



# General Assembly

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## Human Rights Council

### Fiftieth session

13 June–8 July 2022

Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

### **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.

[21 May 2022]

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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.



## **Myanmar: stronger and collective actions required**

### **Multi-dimensional crisis caused and deteriorated by the Tatmadaw:**

Despite numerous efforts of various actors at different levels, including the UN High Commissioner for Human Rights as well as the Association of Southeast Asian Nations (ASEAN), the Tatmadaw has been continuing and intensifying atrocity and brutal tactics against the people of Myanmar denying their fundamental rights and oppressing their lives. Since the coup on 1 February 2021, more than 1,500 people have been killed by the military and its affiliates in a systematic and widespread manner for merely exercising their fundamental rights and freedoms. Reports and evidences are mounting that the Tatmadaw has been carrying out deliberate attacks against civilians in violation of international human rights and humanitarian law, including murder, arbitrary detention, torture, sexual violence, shooting of unarmed protesters, air strikes and burning of villages, and the use of human shields, which amount to crimes against humanity and war crimes.

The country is thrown into multi-dimensional crisis by the Tatmadaw. Its offensives and indiscriminate attacks against the people of Myanmar created and intensified what the UN High Commissioner called “downward spiral of violence”, displacing tens of thousands. Myanmar’s economy is on the brink of collapse, whereby half of its population are feared to be living under national poverty line. Humanitarian aid is urgently needed, but its delivery to the people on the ground has been blocked by the military through imposition of travel restrictions, obstruction of the access of aid convoys as well as attacks against aid workers.

### **ASEAN and its Five Point Consensus:**

It has been over a year since the Five Point Consensus was agreed by leaders of the ASEAN and the head of the Tatmadaw, Senior General Min Aung Hlaing at the ASEAN summit in April 2021 in Jakarta. It was agreed in an effort to address the crisis situation in Myanmar caused by the Tatmadaw through its illegal coup d’état and bring back peace and human rights in the country. All the points identified in the Five Point Consensus were reasonable and the process for their implementation could be started immediately as long as there was a willingness to find peaceful solution to the crisis. However, virtually no progress or even an effort was made by the Tatmadaw till date.

Instead, the Tatmadaw has been blatantly ignoring or defying the Five Point Consensus and even intensified its atrocity towards the people of Myanmar, while deliberately blocking delivery of humanitarian assistance to the people in need as described above. It has also refused the ASEAN Special Envoy having access to leaders and senior members of ousted civilian government. It is evident from its actions, historically and since the coup, that the Tatmadaw does not have any intention, or capacity, to seek peaceful solutions, restore democracy, uphold the rule of law or protect the rights and lives of the people in Myanmar.

So far international and regional efforts have fallen on the deaf ears of the Myanmar military. It is clear that international community must take more decisive and pro-active actions for tangible results by complementing and strengthening the efforts so far including those of the ASEAN and its Special Envoy. As any meaningful mediation cannot be carried out by only engaging with one side of the conflict, especially if that side has the primary responsibility of causing the crisis, at the very least, representatives of the National Unity Government as well as the National Unity Consultative Council must be included in the process. The Five Point Consensus can still be the basis for multi-party solution finding process serving as the minimum prerequisite for the Tatmadaw to be involved.

Stronger and collective actions are required more than ever from the UN, together with ASEAN, to save the lives of the millions of people in Myanmar and hold perpetrators of grave violations of international human rights and humanitarian law accountable. The situation is no longer, in fact already for a long time, anything that can be dealt with as internal affairs of Myanmar, as the country was thrown into multi-dimensional and -sectoral chaos.

## **Collapsing domestic justice system:**

Since the coup, the Tatmadaw has been arbitrarily amending and applying domestic legislations, detaining thousands of individuals who voiced their opposition to military dictatorship and oppression, whereby turning the judiciary and entire domestic legal system into its extended arm to persecute opponents. As far as we could monitor and document, the situation is worsening in 2022 as the Myanmar justice system has been increasingly focused on the persecution and suppression of people resisting the illegal military rule with severer charges, while cases of abuse and torture are rampant in detention.

In 2022 so far, we have observed increased application of the Penal Code Section 505 and the Anti-Terrorism Law Section 50 which carry severer charges. These laws are also problematic as their provisions, in particular their vaguely defined terms, are prone to arbitrary application by the “authority” to detain and persecute anyone they want for any actions they regard as “problem”. Furthermore, in almost all cases we could monitor that were brought against civilian population by the State Administration Council (SAC), judges consistently favoured the plaintiff (SAC), carrying out merely proforma processes regardless of the actual evidences presented before them. As the junta continues to arbitrarily arrest and charge civilians resisting its oppression, the domestic justice system has been absorbed by processing those cases but not able to carry out its original and genuine functions. At the same time, as stated by the UN High Commissioner for Human Rights in her report submitted to the 49th session of the Human Rights Council (A/HRC/49/72), “there has been no information on any investigations or prosecutions of soldiers within Myanmar for the violations committed”, which “further entrenches the total impunity enjoyed by Tatmadaw forces over past decades”.

## **Role of the UN and its Human Rights Bodies:**

In the opening address at the 90th session of the UN Committee on the Rights of the Child (CRC), the UN High Commissioner noted that “children continued to suffer the most serious consequences of war” in Myanmar and other conflict-afflicted areas. Expressing deep concern about “continuing grave violations of the rights of children in Ukraine,” the Chair of the CRC said “the Committee would continue to address this issue in coordination with the Office of the High Commissioner for Human Rights, other treaty bodies and relevant United Nations bodies” and it “would also discuss more generally how it should respond to gross violation of children’s rights in conflict and other situations in all parts of the world.”

The Centre for Civil and Political Rights strongly believes that the UN Treaty Bodies can play a greater role in tandem with the efforts of other international, regional and national actors, to enhance accountability and bring back human rights and the rule of law for the people of Myanmar, whereby also strengthening the capacity of national stakeholders to protect rights of vulnerable groups and minorities. As the Chair of the CRC also noted at its 90th session “Country reviews were a fundamental tool for the Committee to address a whole range of children’s rights in a comprehensive, holistic and country-specific manner,” the State reporting procedure of the Treaty Bodies can be utilised in this regard but also possibilities of joint actions among the Treaty Bodies as well as with other national, regional and international mechanisms should be explored.

Myanmar is already a Party to the Convention on the Elimination of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention on the Rights of the Child (CRC) and its two Optional Protocols, one of which specifically addressing the involvement of children in armed conflict, and the Convention on the Rights of Persons with Disabilities (CRPD). However, the sixth State report of Myanmar under the CEDAW is overdue since July 2020, the initial State report under the CESCR since January 2020, and the combined fifth and sixth State report under the CRC since February 2017. The discussion on the representation of the country before the UN is still ongoing at the Credential Committee of the General Assembly. In this context, the Committees monitoring these Treaties can seek possibilities to conduct a review without a State report or based on alternative sources of information including the National Unity Government, e.g. following practice of the predictable review cycle and simplified reporting

procedure of the Human Rights Committee. The experience and process of the Committee on the Elimination of Discrimination against Women that has reviewed Myanmar in February 2019 under exceptional reporting procedure can also be applied by other Treaty Bodies to enable more timely actions. At the same time, the process for the ratification of remaining UN Human Rights Treaties should be enhanced. The National Unity Government and the National Unity Consultative Council can play a crucial role in this regard, until at least a civilian government and Parliament is reinstated in Myanmar free from military interference.

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