拘留期间遭受酷刑和其他虐待的经历。其中许多袭击可能构成危害人类罪和/或战争罪,必须将犯罪者绳之以法。

特别报告员在报告中描述了缅甸人民如何奋起反抗军政府,保卫国家。在大批年轻人(包括许多年轻妇女)的领导下,抗议组织者在动员反对派方面表现出了高超的技巧、坚韧和创造力,尽管他们几乎时时面临监禁或死亡的威胁。他们的信念和不懈努力使特别报告员深受鼓舞。

要取得成功,缅甸人民需要国际社会提供更有力的支持。报告最后提出了特别报告员敦促安全理事会和会员国采纳的具体建议。





^{*} 本报告逾期提交,以纳入最新信息。

^{**} 本报告附件不译,原文照发。

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一. 导言

- 1. 在推翻民选政府 13 个多月后,缅甸军政府加剧了对缅甸人民的战争。军方使用喷气式战斗机、攻击直升机和重型火炮,升级了对平民的无差别袭击,将许多村庄烧成平地。平民和战斗人员遭到酷刑、强奸、处决以及被用作人盾。
- 2. 这些暴行规模巨大。据保守估计,至少有 1,600 名平民被军政府部队杀害。目前有近 10,000 人因反对军事统治而被拘留,军政府修订了法律,进一步将行使表达自由权和集会自由权等基本权利的行为定为犯罪。自 2021 年 2 月 1 日政变以来,已有 50 多万人流离失所,导致缅甸目前境内流离失所者人数超过 80 万。数万人在孟加拉国、印度和泰国避难,邻国的缅甸难民约有 100 万。
- 3. 军政府的许多侵犯人权行为可能构成危害人类罪和战争罪。必须追究责任人的责任。
- 4. 特别报告员着重指出了 2021 年 9 月至 2022 年 2 月期间缅甸的一些最严重的人权问题。他记录了军队对平民的暴力袭击,包括空袭、迫击炮、纵火、法外处决以及使用强迫劳动和人盾。这些袭击造成并加剧了该国目前深陷的严重人道主义危机,威胁到数百万人的生计、健康和生命。特别报告员描述了军政府逮捕和监禁数千名活动人士、记者、和平抗议者和其他反对者的运动。他还列举了人们在拘留期间遭受酷刑和其他虐待的经历。他阐述了妇女和儿童面临的特殊危险和人权挑战,并概述了军政府将基本权利和自由定为犯罪或以其他方式压制基本权利和自由的做法。他还描述了若开邦罗兴亚人悲惨的人权状况,包括那些被限制在境内流离失所者营地的人。
- 5. 2021 年 12 月,特别报告员前往孟加拉国,这是他对缅甸罗兴亚人人权状况进行全面评估的一部分。在本报告附件中,他回顾了此次访问,指出孟加拉国人民和政府发挥了重要作用,拯救了无数逃离缅甸军队在若开邦的灭绝种族袭击的罗兴亚人。他就保护和支持科克斯巴扎尔和巴桑查尔岛难民营中的罗辛亚人提出了建议。
- 6. 在本报告之前,特别报告员曾于 2022 年 2 月发布了关于向缅甸军方出售武器的会议文件。¹ 在本报告中,他强调了会议文件中提出的关切,即一些国家继续向缅甸军方出售或授权转让战争武器,尽管它们知道这些武器几乎肯定会被用于袭击平民。这种转让违反了国际法。
- 7. 许多缅甸人(包括侵犯人权行为的受害者及其家属,本报告着重提到了其中一些人)告诉特别报告员,他们对国际社会未能采取果断行动帮助防止暴行和追究犯罪者的责任深感失望。特别报告员再次呼吁安全理事会通过一项决议,对缅甸军方实施武器禁运和定向经济制裁,并将缅甸局势提交国际刑事法院。他阐述了在安全理事会未采取行动的情况下会员国应采取的步骤。特别报告员注意到会员国代表乌克兰人民采取了有力和迅速的行动,并恳求国际社会采取类似行动,保护缅甸人民。他们也遭到残酷无情的军事攻击。
- 8. 特别报告员重申,他对缅甸人民的勇气和坚韧深表钦佩。侵犯人权行为幸存者勇气可嘉,冒着巨大的个人风险与他交谈;活动人士足智多谋,找到了新的创造性方式来挑战军事统治;社区坚韧不拔,在数月、数年或数十年的时间里一再

¹ 见 https://www.ohchr.org/en/documents/thematic-reports/ahrc49crp1-conference-room-paper-special-rapporteur-enabling-atrocities.

从袭击中恢复,这些都让报告员深受鼓舞。特别报告员很荣幸在本报告中分享 他们的故事和他们的话语。他还感谢为本报告作出贡献的非政府组织和民间社会 组织、人权维护者、地方人权团体、会员国以及联合国方案和机构。

二. 军政府对平民的暴力和袭击

- 9. 军方继续使用空袭、迫击炮、无差别扫射和纵火来袭击平民。被军政府部队 拘留的人被处决、遭受酷刑、被强奸、被强迫劳动并被用作人盾。数十万平民受 到这些严重侵犯人权行为的影响。
- 10. 军政府对平民的袭击是广泛和系统性的。特别报告员强调,这些袭击可能构成危害人类罪,包括谋杀、奴役、强行迁移、酷刑、强奸和性暴力等罪行。当军政府在武装冲突背景下发动袭击时,这些袭击可能构成战争罪,包括故意杀人、酷刑和不人道待遇、毁坏财产、强迫在敌对部队服役、非法迁移、掠夺、强奸、性暴力以及导致平民流离失所等罪行。必须追究这些罪行的实施者和策划者的责任。鉴于缅甸军方几十年来犯下这些罪行而不受惩罚,而且这些罪行是在军事指挥系统的最高层策划的,国际社会必须采取行动确保追究责任。
- 11. 在本报告所述期间,钦邦和克耶邦以及实皆省和马圭省的暴力事件急剧增加,军政府部队以平民为目标,反对派武装团体以不对称攻击的方式反击军队。与此同时,长期受战争影响的少数民族地区冲突加剧,包括掸邦、克钦邦和克伦邦。自 2020 年底以来军方与若开军之间一直维持的停火似乎日益摇摇欲坠。

A. 对平民的袭击

- 12. 在过去六个月里,缅甸军方针对平民的袭击明显加剧。"武装冲突地点和事件数据项目"汇总了媒体和非政府组织报道,该项目记录了 2021 年 9 月 1 日至 2022 年 2 月 25 日期间发生的 1,143 起针对平民的袭击、81 起空袭和 256 起重型火炮袭击。2 仅在实皆省,在此期间就记录了 470 起此类袭击事件,对比政变后7个月内发生了 213 起,政变前一年发生了 3 起。实际数字可能更高。关于政变以来全国各地暴力袭击情况的地图,见附件一。
- 13. 军方利用喷气式战斗机、直升机、重型火炮和轻武器袭击平民。军方的战术显然违反了区分原则,这是国际人道法的一项基本原则,要求战斗人员区分平民和军事目标。
- 14. 军方对平民人口的空中轰炸大幅升级。克耶邦和掸邦南部边境地区目前正在发生激烈的轰炸,军方在那里面临人民国防军、克伦尼族国防军和克伦尼军的顽强抵抗。军方没有将袭击局限于这些团体的战斗人员,反而将平民作为袭击目标,包括袭击该地区规模较大的城镇。军方还追捕逃跑的平民,对境内流离失所者避难的地方发动袭击。

² 武装冲突地点和事件数据项目,数据导出工具,可查阅 https://acleddata.com/data-export-tool/(2022年3月3日访问)。对缅甸的数据进行了筛选,筛选出"针对平民的暴力"类型下的子事件类型"袭击"以及"爆炸/远程暴力"类型下的子事件类型"空袭/无人机袭击"和"炮击/大炮/导弹袭击"。特别报告员用该项目提供的数据来代表战斗强度,但无法保证其绝对准确性。

15. 一名 26 岁的克伦尼族男子努力帮助境内流离失所者,他本人也是流离失所者,他描述了克耶邦的情况:

过去,我们面临交通或旅行的限制。但现在他们却通过武装行动和空袭到处袭击我们。我们没有一天听不到直升机和战斗机的声音。有时他们利用空袭来打击抵抗力量。但他们也以平民和境内流离失所者为目标。有时候,即使他们不发起袭击,直升机也会在空中飞来飞去,看地面上有没有人。他们还有另一种飞机,专门用来视察。这种飞机来了一两天后,喷气式飞机就会来轰炸。空袭的目标是平民,我们毫无安全可言。感觉整个克伦尼邦都变成了战场。我们沦为境内流离失所者,总是从一个地方逃到另一个地方。我们逃离有时是因为空袭,有时是因为战斗。3

16. 特别报告员与一名克伦尼族男子进行了交谈,2022 年 1 月 17 日他与其他境内流离失所者一起避难时失去了两个女儿,一个 15 岁,一个 12 岁。该男子说道:

当时大概是凌晨 1 点,营地遭到轰炸。我的两个女儿也遇害了。她们只是两个小姑娘。我不确定是弹片还是炸弹本身落在了我两个女儿之间。两个女孩被炸向不同的方向。肚子和下半身都被炸成了碎片。⁴

- 17. 他进一步描述了流离失所者的悲惨处境,称随着对境内流离失所者所在地的袭击继续进行,村民们不得不逃到更深的森林地区。他所在的地区有数千人正在艰难地寻找食物和水。他最后说,"我们希望联合国了解克伦尼邦⁵ 和缅甸的真实情况。我们国家的人权正在受到侵犯。你能帮助我们获得真正的正义和真正的自由吗?"
- 18. 特别报告员审查了关于在克伦邦泰缅边境附近的莱凯考地区发生袭击事件的报告。从 2021 年 12 月开始,军方使用重型火炮、喷气式战斗机和直升机无差别袭击该地区,造成平民伤亡,导致约 1 万人逃离该地区,其中数千人越过边境进入泰国。据报军方炮击了境内流离失所者的避难地点。
- 19. 在克伦人权组织与特别报告员分享的第一手证词中,一名来自莱凯考地区的 17 岁境内流离失所女孩称军政府在 2021 年 12 月几乎持续不断地袭击: "SAC 6 发射迫击炮,所以我们不敢停留。……我们已经逃亡了五天,每天睡在不同的地方。……当战斗发生在我们的落脚点时,我们就要逃到另一个地方去。"7 一位 51 岁的日工也是四个孩子的父亲,他说: "在空袭的时候,SAC(从直升机和喷气式飞机上)投下炸弹并发射机枪,所以子弹(和炸弹)就像下雨一样从天而降。我们觉得再待下去不安全了,于是我们不得不逃跑。"8

^{3 2022}年3月11日,耶鲁大学法学院谢尔国际人权中心缅甸人权项目访谈。

^{4 2022}年1月19日与特别报告员的谈话。

⁵ 也被称为克耶邦。

⁶ 国家领导委员会。

⁷ 与特别报告员分享的与克伦人权团体的谈话。

⁸ 同上。

B. 被迫流离失所

- 20. 军政府无情地将平民作为攻击目标,肆无忌惮地侵犯人权,造成了广泛的流离失所,加剧了人道主义危机。据联合国难民事务高级专员公署(难民署)统计,截至2022年2月28日,缅甸境内流离失所者达87.3万人。9自政变以来,约有50.3万人流离失所,2021年12月1日以来有23.5万人流离失所。在一个已然遭受诸多长期冲突的国家,流离失所人数可谓陡然增加。
- 21. 克耶邦的激烈战斗,加上军方对城镇和其他平民地点的空袭,导致了新的大规模流离失所。最近的报告显示,由于军方的持续空袭和攻击,克耶邦 30 万人口中有一半以上流离失所,¹⁰ 其中包括克耶邦首府洛伊考 80%的人口。¹¹ 自政变以来,实皆省已有 17 万多人流离失所。¹²
- 22. 虽然许多长期的境内流离失所者居住在基础设施简陋的境内流离失所者营地,但许多新流离失所者只能在森林地区或其他藏身之处避难,身上只有逃离家园时得以携带的用品。他们往往得不到食物、饮用水、卫生设施和医疗用品。

C. 毁坏平民财产

- 23. 在平民因军事空袭和炮击而逃离家园后,士兵和亲军政府民兵往往会摧毁房屋、教堂、学校和其他民用建筑。军方似乎在广泛而系统地纵火和毁坏平民财产,在该国若干地区抢劫并烧毁村庄和大片城镇。据缅甸数据统计,自政变以来,截至2022年3月7日,军方及其盟友已经烧毁了6,700多座民用建筑。¹³ 其中4,500多座建筑是自今年年初以来被毁。
- 24. 2021年9月,在钦邦的一次袭击中,据说有数十名缅甸军队士兵被杀,之后军方轰炸了丹郎镇平民区并烧毁了房屋。在此后的几个月里,军政府部队烧毁了丹郎镇的数百座房屋和民用建筑。卫星图像和无人机镜头显示出破坏的程度,并佐证了暗示军方负有责任的证人证词。¹⁴ 泄露的军事文件授权"清除"该地区行动,表明这是一场有计划的纵火行动。这些文件描述了 2021年 10 月开始在钦邦进行的一次"特别清除行动",在此期间,士兵被授权使用"夷为平地"战术。¹⁵ 丹郎镇几乎所有的平民都已流离失所。士兵们还烧毁了附近的几个村庄。

Office of the United Nations High Commissioner for Refugees (UNHCR), "Myanmar emergency update", 7 March 2022.

¹⁰ 例如见 Karenni Human Rights Group and Network for Human Rights Documentation-Burma, "The world must know," briefing paper, February 2022。克耶邦当地非政府组织最近的报告表明, 流离失所人口总数可能已达 20 万。

¹¹ UNHCR, "Myanmar emergency overview map", 17 January 2022.

¹² UNHCR, "Myanmar emergency update", 7 March 2022.

¹³ 缅甸数据, 2022年3月9日的脸书帖子, 可查阅 www.facebook.com/data4myanmar/posts/1571395406561992.

¹⁴ 例如见 Carolina Jordá Álvarez, "A month of fires in Thantlang, Myanmar: satellite imagery, thermal anomalies data show numerous burnings", Human Rights Watch, 30 November 2021。

Meg Kelly, Shibani Mahtani and Joyce Sohyun Lee, "Burn it all down': how Myanmar's military razed villages to crush a growing resistance", Washington Post, 23 December 2021.

25. 2022年1月下旬以来,军方在实皆省开展了大规模的协调纵火行动,其目的显然是铲除该地区人民国防军和其他反政变武装组织的抵抗。据报在短短五天的时间里,几个村庄有1,000多座建筑物被烧毁。

26. 在最近对克耶邦的袭击中,军方也烧毁了房屋。2022年3月初,一名克伦尼族男子在逃离新一轮袭击,他在代莫索镇的家在两天前被烧毁,他这样描述所在地区的情况:

我所在的村庄被军政府烧毁了。我们村里没有村民了。我们那里的所有村庄都一样。在有些村庄,他们只烧了三四栋房子,然后就转移到下一个村庄。在另一些村庄,他们烧毁了所有的房子。一旦碰到村民,他们就开枪射杀或将其活活烧死。村民们非常害怕。¹⁶

D. 杀害平民

27. 对死于军队或亲军政府部队之手的人数估计差异很大,反映了方法上的差异、全国范围内记录死亡人数的困难以及军政府所犯暴行的严重性。平民死亡人数可能至少为 1,600 人,而且可能更多。¹⁷ 特别报告员在第 57 段中单独述及酷刑造成的谋杀。

28. 除了与无差别袭击有关的死亡之外,军方还一再处决被拘留的个人,有时大规模杀害被拘留的平民。2021年12月24日,在克耶邦普卢索镇,士兵屠杀了至少35名平民。¹⁸受害者包括妇女、至少一名儿童和人道主义组织救助儿童会的两名援助人员。许多受害者的尸体被烧得面目全非。一些受害者似乎是在捆着手的情况下被杀害。军事人员和亲军政府团体经常焚烧受害者的尸体,显然是为了掩盖证据或在当地居民中散布恐怖。

29. 特别报告员与一名母亲进行了交谈,她的儿子 15 岁,于 2021 年 12 月 24 日被杀害。她告诉特别报告员,士兵杀害她儿子的那天,她儿子正乘坐在一辆卡车上帮助运送汽油,想赚点钱。

那天一大早他接了我的电话,但后来我再也联系不上他了。我不知道我儿子怎么了。后来新闻报道了杀人事件,别人告诉我发生了什么。……我没有帮他收尸。我不敢去那里。我只是问了卡车司机的妻子,她说她看到了我儿子的衣服。……早上他离家的时候,完全没想到自己会遇害。我不知道为什么我儿子和其他人会被杀。……我们痛恨残忍的杀人行为。心里太痛苦了。有时我们吃饭的时候会痛哭起来,因为我们太想念儿子了。19

^{16 2022}年3月5日,耶鲁大学法学院谢尔国际人权中心缅甸人权项目访谈。

¹⁷ 例如见 Assistance Association for Political Prisoners-Burma, "Daily briefing in relation to the military coup", 11 March 2022 (报告军政府部队杀害了 1,652 人); 以及 ALTSEAN Burma, "Coup watch special edition: a year of struggle in Burma", 9 February 2022 ("2,610 名平民……死于与政变有关的暴力事件。")

¹⁸ 见 United Nations, "Security Council press statement on situation in Myanmar", 29 December 2021; 以及 Fortify Rights, "Ongoing war crimes in Karenni (Kayah) State, Myanmar: May 2021 to January 2022", February 2022, pp. 16–21。

^{19 2022}年3月11日,耶鲁大学法学院谢尔国际人权中心缅甸人权项目访谈。

30. 特别报告员与一名年轻的活动人士进行了交谈,他在和平抗议期间遭到袭击,警察对他发出了逮捕令,之后他逃离了仰光。这名活动人士现在躲藏在实皆省,他经常回忆起逃离军事袭击的经历,包括直升机向他藏身的村庄发射机枪。就在他与特别报告员谈话的前几天,他逃离了一个被军队袭击的村庄,后来他返回村庄,他和其他村民发现了九具严重烧伤的尸体。他告诉特别报告员:

当军队进入村庄时,我们为了安全逃离了村庄。[后来]我们回来看到了 9 具尸体。我们检查了尸体。看得出来,军方开枪射击了他们的头部。我们 看到他们的脑浆从后脑勺流出来。²⁰

31. 反对派团体也定点清除非战斗人员,包括警察、军政府任命的官员和据称的 线人。特别报告员重申,杀害非战斗人员或失去战斗力的人员(包括受伤或被拘 留的战斗人员)侵犯了生命权,无论受害者属于哪个政治和军事派别。

E. 强迫劳动以及利用平民做人盾

- 32. 特别报告员感到关切的是,在全国各地武装冲突和流离失所现象升级的同时,强迫劳动也在增多,重复着过去几十年暴力和动乱周期中的模式。他审查了非政府组织收集的关于强迫劳动的第一手资料,包括对涉及多达 100 名受害者的案件的描述。国际劳工组织(劳工组织)表示,其对强迫劳动的监测因政变而中断,但社区组织报告称军队强迫劳动的情况增加了。据报一些强迫劳动的受害者也被处决了。
- 33. 人权组织和媒体报道了军方利用平民做人盾的情况,包括在与反对派武装团体交火期间。根据与特别报告员分享的可靠资料,在冲突地区被用作人盾的一些人是未成年人。
- 34. 特别报告员感到关切的是,有报告称缅甸军队强迫征兵,包括招募未成年人。鉴于缅甸境内冲突战线的扩散,以及对军事人员、叛逃和招募压力的分析,特别报告员担心军队又将广泛采取强迫征兵和招募未成年人的做法。

三. 人道主义紧急情况

- 35. 军政府对缅甸迅速恶化的人道主义局势负有直接责任,这种局势威胁到《世界人权宣言》所载的人权,包括食物权、住房权、健康权和适当生活水准权。如下文所述,军政府在武装冲突中阻挠人道主义援助以及袭击援助人员,这违反了国际人道法。²¹
- 36. 军政府将缅甸推入了一场人道主义灾难,卫生基础设施摇摇欲坠,国家一半的范围陷入贫困,通货膨胀严重,燃料价格上涨,冠状病毒病(COVID-19)大流行肆虐以及援助运送受阻。人道主义事务协调厅估计,要实现对缅甸的人道主义援助目标,捐助界的供资需要增加四倍,而孟加拉国和泰国的难民也需要进一步支助。即使实现了这些目标,仍有数百万有需求的人将得不到援助。特别报告员深

^{20 2022}年3月6日与特别报告员的谈话。

²¹ International Committee of the Red Cross, "Rule 55: access for humanitarian relief to civilians in need", Customary IHL database.可查阅 https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule55.

为关切的是,如果国际社会不采取更有力的行动,情况将变得更加严重,造成难以计数的死亡和无边无际的痛苦。

37. 世界卫生组织(世卫组织)估计,卫生服务中断,若不加以纠正,将导致 2022 年新增 47,156 例本可避免的死亡。²² 去年年底,联合国开发计划署预测,到 2022 年初,缅甸将有近一半的人口处于贫困状态,而且由于大流行和当前的政治危机,城市贫困人口将增加两倍。²³ 目前有 1,300 多万人面临中度或严重的粮食不安全。²⁴ 人道主义事务协调厅估计,2022 年有 1,440 万人需要人道主义援助。²⁵

38. 对军政府的不信任继续破坏着公共卫生计划,包括对 COVID-19 大流行的应对措施。缅甸的疫苗接种率是东南亚国家联盟(东盟)国家中最低的,而且很难获得 COVID-19 检测,导致人们极易受到未来感染浪潮的影响,并营造了可能产生新变种的环境。²⁶

阻碍运送人道主义援助

- 39. 军政府为应对缅甸日益加深的危机,将急需的人道主义援助武器化。特别报告员收到的可靠报告称,军政府当局已明确命令村长未经事先授权不得接受国际非政府组织的援助。人道主义行动者不得不应付运输路线上的多个检查站,工作人员受到侵入性搜查,包括他们的移动设备也要被检查。当局定期没收或销毁食品、药品、衣物和其他物品。
- 40. 人道主义组织对其工作人员安全的关切也影响了援助的运送。国际非政府组织的工作人员经常被逮捕或拘留。在运送援助方面发挥关键作用的地方组织的代表面临着更大风险。最迫切需要援助的人口往往是人道主义组织最难接触到的人口。
- 41. 军政府部队经常袭击医疗工作者和基础设施。医生促进人权协会的一项研究记录了政变后一年内对医疗设施的 128 次袭击,286 名医疗工作者被捕,30 名医疗工作者被杀害。²⁷ 为反对派武装团体提供医疗的医务人员面临严重风险,包括逮捕、拘留、酷刑和性暴力的威胁。2021 年 11 月,在实皆省卡莱镇对一处人民国防军营地的突袭行动中,士兵们拘留了 9 名女医务人员,其中包括未成年少女。报告表明,至少有一些被拘留者在拘留期间可能遭受了酷刑。

²² United Nations, Office for the Coordination of Humanitarian Affairs, "Humanitarian needs overview: Myanmar", December 2021, p. 34.

United Nations Development Programme, "Myanmar urban poverty rates set to triple, new United Nations survey finds", 1 December 2021.

United Nations, Office for the Coordination of Humanitarian Affairs, "Humanitarian response plan: Myanmar", January 2022, p. 10.

²⁵ 同上,第20段。

²⁶ 截至 2 月 26 日,已接种 45,202,278 剂疫苗,足以为约 42%的人口接种两剂。见世界卫生组织 (WHO)冠状病毒(COVID-19)信息总汇:缅甸(https://covid19.who.int/region/searo/country/mm)。

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, p. 13. 另见世卫组织,缅甸,2021 年 9 月 1 日至 2022 年 2 月 22 日,医疗袭击事件监测系统(SSA)数据库(https://extranet.who.int/ssa/Index.aspx)。

42. 联合国机构和人道主义组织警告称,军政府设置的官僚障碍拖延或阻止了援助的运送。²⁸ 各组织在获得旅行批准或谅解备忘录批准方面经历了长时间的拖延。军政府还以 COVID-19 大流行为借口,实施旅行限制,阻碍各组织接触境内流离失所者。

四. 军政府对反对者的迫害

43. 军政府对反对派和不同政见的镇压侵犯了许多人权,包括表达自由权、集会和结社自由权、生命权、公正审判权以及不受任意拘留和酷刑的权利。这些行动助长了对平民人口持续的广泛和系统性的袭击,因此可能构成危害人类罪,包括谋杀、剥夺自由、酷刑、强奸、性暴力、迫害和其他不人道行为。必须追究犯罪者的责任。

A. 持续的非暴力反抗

- 44. 在大批年轻人(包括许多年轻妇女)的领导下,抗议组织者在动员反对派方面表现出了高超的技巧、坚韧和创造力,尽管他们几乎时时面临监禁或死亡的威胁。因为军队会毫无忌惮地向人群开枪,为了保全抗议者的生命,抗议领导人调整了策略。通常在清晨举行小规模的"闪电抗议"。组织了"无声罢工",为大量民众提供安全的示威方式。尽管军政府下令并威胁民众不要参与无声罢工,但在 2021 年 12 月 10 日人权日和 2022 年 2 月 1 日军政府政变纪念日,全国各城镇仍有大量民众拒绝外出。
- 45. 政变发生一年多后,数千名公务员、医疗工作者、教师和律师继续参加全国性的公民不服从运动,拒绝在国家机构就业。活动人士组织了众筹倡议,为那些放弃工作以表明反对军事统治的个人和家庭提供财政支持。公民不服从运动在破坏军政府控制国家的努力方面发挥了重要作用。
- 46. 特别报告员与一位店主进行了交谈,她讲述了她如何拒绝出售与军方有关联的公司生产的商品,不让军政府获得资金。她说:

你知道,在缅甸,他们想逮捕谁就逮捕谁。他们会逮捕母亲。如果 找不到母亲,他们就会带走孩子。他们就是这样无法无天。我们不能轻举 妄动。我们的手脚都被绑住了。我们无法向其他国家解释国家领导委员会的 暴力行为。那么为什么要抵制呢?只要我们买了他们的产品,就是在支持 他们,让他们更有钱。所以要记住每个人的抵制行动都很重要。我们必须 团结起来。我们要保持这种态度。我们不会买他们的商品,也不会卖东西给 他们。²⁹

²⁸ 例如见 United Nations, Office for the Coordination of Humanitarian Affairs, "Myanmar, humanitarian update, No. 15", 15 February 2022。

^{29 2022}年1月17日与特别报告员的谈话。

B. 对和平抗议者的袭击

47. 鉴于抗议组织者采取了减轻风险战略,军政府部队袭击造成的伤亡人数比发生政变后的几个月要少。必须指出,这并不意味着军政府改变了战术,军政府仍然对和平抗议者使用致命武力。

48. 2021 年 12 月 5 日,一辆高速行驶的军用卡车撞上了在仰光九文台镇参加和平快闪抗议活动的数十人。在袭击期间,当局还用实弹开火。当地媒体报道称,袭击现场至少有 4 人死亡,15 人被捕。缅甸军政府控制的出版物《缅甸全球新光报》(Global New Light of Myanmar)将这一事件描述为"按照规定"进行的"人群驱散行动",但几名抗议者和附近居民拍下了军队对和平抗议者的无端暴力袭击过程。30

49. 2021 年 12 月 5 日, 一名侥幸逃脱逮捕的年轻抗议领袖向特别报告员讲述了他的所见所闻:

我们到达了罢工地点,罢工团体和仰光的公众聚集在一起,开始抗议。罢工的主题是"免于恐惧"。在抗议领导人开始喊出口号后一分钟,士兵们就赶到了。士兵们对着抗议者大声喊叫,破口大骂。我的一些朋友没有看到军用卡车开过来。……我大喊: "军用卡车来了。"但他们没有听到我的话,因为很多人在大声喊叫。他们继续抗议。我仍然无法忘记军队袭击民众时人们发出的惨叫声。我无法把这种惨状从我脑海中抹去。有些人得以避开卡车,但其他人没看到卡车,被卡车撞倒。一些人被卡在卡车下面。31

50. 在过去六个月里,当局多次用车辆冲撞和平抗议者。2021年9月11日,骑摩托车的抗议者遭到袭击,造成一名妇女死亡。在实皆省蒙育瓦举行的"六个二"抗议活动(纪念 2022年2月22日)以及2021年2月22日抗议活动一年后继续举行的大规模罢工和示威活动中,据报一名孕妇被从摩托车上撞下来之后流产,据报士兵向两名年轻男子开枪,打伤并逮捕了一人。

C. 任意逮捕和拘留

51. 在过去六个月里,军政府继续开展运动压制异见,逮捕和拘留活动人士、记者、和平抗议者、民间社会领导人和政界人士。据缅甸政治犯援助协会称,自 2021 年 2 月 1 日政变以来,截至 2022 年 3 月 11 日,已有 12,598 人因亲民主活动或反对军事统治而被捕。³² 其中 9,588 人仍被拘留。当局又对另外 1,973 人发出了逮捕令。

^{30 &}quot;Press release on circulating misinformation about crowd dispersal of security forces in Kyimyindine Township", *Global New Light of Myanmar*, 7 December 2021. 据报在 2022 年 1 月 4 日的独立日仪式上,组织袭击抗议者的军官因"在军事统治下的杰出表现"而受到表彰。见 Irrawaddy, "Yangon vehicle ramming commander honoured by Myanmar junta leader", 6 January 2022。

^{31 2022}年3月5日与特别报告员的谈话。

Assistance Association for Political Prisoners-Burma, "Daily briefing in relation to the military coup", 11 March 2022.

52. 特别报告员继续收到可信的报告,称那些设法逃避了逮捕的人员的家庭成员成为了目标。对于尚在被通缉的人员,当局已经拘留了他们的子女或年长亲属。缅甸政治犯援助协会记录了320人"作为人质拘留",据报截至2022年3月7日,其中266人仍被拘留。

D. 拘留期间的酷刑、其他虐待和死亡

- 53. 缅甸军方继续在监狱、警察局、军事基地和其他拘留场所施以酷刑和虐待。由于无法接触到目前被军政府拘留的数千人,很难确定被拘留者遭受的侵犯人权行为的全部范围。然而,特别报告员与获释人员的直接接触、媒体报道、被拘留者秘密发送的信件以及与被拘留者有过接触的律师的报告,使我们得以了解关于继续大规模发生严重践踏人权的情况。³³
- 54. 酷刑受害者和目击者的陈述表明,安全部队在审讯期间使用酷刑来获取信息或供词,还对被拘留者施以酷刑作为惩罚或报复的手段。所用的方法包括拳打脚踢、捅刺、用棍棒殴打、用枪托殴打、用电气设备电击、烧伤皮肤和生殖器、拔掉指甲、压力姿势以及剥夺食物和水。关于酷刑的叙述经常涉及使用羞辱受害者的策略。许多女性被拘留者以及一些男性被拘留者遭受了性骚扰、性侵犯或强奸。一些酷刑受害者是未成年人。在实施酷刑或审讯期间受伤的人很少得到任何形式的治疗。
- 55. 特别报告员与一名前大学生进行了交谈,他现在是仰光的一名抗议领导人。 2021 年 7 月被捕后,他遭受了酷刑。他告诉特别报告员:

2021 年 7 月 30 日,大约有 30-40 名警察和士兵袭击了我们。他们用橡皮子弹和真子弹向我们开火。在 30 人中,约有 10 人穿着平民服装。其他人都穿着制服。他们逮捕了我,把我带到审讯中心。他们对我施以酷刑,不给我水喝。用一根竹棒打我,但那不是一根普通的竹棒。上面有一块布包着,他们把油倒在上面,然后点着了火。他们还因为我有一面我们大学团体的旗帜而指控我。他们还掏出一些子弹,说是我的。但子弹不是我的。他们只是对我冠以莫须有的罪名。34

56. 这位抗议领导人随后被释放。尽管遭受了这样痛苦的经历,他仍继续担任抗议领导人。他告诉特别报告员:

我有两个想法。首先,我知道我们需要的是联邦民主。但其次,我也 害怕军方的武器。当我比较这两件事时,我知道什么更重要。我知道民主更 重要。于是我继续加入抗议活动。

57. 联合国人权事务高级专员办事处已查明至少有 325 人在拘留期间死亡,其中包括 16 名儿童。35

³³ 例如见 Victoria Milko and Kristen Gelineau, "Myanmar military uses systematic torture across country", Associated Press, 28 October 2021。

^{34 2022}年3月4日与特别报告员的谈话。

³⁵ 见 A/HRC/49/72。

E. 出于政治动机的审判和定罪

58. 自军事政变以来,法治已经完全崩溃,抵消了前十年文官统治期间所取得的些许改进。36 "审判"是在监狱内闭门进行的,不让公众或媒体进入。基于通过酷刑取得的供词或从未在法庭上出示的"秘密"证据将一些人定了罪。据缅甸政治犯援助协会称,自政变以来,至少有 955 人因出于政治动机的指控被定罪,其中包括 100 多人被缺席定罪。37

59. 2021年12月,缅甸总统温敏和国务资政昂山素季被判煽动罪和违反 COVID-19限制,2022年1月,昂山素季被判非法进口对讲机罪。她还面临另外十几项指控。军政府还拘留了数百名全国民主联盟成员,包括全国民主联盟 14 名前省级和邦级首席部长中的13名。有些人已经被定罪。

五. 妇女和女童的权利

- 60. 二十多年来,缅甸一直未能履行其根据 1997 年加入的《消除对妇女一切形式歧视公约》所承担的义务。自 2021 年 2 月政变以来,军政府对妇女和女童不断升级的人权危机负有直接责任,包括构成危害人类罪和战争罪的践踏人权行为。
- 61. 武装冲突、内乱和 COVID-19 大流行大幅增加了缅甸各地妇女和女童面临的风险。冲突地区的妇女和女童特别容易遭受侵犯人权行为,包括性暴力、任意拘留和强迫劳动。特别报告员担心,缅甸充斥暴力的不稳定局势可能迫使一些妇女卖淫或早婚,或导致她们更容易被贩运。人道主义组织告诉特别报告员,每个月都有数十名妇女从境内流离失所者营地被贩卖,男子有时将其女性亲属卖给人贩子。

性别暴力

- 62. 特别报告员对缅甸拘留场所和冲突地区发生性骚扰、性侵犯和强奸的报告表示严重关切。几十年来,缅甸军方一直将性暴力和其他针对妇女的罪行作为战争武器。根据《国际刑事法院罗马规约》,强奸和性暴力构成危害人类罪或战争罪,具体取决于实施这些行为的背景。
- 63. 据缅甸妇女联盟称,自政变以来,强奸、性别暴力、性骚扰和对未成年人的性虐待案件大幅增加。联盟的秘书长 Naw Hser Hser 向特别报告员介绍了该组织最近几个月记录的案件,包括一名 62 岁妇女和一位初为人母的妇女被强奸的案件。她表示,在这个体制中,实施性暴力的人有罪不罚,妇女生活在恐惧之中,这让她们感到沮丧:

³⁶ 见 International Commission of Jurists, "Myanmar: a year after military takeover, no rule of law or judicial independence" 10 February 2022。

Assistance Association for Political Prisoners-Burma, "Daily briefing in relation to the military coup", 11 March 2022.

军政府总是把性暴力作为一种策略,甚至在政变之前就是如此。如果在克伦邦发生冲突,就会有强奸。如果有针对罗兴亚人的袭击,就会有强奸。……自从军事政变以来就没有司法系统。我们不能上任何法庭。我们只是希望国际社会能够帮忙提供保护。我们希望,国际社会能够帮忙将此案提交国际刑事法院。……这些都是多年来犯下的累累罪行。需要追究责任。38

- 64. 2021年3月,一名年轻的女性活动人士在一次和平抗议活动中被捕,之后被关押在永盛监狱8个月,她告诉特别报告员,她在审讯期间遭到殴打,与100多名其他囚犯共用一个拥挤的房间和一个厕所。她谈到了她的经历以及拘留设施中司空见惯的性骚扰和性别暴力。她还阐述了被拘留的其他妇女以及男女同性恋、双性恋、跨性别者和间性者遭受的性侵犯,这些人可能是因为性取向而成为目标。
- 65. 除了军方施加的性暴力外,据报在过去两年中,性别暴力热线接到的电话增加了一倍或两倍。特别报告员深感关切的是,COVID-19 大流行、经济动荡和政变后日常生活的中断为性别暴力在私人领域蔓延创造了条件。政府职能的崩溃以及对当局的普遍不信任严重限制了受害者寻求补救或援助的渠道。
- 66. 为性别暴力受害者提供服务的组织因本报告所述的严重受限的运营环境而受到极大影响。这些组织得不到资金,与此同时,由于许多医疗相关服务转移到私人诊所,受害者需支付的成本增加。许多妇女在被转诊到军事医院时拒绝接受医疗服务。

六. 儿童权利

- 67. 军政府广泛而系统性的侵犯人权行为、政变后公共服务的崩溃以及 COVID-19 大流行对缅甸儿童造成了毁灭性的影响。军政府不仅无差别地攻击平民,往往包括儿童受害者,而且有时专门针对儿童实施暴力和侵犯人权行为。此外,公共卫生和教育方面的危机威胁到儿童的生命和福祉,并将对他们的发展产生长期影响。军政府对待儿童的方式违反了缅甸根据 1991 年加入的《儿童权利公约》所承担的义务,并可能构成战争罪或危害人类罪。
- 68. 根据非政府组织和联合国机构的报告,自政变以来,有 100 多名儿童被军政府部队杀害。³⁹ 这些死亡归咎于袭击和平抗议者、无差别的空袭和炮击、处决以及利用儿童做人盾。据报 2021 年 12 月 24 日在克耶邦普卢索镇发生的大屠杀中,至少有 35 人受害,受害者中有 4 名儿童。⁴⁰ 据报 2021 年 12 月 7 日,实皆省萨灵吉镇发生了一场令人毛骨悚然的大屠杀,11 人被杀害,其中包括 5 名青少年。许多儿童还受到地雷的影响。据联合国儿童基金会(儿基会)记录,2021 年有 19 名儿童死于地雷,55 名儿童因地雷受伤。⁴¹

^{38 2022}年3月3日与特别报告员的谈话。

³⁹ 见 United Nations Children's Fund (UNICEF), "Myanmar Country Office, Humanitarian situation report", 1 January to 31 December 2021。

⁴⁰ UNICEF, "UNICEF condemns reported killing of at least 35 people, including four children and two humanitarian workers, in Kayah State, Myanmar", 28 December 2021.

⁴¹ UNICEF, "Landmines/ERW incidents information", January–December 2021.

- 69. 据缅甸政治犯援助协会称,截至 2022 年 3 月 11 日,有 188 名儿童被作为政治犯拘留,其中许多人是因为参与和平抗议活动被拘留。⁴² 目前在这种情况下被扣为人质的人中,有 25 人是未成年人。⁴³ 其中许多儿童因与逃避逮捕的人员有关联而被拘留。儿童往往被剥夺与律师和家庭成员接触的机会。有些儿童遭受了酷刑,受伤后得不到医疗照料。
- 70. 特别报告员对招募儿童当兵和利用儿童做人盾的情况极为关切。劳工组织注意到,与缅甸军方结盟的团体强迫招募年轻人的情况增多。⁴⁴ 据报有些人在被迫服兵役时被杀害。特别报告员感到关切的是,有报告称 15 岁以上的军人子女被迫接受军事训练。他还审查了关于少数民族武装团体招募青少年的报告。
- 71. COVID-19 大流行和军事政变的共同影响严重扰乱了缅甸的教育。2021 年 5 月,估计有 1,200 万儿童因 COVID-19 大流行而缺课一年以上。⁴⁵ 然而,在 2021 年末大流行限制解除后,因参与公民不服从运动,许多教师不去教室,许多家庭决定不送孩子上公立学校。⁴⁶ 武装冲突、流离失所和其他安全问题也阻碍了受教育的机会。公立学校的入学率估计低于 50%。⁴⁷
- 72. 军政府部队还占领和袭击冲突地区的学校,进一步扰乱了教育,威胁到学生和教师的生命。根据特别报告员获得的可信信息,2021年发生了200多起针对学校和学校工作人员的袭击事件。军政府部队还占领了学校。2022年2月,据报士兵在实皆省因马宾镇将80名学生扣为人质长达两天。
- 73. 医疗服务的崩溃也对儿童产生了重大影响。儿童常规免疫接种的中断可能对缅甸的公共卫生产生长期影响。自政变以来,已有近 100 万儿童错过了常规疫苗接种。世卫组织估计,错过常规免疫接种的影响可能导致 33,000 人死亡。⁴⁸

七. 表达自由、集会和结社自由

74. 政变发生后,军政府大力打击基本自由,修改法律以限制言论,严格限制互 联网接入,并压制民间社会。这些行动侵犯了表达自由权、集会和结社自由权。

⁴² Assistance Association for Political Prisoners-Burma, "Under detention list", 11 March 2022.

⁴³ Assistance Association for Political Prisoners-Burma, "Hostage list", 7 March 2022.

⁴⁴ 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) sessions", GB.344/INS/12, 25 February 2022.

Save the Children, UNICEF and United Nations Educational, Scientific and Cultural Organization (UNESCO), "Education at risk: a generation of children in Myanmar must have safe, appropriate and inclusive opportunities to continue their learning", joint statement, 20 May 2021.

⁴⁶ UNICEF, "Myanmar Country Office, Humanitarian situation report", 1 January to 31 December 2021.

⁴⁷ UNICEF, "Myanmar Country Office, Humanitarian situation report, No. 9", 29 November to 30 December 2021.

⁴⁸ United Nations, Office for the Coordination of Humanitarian Affairs, "Humanitarian needs overview: Myanmar", December 2021, p. 34.

A. 媒体自由

75. 军政府一直在无情地攻击记者,毫无疑问他们意识到真实、独立的报道威胁到了他们说的假话。根据保护记者委员会的数据,2021 年缅甸成为了全球监禁记者人数第二多的国家。49 自政变以来,当局逮捕了100多名记者,其中数十人仍在狱中。至少有三名记者被杀害,一些记者遭受了酷刑。

76. 2021 年 11 月 1 日,军政府对《电视和无线电广播法》进行了严格修订,将他们对广播媒体的控制措施编成法律。该法律于 2015 年首次通过,已经授权政府对广播媒体进行不当控制。军政府的新修正案对违法行为(包括不遵守审查令)规定了严重不相称的刑事处罚,最高五年监禁,取代了之前的罚款。50 修正案扩大了该法的范围,涵盖允许人们接收广播或电视节目的"其他技术",这可能涉及使用社交媒体和其他在线平台分享音频或视频文件。

77. 面对这些艰巨的挑战,许多专业记者和公民记者冒着巨大的个人风险报道军政府的武装冲突和侵犯人权行为。他们经常采用新的方法,如地下活动、匿名报道或用假名报道以及利用虚拟专用网络或加密技术。

B. 互联网限制

78. 2021年2月政变后,军政府封锁了社交媒体和消息平台,并在全国范围内实施轮流断网。2021年年中以来,当局基本上避免实施全国范围断网,而是在冲突地区和反对派力量强大的地区实施了局部断网。社交媒体和消息平台在全国范围内仍然被封锁,只能通过虚拟专用网络访问。但是,当局已经开始在检查站和家庭搜查中检查手机,逮捕那些安装了虚拟专用网络软件的人。

79. 军政府已经开始建立一个可被称为数字独裁的政权。一项网络安全法草案将禁止使用虚拟专用网络,使用者将面临最高三年的监禁,并授权当局在没有司法监督的情况下屏蔽在线内容或限制互联网访问。对于"制造错误信息和虚假信息,意图造成公众恐慌、信任缺失或社会分裂"的罪名,处罚包括最高三年监禁。51 其他条款侵蚀了在线隐私,增加了侵入性监视以及任意逮捕和监禁的风险。

C. 监视

80. 近几个月来,军政府采取措施,将其监控通信的能力提高到危险的新水平, 严重影响了隐私权和表达自由权。

⁴⁹ Committee to Protect Journalists, "Number of journalists behind bars reaches global high", 9 December 2021.

⁵⁰ "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", in *Global New Light of Myanmar*, vol. VIII, No. 197 (2 November 2021).

Access Now, "Analysis: the Myanmar junta's Cybersecurity Law would be a disaster for human rights", 27 January 2022.

- 81. 2021 年 9 月,缅甸四大电信供应商之一挪威电信(Telenor)透露,当局已要求 其在网络上激活监视技术。挪威电信表示,不会自愿遵守该命令,并于 2022 年 2 月 16 日在其网站上表示,尚未对其缅甸网络激活该技术。
- 82. 后来有报道称,挪威电信遵守了政府数据要求,影响到数千名客户。挪威电信是缅甸迄今为止最透明的电信公司,看起来其他提供商很可能都遵守了政府的命令,既提供数据又激活监视技术。
- 83. 挪威电信计划退出缅甸,这导致人们担忧挪威电信将移交 1,800 万缅甸客户数据。2021 年初,据报挪威电信的子公司缅甸电信(Telenor Myanmar)将被出售给M1 集团与瑞拜因普尤集团(Shwe Byain Phyu Group)的合资企业,瑞拜因普尤集团是一家与军方有商业关联的缅甸公司。52 因 Telenor 致力于透明度和人权而购买了该公司 SIM 卡的活动人士现在担心,军方将不受限制地访问他们的通话数据,威胁到他们及家人、同事和其他联系人的安全。
- 84. 2021 年逃离该国的一名活动人士告诉特别报告员:

我觉得很不安全。Telenor 移交数据后,可以使用软件搜索数据。那他们就会知道所有和我有联系的人。我可以躲,但我妈妈、我哥哥、我朋友都躲不了。……没有人是安全的。即使我们躲起来,现在也没有人是安全的。[挪威电信]说他们是在遵守法律。在恐怖主义军事下没有法律。甚至我们鼓个掌,他们也要因此抓人。法律何在? 53

八. 罗兴亚人的人权

- 85. 若开邦约 60 万罗兴亚人的人权继续遭到系统性的侵犯。54 13 万多人仍然被限制在境内流离失所者营地,甚至那些住在村庄的人也被剥夺了自由行动的权利。大多数村民需要申请许可才能在若开邦的不同地点之间走动,这一制度在整个地区由安全部队驻守的检查站执行。自政变以来,罗兴亚人因无证旅行再次面临逮捕,截至 2021 年年中,67 个罗兴亚人正在受审,58 人因在若开邦以外旅行而被定罪并被判处最高两年监禁。旅行限制和夜间宵禁可能会造成生死攸关的后果,特别是对那些患有急性疾病需要救治的人。2022 年 1 月开始,罗兴亚境内流离失所者营地爆发腹泻,导致了死亡,这些死亡本可以通过及时的医疗救治予以避免。
- 86. 在缅甸,罗兴亚人获得公民身份的机会实际上仍被切断。很少有罗兴亚人能够满足 1982 年《公民身份法》规定的文件要求,该法以极端歧视的方式适用于罗兴亚人。罗兴亚人基本上不愿意接受公民身份验证卡,因为规定将他们登记为"孟加拉人",实际上将他们认定为外国人。

⁵² 例如见 Reuters, "Myanmar junta backs Telenor unit sale after buyer M1 pairs with local firm", 20 January 2022。

^{53 2022}年2月14日与特别报告员的会面。

⁵⁴ 见 A/76/314, 附件 1, 第三节(可查阅 https://www.ohchr.org/sites/default/files/Documents/Countries/MM/GA76report-annex-SR-Myanmar.pdf), 描述了截至 2021 年 9 月罗兴亚人在缅甸面临的侵犯人权行为,这些行为在本 报告所述期间持续存在。

87. 要让被赶出家园的罗兴亚人安全、有尊严和自愿返回,在这方面没有取得任何进展。在2012年、2016年和2017年许多罗兴亚人因遭受袭击而逃离村庄,许多属于他们的房屋已被夷为平地,现在建了新的商业项目、政府大楼或军事设施。55 鉴于目前的情况,特别报告员认为若开邦的局势不利于罗兴亚难民从孟加拉国自愿、可持续地返回。

九. 国际反应

- 88. 缅甸人民对联合国和国际社会对政变后危机的反应深感失望。在缅甸军方对缅甸人民发动野蛮攻击 13 个月之后,安全理事会甚至尚未提出一项决议。没有作出任何努力来限制军政府进入国际银行系统或获得武器,只有美国在政变后立即冻结军政府资产,据了解此后没有任何其他会员国冻结资产。正如特别报告员继续敦促的那样,各国之间尚需采取基础广泛的协调办法,对军政府施加更大的经济压力,包括建立一个多国工作队,以确定、追查和冻结军方及其亲信的资产。
- 89. 在政变一周年之际,安全理事会发表了一份新闻声明,对该国的暴力行为表示"深切关切"。安全理事会呼吁释放国务资政昂山素季、温敏总统和其他被任意拘留者。缅甸的活动人士一再向特别报告员表示,国际社会例行公事地表示"关切",但不采取行动,他们对此感到愤怒。安全理事会未能行使《联合国宪章》第七章赋予它的权力,未采取或甚至未考虑采取具体行动解决缅甸危机。
- 90. 正如特别报告员最近的会议文件所述,包括两个安理会常任理事国在内的一些会员国在 2021 年 2 月政变后继续向缅甸军方转让武器。在缅甸政变之前,有更多国家向缅甸转让武器,而当时缅甸问题国际独立实况调查团已经提交了 2018 年报告,该报告描述了军方在克钦邦、若开邦和掸邦犯下的暴行罪行。56 这些转让行为可能违反了国际人道法、条约法和关于国家责任的习惯国际法。
- 91. 在安全理事会没有采取行动的情况下,一些会员国已采取措施,试图削弱军政府严重侵犯人权的能力。这些措施包括对个人或机构实施制裁。比如,2022 年2月21日,欧盟采取了重要举措,对缅甸石油天然气公司实施制裁。
- 92. 如果缺乏政治意愿通过一项安全理事会决议,则应立即考虑由会员国采取协调一致的行动,例如在入侵乌克兰四天内采取的那种行动。

十. 建议

- 93. 特别报告员建议军政府立即:
 - (a) 下台并放弃权力,以便召集经民主选举的合法的议会,组建政府;
- (b) 清晰明确地命令安全部队停止对缅甸人民的袭击,避免侵犯人权和违 反国际人道法;
- (c) 停止阻碍向包括境内流离失所者在内的弱势群体提供人道主义援助, 并采取积极举措,便利国家和国际非政府组织运送援助;

⁵⁵ 例如见 Amnesty International, "Remaking Rakhine State", 12 March 2018。

⁵⁶ A/HRC/39/64.

- (d) 尊重表达自由权、集会和结社自由权的行使,包括停止针对活动人士、记者、人权维护者、反对派政治人物以及和平抗议者,无条件释放因行使权利而被拘留的人;
- (e) 与联合国官员和国际问责机制充分合作,包括特别报告员和联合国其他特别程序、秘书长缅甸问题特使、缅甸问题独立调查机制和国际刑事法院。

94. 特别报告员建议联合国及其机构:

- (a) 通过一项安全理事会决议,其中安理会: (i) 对缅甸实施全面武器禁运,包括对军方的飞机燃料禁运; (ii) 对缅甸军方、其领导人及其收入来源,包括缅甸石油天然气公司,实施定向经济制裁; 以及(iii) 将缅甸局势提交国际刑事法院。安全理事会中任一常任理事会行使否决权的可能性不应阻止其他会员国将决议提交安理会审议、辩论和表决;
- (b) 至少通过一项安全理事会决议,规定实行武器禁运,具体禁止出售正在用于杀害缅甸平民的武器和相关弹药,包括喷气式飞机、攻击直升机、装甲车、轻型和重型火炮、可攻击地面目标的导弹和火箭、炮弹和小武器;
- (c) 确认民族团结政府是解决缅甸危机的可靠来源和伙伴,包括在向平民提供人道主义、医疗、教育和其他支助方面。

95. 特别报告员建议会员国:

- (a) 立即停止向缅甸出售或转让武器和两用技术,并确保不向缅甸军方转让航空燃料;
- (b) 组织一个国家联盟,目标是对军政府施加强大和持续的压力,包括通过协调一致的定向经济制裁以及武器和两用技术禁运;应尽可能全面地实施制裁,制裁应针对军方拥有或控制的企业,包括缅甸石油天然气公司;
 - (c) 建立一个多国工作队,以确定、追查和冻结军方及其亲信的资产;
- (d) 制裁参与缅甸武器进出口的个人和实体,包括在缅甸充当武器贸易中间人的个人和实体;⁵⁷
- (e) 剥夺军政府的合法性,在包括联合国在内的国际机构拒绝承认军政府,并拒绝军政府官员参加国际论坛和活动;
- (f) 承认民族团结政府代表了缅甸人民的主权意愿,是参与为缅甸人民分配人道主义支助、医疗、教育和其他支助的可信赖的来源和伙伴;
- (g) 支持在公正和独立的法院,包括国际刑事法院、国际法院和具有普遍管辖权法律的国家的国家法院,追究暴行罪实施者的责任;
- (h) 增加对缅甸人民的人道主义援助,包括为《2022 年缅甸人道主义应急 计划》提供全额资助。
- 96. 特别报告员建议向缅甸民间社会以及对政变的人道主义和人权反应提供支助的捐助者:

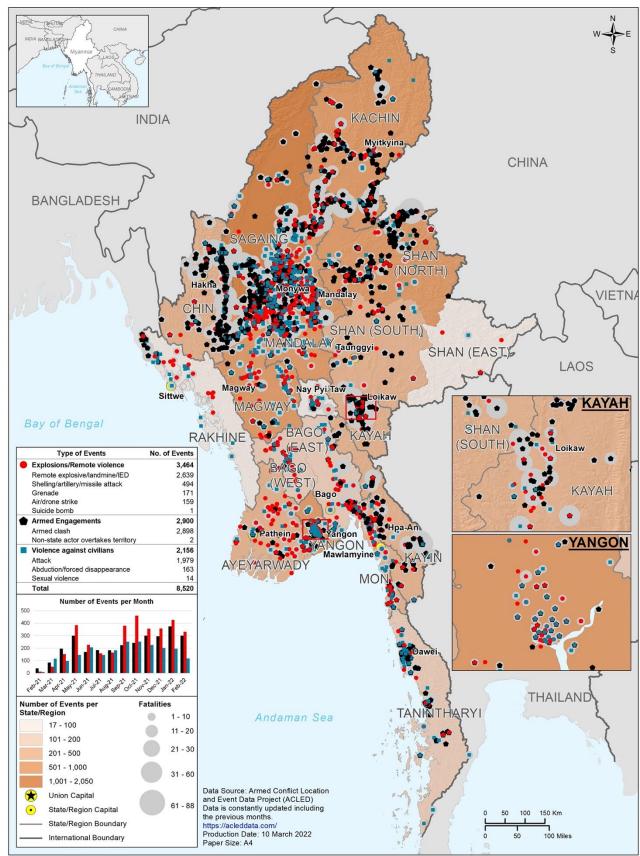
⁵⁷ 例如见 Justice for Myanmar, "Military-linked companies procured USD millions in arms and military equipment", 7 February 2022。

- (a) 为支持缅甸人权维护者、记者、律师、妇女权利倡导者、男女同性恋、双性恋、跨性别者和间性者群体、残疾人群体和其他风险群体的人权和利益的研究和宣传提供充足资金:
- (b) 采取创造性的解决办法,应对缅甸境内各组织的运营挑战,包括放宽报告要求,采用其他转移资金的方法,不要求在缅甸当局登记,并尽可能从限制性赠款转向核心资金。
- 97. 特别报告员建议民族团结政府:
- (a) 促进和推进民族团结政府一人民国防军行为守则,该守则就武装冲突和平民待遇法提供指导,并采取一切必要措施,制止法外处决和其他侵犯权利行为;
- (b) 继续努力确保必要的资源以满足缅甸人民的需求,包括 COVID-19 疫苗、 人道主义援助和其他重要资源:
- (c) 继续努力由一个公正和独立的法院,包括国际刑事法院,追究大规模 暴行罪犯罪者的责任;
- (d) 向包括会员国在内的国际社会提供信息、分析和建议,以支持缅甸人民, 并帮助施加必要的压力,使缅甸摆脱非法军政府部队的统治。
- 98. 特别报告员建议国际商业和投资界:
- (a) 审查其投资在多大程度上受到向缅甸军方出售武器以支持其暴行的 武器制造商的影响,并根据自己的人权政策和《工商企业与人权指导原则》采取 行动;
 - (b) 终止对那些为缅甸军政府提供实质性支持的企业的投资。

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 honour 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. He also includes the responses of the Government of Bangladesh.

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.² 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.³
- 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.

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.

² 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

³ 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.

- 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 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.⁴ 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.

⁴ UNHCR, Bangladesh Operational Update, Jan 2022, https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Bangladesh%20Operational%20U pdate_January%202022.pdf.

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 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.⁵ 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

⁵ 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.

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.

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 anaesthesia 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 goitre, 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 Bashan 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 Bashan 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.