



人权理事会

第四十六届会议

2021年2月22日至3月19日

议程项目3

促进和保护所有人权——公民权利、政治权利
以及经济、社会和文化权利，包括发展权

缅甸人权状况特别报告员托马斯·安德鲁斯的报告* **

概要

缅甸人权状况特别报告员根据人权理事会第43/26号决议提交这份报告。特别报告员在报告中审视了军事政变前后的人权状况，并就保护和促进缅甸国内人权提出建议。

* 报告在截止日期后提交，以便收录最新信息。

** 本报告附件不译，原文照发。



一. 引言

1. 敏昂莱大将和其他高级军官 2021 年 2 月 1 日发起的军事政变直接影响到缅甸的政治、社会和经济局势以及基本人权问题。鉴于军事接管后出现了严重侵犯人权行为，根据人权理事会 2021 年 2 月 12 日第 S-29/1 号决议，编写了这份报告。报告正文主要介绍政变后缅甸发生的事件，仅反映 2021 年 3 月 1 日前的缅甸人权状况。附件三审视整个 2020 年和政变前的人权状况。如果不是因为政变，附件三将成为本报告主体。

2. 特别报告员与缅甸境内人士的会晤必然是虚拟的。在担任任务负责人的第一天，他就写信给国务资政昂山素季，正式请求访问缅甸。他得到回复说，由于疫情，访问该国不大可能。他随后又提出请求。由于无法前往访问，他对缅甸政变前后的人权状况作了大量研究，并与广泛消息来源举行会晤，包括民间社会成员、新闻工作者、人权维护者、活动人士、许多会员国议员、国际组织代表、外交界人士、国际人权机制和商界人员。特别报告员赞赏所有对话者提供的宝贵信息和分析，并强调没有他们的支持，这份报告是无法完成的。

二. 政变

3. 2021 年 2 月 1 日，缅甸军方通过非法政变推翻了文官政府。在宣布自己组成“国家管理委员会”后，军政府开始了各种侵犯人权行为，包括谋杀、任意拘留、殴打和可能的强迫失踪。国家管理委员会还制定了压制言论自由、和平集会和结社自由以及隐私权的法律和政策。政变彻底颠覆了缅甸的法治。

4. 尽管军政府发出威胁，包括在国家电视台上发表讲话称，参加抗议活动的人可能会“失去生命”，但一场超越种族、宗教和社会经济地位的全国性非暴力公民抗命运动还是出现了。数百万人在数百个城镇举行示威，反对军人统治。

5. 从 2 月 1 日到编写本报告，军政府任意拘留了 1,200 多人，杀害了至少 23 人。暴力对峙和任意拘留事件以惊人速度增加。面对强大的公民抗命运动和经济严重萎缩压力，敏昂莱主席威胁说，如果罢工的公务员不重返工作岗位，将受到纪律处罚，但人民不屈服。

A. 寻找选举借口

6. 2020 年 11 月 8 日，缅甸全境举行大选。全国民主联盟赢得了绝对多数，在 476 个席位中占据 396 个，而军方支持的联邦巩固与发展党赢得了 33 个席位。

7. 联邦巩固与发展党指控存在大规模欺诈，军方要求缅甸联邦选举委员会调查投票舞弊行为，尽管独立监察员没有发现舞弊证据。缅甸军方先声称，问题选票有 860 万张，后又说有 1,050 万张，分布在 314 个城镇。军方辩称，这些舞弊行为可能改变选举结果。

8. 2021 年 1 月 26 日，一名军方发言人警告说，如果选举争端得不到解决，军方将采取行动，并补充说，军方不是说它将掌权，也不是说它不会掌权。总司令敏昂莱随后表示，宪法可能会废除，这进一步加剧了人们对政变的担忧。军方随后在仰光、内比都和其他地方的街部署了包括装甲运兵车在内的军车。

9. 1月28日，选举委员会宣布，没有证据支持普遍存在欺诈的说法。它表示正在调查287起投诉，并承认一些选票上名字重复，但强调选民不能用沾有不易抹掉墨水的手指进行多次投票。这一发现为新议会于2月1日就职扫清了道路。

10. 随着紧张局势加剧，据报全国民主联盟与军方代表在2月1日前的几天举行了会谈。据称，军方代表要求推迟召开会议，解散选举委员会，在军方监督下重新审查选票。敏昂莱公开宣称，民众误解了关于军方政变和宪法的言论。有报告称并随后得到行动证实会谈失败了。

B. 推翻民选政府

11. 从2月1日凌晨3点开始，在新当选议员宣誓就职前，军方开始了非法政变。军方强制关闭了几乎全国范围内的电信业务，切断了语音、文本和移动互联网服务。军方随后控制了政府的立法、司法和行政部门，逮捕了数十名政府官员，包括国务资政昂山素季和总统温敏，拘留了活动人士，将正式当选议员软禁在内比都。

12. 2月1日，缅甸军方援引《宪法》第417条。该条允许总统在国家主权面临威胁、可能导致联邦解体或可能破坏国家团结的局势下宣布紧急状态，实行为期一年的军事接管。军政府宣布成立国家管理委员会，由敏昂莱担任主席。军政府随后任命了新的政府各部负责人，更换了选举委员会成员，制定了新的严厉法律并修订了现有法律，任命了最高法院新法官，并规定了军方下台的五个必要条件：重组选举委员会，应对冠状病毒病(COVID-19)疫情，改善经济，恢复与少数民族武装组织的“永久和平”以及举行民主选举。¹

13. 即使存在某些选举违规，也不能以此为由宣布实行紧急状态，夺取行政权力和拘留文职领导人及民间社会成员。即便考虑到《宪法》的宽松措辞，选民舞弊指控也没有达到合法援引第417条宣布紧急状态的宪法门槛。只有在遇有可能解散联邦、“瓦解”民族团结或导致主权丧失的情况下，才能宣布紧急状态。而且，这些情况必须是某些类别的行为或企图，如叛乱、暴力或非法强迫手段引起的。对选票的担忧没有达到这种程度。

14. 此外，根据《宪法》，军方夺权在程序上是非法的。根据第417条，只有缅甸总统在与国防与安全委员会协商后才能宣布紧急状态。然而，由于缅甸军方非法废黜了总统温敏，总统无法作出任何公开宣布，更不用说紧急状态了。军方任命的副总统敏瑞非法宣布实行紧急状态。根据第421条(a)款，总统必须在定期或紧急立法会议上寻求议会同意(“提出移交主权权力事项”)。当然，因为议会已经解散，这一点无法做到。

15. 根据军方起草的2008年宪法，政变是非法的。将军们夺取政府权力违反了他们自己制定的规则。因此，国家管理委员会及其行动是非法的。

¹ 国家管理委员会，第1/2021号通知，2021年2月2日；敏昂莱2021年2月8日的讲话。

三. 缅甸人民行使他们的权利

16. 军事政变迫使缅甸人民团结起来。全国数百万人走上街头，要求民主和人权，要求立即结束军政府统治。抗议者包括并肩行进的佛教僧侣和穆斯林神职人员；各部门公务员；医生和护士、工人和工会成员、银行业者和教育工作者；克伦族、钦族、掸族、克钦族和其他少数民族民众；年轻人和老年人。缅甸人民理所当然要求释放国务资政、总统和所有政治犯。许多人呼吁制定一部新宪法，一劳永逸地将军队排除在政坛之外。绝大多数缅甸人民同仇敌忾，强烈反对政变，拥护公民抗命运动。许多多数民族缅甸人抗议者还对以前默许军方对少数民族实施暴行表示遗憾，明显是指罗兴亚人。

A. 公民抗命运动

17. 2月2日，政变第二天，全国各地的人们在晚上8点一起敲打锅碗瓢盆(一种的传统驱邪习俗)，以抗议军人接管政权。2月6日，一场秩序良好、有组织但无名义领导的公民抗命运动开始了。卫生工作者、知名人士、公务员、教授、律师、宗教领袖和其他人很早就来到现场参加这场运动。“Z世代”(不足25岁的人)在这场运动中扮演了突出的领导角色。

18. 特别报告员收到的报告称，代表21个部委的至少245个城镇(共330个)的公务员在政变头几周举行了罢工。罢工从卫生工作者蔓延到许多部委的公务人员，包括铁路、海关、商业、电力和能源、运输和通信以及农业、畜牧业和灌溉行业人员。教师、央行员工和其他政府官员也加入进来。在私营部门，工会号召其成员也举行罢工，银行出纳员、厨师、食品杂货工人和其他人也参加了这场运动。

19. 2月19日，反军事独裁总罢工委员会宣布成立，目标是建立地区罢工委员会，支持公民参加抗命运动，维持和协调有关活动。² 政变以来最大规模的街头抗议，很可能是缅甸有史以来最大规模的抗议，发生在2月22日(被称为“五个二运动”)。尽管前一天电视播放了军政府上街可能“丧失生命”的威胁，但未经证实估计全国有数百万人走上街头。³ 全国330个城镇中至少有247个城镇的缅甸人民参加了和平抗议。

20. 公民抗命运动使国家几乎陷入瘫痪。据报，包括银行业在内的社会各部门罢工使现金实际流通严重萎缩，银行交易基本停止。国家货币缅元贬值，导致成本上升，同时许多员工领不到工资。成品油进口停滞。

21. 当民众被问及对罢工引发的萧条能承受多久时，一名抗议者表示，能坚持多久就能承受多久。这说明大多数人已在经济匮乏中生存，学会了如何艰难度日。有些人说，他们担心军方会在抗议期间伤害甚至杀害他们；然而，所有人都说他们最害怕的是回到军事独裁。

22. 一些公民抗命运动领导人宣布了五个关键要求和目标：(a) 释放所有被拘留者；(b) 废除军事独裁；(c) 实现民主；(d) 建立联邦民主联盟；(e) 废除2008年《宪法》。

² 反军事独裁总罢工委员会，第1/2021号声明，2021年2月19日。

³ 国家管理委员会，在缅甸广播电视台发布的声明，2021年2月21日。

B. 代表联邦议会的委员会

23. 2月4日, 390名正式当选的全国民主联盟议员不顾军政府威胁在内比都签署就职誓言。议员们称, 他们的行动符合2008年《宪法》, 因为他们已经正式收到选举委员会的资格认证信。此外, 他们认为, 只要2008年《宪法》仍然有效, 任何人都不能取消他们的议员身份。第二天, 即2月5日, 15名议员正式成立了代表联邦议会的委员会, 以支持反政变运动。两名少数民族议员, 一名来自克耶邦民主党, 一名来自德昂民族党, 于2月10日加入该委员会, 使其成员达到17名。该委员会的主要目标包括确保无条件释放被任意拘留的人、履行议会职责和组建政府。

24. 该委员会成员拒绝承认国家管理委员会, 宣布政变没有取消人民赋予他们的合法权力。3月1日, 该委员会将国家管理委员会定性为恐怖组织, 呼吁国际社会继续承认全国民主联盟领导的政府为缅甸的合法领导者, 由其发挥支持政府的作用。它任命著名的钦族人 Salai Maung Taing San(被称为“萨沙医生”)为驻联合国特使, 任命丁林昂为国际关系特别代表。

25. 11个省和邦议会召开会议认可了该委员会(克耶邦、孟邦和若开邦没有开会)。该委员会还获得了包括缅甸律师协会和卫生保健工作者在内的公民抗命运动知名成员的支持。

26. 2月15日, 国家管理委员会根据《刑法》第505条(b)款对该委员会所有成员发出逮捕令, 敏昂莱称该委员会为平行政府。它的所有17名成员被迫藏匿起来。

27. 2月26日, 缅甸常驻联合国代表觉莫敦在大会一次非正式会议上发表讲话, 明确谴责军方和政变。在他称之为来自委员会的信件中, 呼吁会员国和联合国采取“最强有力的措施, 制止安全部队对和平示威者实施暴力和野蛮行径, 立即结束军事政变”。⁴ 缅甸国家电视台第二天宣布觉莫吞被解雇, 称他背叛了国家。截至3月1日, 联合国继续承认觉莫吞为缅甸常驻代表。

四. 国家管理委员会侵犯各项权利

28. 军政府对非暴力与和平抗议的回应是谋杀、殴打、大规模任意拘留、恐吓(包括上文提到的在国家电视台发出的威胁)和系统地压制公民权利和政治权利。大规模抗议和罢工仍在继续。

A. 谋杀

29. 特别报告员收到可靠报告称, 截至3月1日, 缅甸安全部队至少杀害了23人。然而, 他强调, 在编写报告时, 3月3日全国范围内镇压死亡事件的细节已开始浮现, 当天至少死亡38人的可靠消息尚待证实。政变后发生的所有枪杀事件都违反国际法, 下文结合军政府安全部队实施谋杀的背景叙述多起尽管不是全部的事件。

⁴ “缅甸驻联合国大使谴责军事政变, 特使警告说民主进程被‘置之一旁’”, 联合国新闻, 2021年2月26日。

一名少女在内比都被杀害

30. 2021年2月8日，敏昂莱自非法政变以来首次在电视直播中向缅甸人民发表讲话。他强调，军方出于不可避免的原因接管国家责任，它将建立一个真正和有纪律的民主制度。⁵ 同一天，军政府援引《刑事诉讼法》第144条，宣布在全国各城镇禁止五人以上公共集会，从晚上8点至凌晨4点实行宵禁。⁶

31. 2月8日，缅甸警察对抗议者使用高压水枪，并直接向抗议者发射橡皮子弹，包括在内比都。

32. 2月9日，缅甸全国300多个城镇数万人走上街头。那天内比都的抗议者中有一名19岁学生，她要求回到文官政府。警察向一群抗议者发射水炮时，她和她的姐姐躲在一个公共汽车站后面。特别报告员观看了视频片段，显示受害者戴着头盔，背对警察，突然瘫倒在地。她的姐姐摘下了受害者头盔，露出了血迹和受害者后脑勺的伤口。

33. 受害者姐姐和其他人迅速将她送往内比都的综合医院。据治疗她的医生说，受害者头部被一发子弹击中，伤势是致命的，她实际上已经脑死亡。现场的一名医生说，军方试图将受害者转移到一家军队医院，这名医生认为是打算隐瞒事件的证据，但医生成功地说服军方，她的伤势严重，需要留在原地。由于担心军政府的报复，医生现在躲藏了起来。

34. 军政府在一份声明中否认对此事件负责，声称2月9日警察只携带防暴武器，受害者头部的子弹与警察使用的弹药不符。特别报告员查看了照片，照片显示一名缅甸警察驻扎在受害者附近，正在瞄准一把缅甸自产的以色列乌兹冲锋枪，戳穿了警察只使用防暴设备的说法。

35. 军政府领导人敏昂莱在2月23日的国家管理委员会会议上再次否认这起谋杀事件。在发表的报道中可以看出，敏昂莱似乎将受伤责任归咎于受害者，称她参与了骚乱。他重复了警方只使用橡皮子弹的错误说法。

36. 受害者生日是她遭枪击后的第三天，一周后她的家人才将她的生命支持系统移除。她于2月19日去世。数千人为她送葬。

三名男子和一名少年在曼德勒被杀害

37. 2月19日，随着公民抗命运动和总罢工势头正旺，政府运营的曼德勒市亚达纳邦造船厂的公务员(码头工人)举行罢工，阻止一艘轮船离开。缅甸警方介入，试图迫使码头工人返回工作岗位。周围地区居民很快聚拢过来抗议警察的行动，随后警察开始攻击抗议者。特别报告员观看的视频显示警察冲向人群并向抗议者开枪。2月20日从曼德勒转来报告称，缅甸安全部队至少100多次向抗议者发射子弹，包括实弹。

38. 遭枪击的人中有一名16岁少年。他在当地一家市场工作，那里的小贩称他为“小男孩”。他的目标是赚够钱买一部手机和一辆摩托车。2月20日，当示威

⁵ 缅甸国家电视台，初次播放见：

<https://www.facebook.com/523763414336156/posts/3858998297479301/?sfnsn=mo>。

⁶ “内比都以及全国各省/邦的城镇实施《刑事诉讼法》第144条”，《缅甸环球新光报》，2021年2月10日。

人群到达他工作的市场时，他加入了抗议队伍。特别报告员看到了许多人躲避枪击的录像和照片。抗议者躲起来不久，有人看到这名男孩躺在地上，头部有一处大的致命伤口。特别报告员还看到男孩被送往一家修道院临时分流中心的视频，那里的志愿医务人员正在治疗一些被子弹击中伤口外张的人。医务人员很快确定男孩已经死亡，在他的脸上盖上一块红色床单。

39. 同一天，安全部队还用实弹射杀了一名 36 岁男子——一名丈夫、父亲和木匠。当时他正在抗议安全部队设法制止码头工人罢工。特别报告员查看了该男子腹部中弹后立即拍摄的照片。他死在前往医院的救护车上。

40. 2 月 19 日，安全部队在曼德勒射击第三名男子的腿部。他 2 月 23 日死在军政府拘留所中。军政府坚称他死于 COVID-19，但特别报告员收到可靠消息称，该男子的死因可能是拘留期间其腿部伤口得不到应有治疗所致。由此这起死亡不仅可能构成谋杀，还可能构成酷刑。酷刑和其他残忍、不人道或有辱人格的待遇或处罚问题特别报告员曾强调指出，禁止酷刑委员会和其他相关监督机构在许多决定中已经明确不作为也可能构成酷刑。⁷

41. 特别报告员看到有些照片显示，2 月 20 日，第 33 轻步兵师的士兵参与了安全部队处置曼德勒抗议者的行动，其中包括持有狙击步枪的士兵。根据安全分析人员，轻步兵师，包括第 33 轻步兵师，可以作为直属总司令的机动部队进行部署。第 33 轻步兵师有侵犯人权的历史，包括 2017 年参与对若开邦罗兴亚平民以及克钦邦和掸邦北部平民的法外处决、强迫失踪和性暴力。

42. 据 2 月 19 日在曼德勒现场的医务人员称，安全部队至少打伤 40 人；大多数都有枪伤。

一名男子在仰光被杀害

43. 2 月 12 日，国家管理委员会宣布作为大赦一部分释放 2.3 万多名被判有罪囚犯。他们获释后，特别报告员收到了多起袭击和抢劫报告，同时还有未经核实的纵火和破坏事件。在视频记录的一起事件中，仰光三桥镇居民拘留了四个人，他们说有人付钱让他们晚上破门而入。

44. 由于有充分理由担心军政府可疑代理人的行凶和犯罪活动以及警察的夜间突袭和任意逮捕，街区警戒委员会在缅甸各地大量涌现。邻里分享士兵和警察动向以及不明身份者现身的信息。当居民们发现邻居中有警察或可疑代理人时，就会敲打锅碗瓢盆来警示邻居。

45. 一名 30 岁已婚男子，有一个 5 岁孩子，是仰光郊区一名这样的邻里志愿哨兵。2 月 20 日，他正在站岗，因与一伙同情军方的人发生争执，警察随后赶到。据目击者称，一辆没有标志的警车到达现场，受害者问警察为什么到他们的社区来。警察随即骂他，然后向他开了三枪，一枪打在头部，他当场死亡。特别报告员看到受害者头部遭受致命伤的照片。据报，验尸结论是，子弹进入他的后脑勺，从右眼射出，表明他是从背后被射中的。据说，警方拒绝进行调查。

⁷ A/HRC/13/39/Add.5, 第 31 段。

2021年2月28日，在仰光、土瓦、曼德勒、丹老、勃固和木个县至少有18人被杀害

46. 2月22日，军政府在国家电视台上公开宣布：“抗议者正在煽动人民，特别是情绪激动的青少年，走上对抗道路，他们将遭受生命损失”。2月25日，军方支持的抗议者大打出手，对抗议者进行暴力攻击，特别是在仰光，利用城市街道的混乱场面刺伤和殴打手无寸铁的人们。然而，从2月25日晚上开始，缅甸安全部队开始更有力镇压。仰光警方在不予警示情况下冲击抗议人群，使用催泪瓦斯和橡皮子弹，这些战术已在仰光以外的地方使用。

47. 2月28日，缅甸安全部队至少在全国六个城市大幅增加对抗议者使用致命武力的次数。特别报告员收到了可靠的谋杀行为报告，包括警察和军队在东南部城市土瓦向数百名抗议者开枪，在曼德勒射击逃离的抗议者，似乎随意杀害一名在街上行走的妇女，以及瞄准仰光抗议者造成致命伤害。

48. 近期这些血腥事件表明，缅甸军队正在全国各地进行系统性谋杀。如果没有包括敏昂莱在内的军政府最高领导层的明示批准，各地安全部队不可能在同一天进行这些镇压。随着调查的进行，将根据国际法将责任指向最高指挥系统。

B. 过度使用武力

49. 特别报告员观看了几十段视频和图像，显示缅甸安全部队过度使用武力，包括残暴殴打手无寸铁个人，非法使用弹弓、橡皮子弹和水炮等非致命武器，驱散抗议人群时进行实弹射击以及拘留抗议个人。至少在以下地方对抗议者和公务员罢工者实施了暴力：克钦邦的密支那县和温茅县；内比都；曼德勒省的许多地方；孟邦的毛淡棉县；克伦邦的苗瓦迪县；伊洛瓦底省的苗妙县；以及仰光。

50. 例如，从政变一开始，曼德勒警方就批准过度使用武力。根据2月3日一份经认证的曼德勒警方备忘录，警察获得的指示是“如果抗议者只有一人，就用12口径防暴猎枪‘射击’”，“如果抗议者在人群中，就用38毫米防暴枪应对”。⁸ 备忘录没有任何保护和集会权利的内容。除了2月28日在亚达纳邦造船厂发生的枪击伤亡事件外，曼德勒警方还参与了许多其他针对个人的攻击，包括粗暴殴打一名患有脑瘫的21岁男子。特别报告员观看的视频记录了这一事件，显示缅甸警察戴着手套用棍棒抽打这名手无寸铁男子。

51. 军方支持的抗议挑衅者也参与了对抗议者的攻击，特别是从2月25日开始在仰光发生的事件。特别报告员收到可靠报告称，安全部队和军队附属实体向粗暴的抗议者提供支持。比如，警方似乎想法清除仰光一个抗议地点的路障，以便抗议者与支持民主的抗议者进行暴力对峙。据报，一些粗暴的抗议者乘坐缅甸经济控股有限公司(一家军队拥有的企业集团)的巴士抵达仰光地区。特别报告员收到多份报告，包括一些有视频和照片支持的报告，都指称这些挑衅者2月25日在仰光光天化日之下袭击并刺伤了支持民主的抗议者，但警方没有制止。

⁸ 巩固权利组织，“缅甸：撤销对抗议者使用武力的命令，保护基本自由”，2021年2月5日。可查阅以下网页：www.fortifyrights.org/mya-inv-2021-02-05/。

52. 特别报告员收到的 2 月 27 日视频片段显示安全部队和便衣人员在实皆省蒙育瓦县残暴殴打手无寸铁的抗议者。除了大规模杀戮之外，在 2 月 28 日发生的暴力事件中有至少 30 人因军方过度使用武力而受伤，包括非致命枪伤。

C. 任意拘留

53. 在撰写本报告时，军政府自政变开始以来已任意拘留 1,200 多人。政治犯包括全国民主联盟成员、议员、选举委员会人员、政治活动份子、民间社会成员、公务员、新闻工作者、律师、教师、医务人员、学生和名人。军政府对至少 32 名据报藏匿起来的个人发出逮捕令。在撰写本报告时，当局已对 900 名被拘留者中的至少 4 人定罪，判处他们 7 天至两年不等的监禁。

54. 自政变以来，警察、军队、便衣人员以及城区和村落长官等总务司人员都进行任意拘留。

55. 安全部队在抗议期间任意拘留人员，在夜间非法突击检查时不加警示或不出示逮捕令将人从家中带走，有时还蒙住被拘留者眼睛。一旦将个人拘留，安全部队就没收他们的手机，切断他们与家人、律师和其他人的联系。在绝大多数逮捕中，似乎都没有对被拘留者提出指控。被拘留者家人大多从军政府部队得不到其家人健康或下落的消息。因此，许多这类拘留可能相当于强迫失踪。

特定群体

56. 全国民主联盟。国务资政昂山素季、总统温敏和全国民主联盟几乎整个中央执行委员会据认为都被拘留。据报，昂山素季和温敏于 2 月 16 日和 3 月 1 日通过视频连线出庭。根据《自然灾害管理法》，指控昂山素季在竞选期间违反疫情限制；根据《进出口法》，指控她持有对讲机；根据《电信法》第 67 条，指控她拥有未经许可的电信设备；根据《刑法》第 505 条(b)款指控她煽动动乱。根据《自然灾害管理法》和《刑法》第 505 条(b)款对温敏提出了控告。两人的下一次审理定于 3 月 15 日举行。全国民主联盟的许多其他人物也受到指控，有些人在没有律师帮助下出席秘密庭审。缅甸警方还对该党办公室和总部进行了夜间突袭，包括 2 月 9 日的搜查，没收了其计算机系统。军政府正在系统地解散全国民主联盟的领导层和政党。

57. 公务员和抗议组织者。缅甸安全部队对公民抗命运动的基层组织者进行了数十次任意逮捕。安全部队拘留了公务员，包括医生、律师、警察、教师、外交部和计划、财政和工业部的官员以及其他人员。

58. 缅甸联邦选举委员会。安全部队拘留了许多省和邦的选举委员会高级官员以及中低级官员。

59. 这些大规模任意拘留违反了《世界人权宣言》第九条、第十条和第十一条，分别涉及禁止任意逮捕和拘留；人人有权由独立和公正的法庭进行公正和公开的审讯，以确定他或她的权利和义务以及对他或她的任何刑事指控；凡受刑事控告者，都有权被推定无罪，直至在为他或她的辩护提供一切保障的公开审判中被依法证明有罪。

60. 在撰写本报告时，2 月 1 日被拘留者家人已将近四周得不到其被拘留亲属健康和下落的消息。当一个人被国家行为者拘留或在其默许下被拘留，而且官方不

加承认或不提供该人健康和下落的信息，则被视为强迫失踪。⁹ 长期没有缅甸被拘留者下落的信息或消息，极有可能构成大规模强迫失踪。

D. 对公民权利和政治权利的法律限制

61. 自军方非法夺取政权以来，国家管理委员会颁布严厉法令，修订了现行法律，制定了新的条例，并将其意志强加于电信公司，所有这些都是非法的，侵犯了人民的言论自由、和平集会自由和结社自由以及获得信息权利。

言论自由

62. 《世界人权宣言》第十九条保护言论自由权利。对言论自由权的限制，如若合法，必须是法律所规定的，仅在特定情况下适用，以保护他人的权利和名誉，或保障国家安全、公共秩序或公共健康或道德，而且必须是必要和相称的。相称性应被解释为多少意味着是实现上述任何合法目标之最少限制手段。

63. 自 2 月 1 日以来，国家管理委员会非法对缅甸人民实施新的法律，极大限制他们的言论自由。甚至在政变之前，该国的一些法律就侵犯了言论自由权，现在这些法律以惊人速度被用来为任意拘留辩解。

64. 新的和先前存在的法律本来就编撰得不精准，人们不清楚何为合法或不合法；这些法律过于模糊和宽泛，无法实现限制言论自由的任何合法目标，而且包含不相称的刑期。

刑法

65. 国家管理委员会未经授权，对《刑法》做出多处修改，规定凡批评军政府或表达军政府认为不实观点的人将承担严重后果。军政府修订了《刑法》第 121 条、第 124 条和第 505 条(a)款，对以下行为实行严厉处罚和判处更长刑期：(a) 煽动或实际反对国防部队或执法机构(最高二十年徒刑)；(b) 意图使政府雇员失去对政府的尊重或妨碍其履行职责(最高七年徒刑)；(c) 引起或打算引起一些公民或公众的恐惧(最高三年徒刑)；(d) 传播或意图传播不实消息(最高三年徒刑)；(e) 直接或间接实施、意图实施或煽动他人对政府雇员实施刑事犯罪。

66. 这些新条款和刑法修正案压制人们对军政府的批评，实际上将抗议者的活动定为犯罪。凡公开反对军政府的人都可能被追究刑事责任。按照设计，刑法的改动将涵盖参加公民抗命运动的公务员、鼓动其他人参加公民抗命运动的公务员以及向抗议者提供支持的公务员。

67. 此外，军政府利用《刑法》现有的严厉条款来压制言论自由。例如，《刑法》第 505 条(b)款将可能引起“公众恐惧或恐慌”或导致他人扰乱“公众安宁”的言论定为犯罪。自政变以来，军政府借助第 505 条(b)款拘留了至少 45 人。

⁹ 《保护所有人免遭强迫失踪国际公约》，第二条，可查阅以下网页：
www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26842&LangID=E。

电子交易法

68. 2月9日，国家管理委员会推出了《网络安全法》草案，遭到电信提供商的大量批评。2月15日，该委员会没有制定这一法律，而是突然宣布对2004年《电子交易法》进行非法修正。

69. 修正案包括上述法律草案中针对个人电子通信用户的很成问题条款，进一步威胁到缅甸人民的言论自由和隐私权。具体而言，一项修正案将引起“公众恐慌”、“失去信任”或“社会分裂”的网上“错误信息”(也译为“不实新闻”)和“虚假信息”(也译为“假新闻”)定为犯罪，最高可判处三年监禁。

70. 法律没有对关键术语“错误信息”/“不实新闻”、“虚假信息”/“假新闻”、“公众恐慌”、“失去信任”或“社会分裂”进行定义，任由国家管理委员会自行解释。这项规定实际上允许军政府对在网上撰写或发布其不同意或认为具有威胁性信息的人进行定罪。还可对未经其他人同意在网上分享其个人信息的行为定罪，最高可判三年徒刑；也可对未经授权获取信息意图损害对外关系的行为定罪，最低可判三年徒刑，最高可判七年徒刑。例如，根据后两项规定，个人可能因分享缅甸安全部队或国家管理委员会成员涉嫌侵犯人权的信息，或因记录和向国际社会传播侵犯人权事件而受到刑事处罚。

71. 《电子交易法》赋予安全部队广泛监督权力，在他们参与侦查、调查和组织涉及国家稳定、安宁和安全的网络安全和网络犯罪信息时，可以在个人数据保护方面享有大量例外。“稳定”、“安宁”和“国家安全”在法律中没有定义，军政府可随意决定和授权获取缅甸任何个人的数据。不需要批准，也没有具体规定对安全部队可收集数据数量或类型进行限制，违反了国际人权法和标准。

言论自由和互联网

72. 《世界人权宣言》第十九条保护言论自由权，包括通过任何媒体和不分国界接受和传递信息和思想的权利。国家管理委员会正在严重限制缅甸人民的言论自由，并试图通过一系列关闭互联网措施来扰乱公民抗命运动和民间社会的信息流动。

73. 2月1日清晨，随着政变行动展开，军方开始切断电信联系，当天大部分时间互联网处于半关闭状态。交通和通信部随后发出指令，要求服务提供商封锁“脸书”，缅甸多数人口实际上将“脸书”当作互联网使用。在接下来的几天里，其他社交媒体平台，如 Instagram 和推特，也被封锁，军政府下令在全国范围内关闭互联网。

74. 自2月15日以来，军政府每天从凌晨1点至9点在全国范围内实行宵禁式的互联网封锁。根据一些 Mytel 用户和部分虚拟专用网络的互联网接入报告，夜晚关停期间，全国联网率徘徊在白天正常水平的12%至14%左右。关闭网络为安全部队在夜间实施逮捕和暴力镇压提供了有罪不罚机会，并阻碍社区合法组织起来。在撰写本报告时，军政府已经连续第15个晚上在全国范围内关闭互联网。虽然互联网通常在上午9点后恢复正常，但日间对社交媒体和某些网站(如维基百科)的限制在继续增加。

75. 全面夜间封网的目的是扰乱公民抗命运动和掩盖非法夜间拘留，是不相称，不必要或不合法的(见上文第62段)。

76. 人权理事会指出，它明确谴责故意阻止或干扰网上获取或传播信息的措施，这是违反国际人权法行为。军政府全面禁止互联网和言论自由，理所当然应该谴责。

新闻自由

77. 自 2 月 1 日以来，政变前已面临诸多挑战的新闻自由受到更大威胁。政变后，安全部队任意拘留了至少 30 名记者。2 月 11 日，安全部队逮捕了一名自由职业记者，并一直将他单独监禁。在 2 月 14 日克钦邦的一起事件中，军方拘留了多家缅甸媒体的五名记者。他们在被迫签署一份不再违反《刑事诉讼法》第 144 条的文件后，第二天获释。2 月 26 日，安全部队在仰光拘留了一名日本记者，几小时后释放。3 月 1 日，安全部队任意拘留了更多记者。

78. 除了任意拘留，记者还遭到警察和便衣人员的恐吓和骚扰。在曼德勒和仰光，安全部队和亲军方的挑衅者用棍棒和警棍殴打记者。在内比都和仰光，安全部队向抗议者发射橡皮子弹和实弹；一名记者被橡皮子弹击中背部。许多记者躲藏起来，或在军政府的监视之下，或公开放弃新闻报道。对记者的逮捕、拘留和恐吓可能产生严重的寒蝉效应。

79. 最后，军政府对言论和集会自由的限制侵犯了新闻工作者权利。根据第 144 条实行的晚上 8 点至凌晨 4 点的宵禁限制了记者的行动自由，无法报道深夜抓捕行动。凌晨 1 点至 9 点强制关闭互联网切断了脸书、推特和媒体网站，限制了记者接收和传递信息的能力。

80. 2 月 11 日，新闻部向新闻工作发出指令，警告媒体不得将国家管理委员会称为“政变政府”、“军政府”或“军事委员会”，因为它是合法接管权力的。国家管理委员会强调，它将很快开始对继续使用被禁词语的人采取法律行动。缅甸的 40 家独立媒体发出公开信拒绝这一要求，理由是侵犯了他们自由报道和传播的权利。

隐私权

81. 《世界人权宣言》第十二条规定，任何人的隐私、家庭、住宅或通信不得受到任意干涉，每个人都有权受到法律保护，免受此种干涉或攻击。军政府对现有法律进行了修订，确保它几乎可以不受约束地进行搜查和扣押，侵犯了隐私权。

《保护公民隐私和安全法》修正案

82. 2 月 13 日，国家管理委员会在没有适当授权情况下修订了《保护公民隐私和安全法》，删除了在理论上(如果不是在实践中)切实保护缅甸人民免遭不合理搜查、扣押、监视以及任意和无限期拘留的一些关键性条款。这些保护措施取消后，军政府给了安全部队一层法律保护：(a) 未经法院许可无限期拘留人员(从而暂停缅甸的人身保护令)；(b) 进入某人私人住所进行搜查、扣押或逮捕；(c) 随意监视、窥探或调查任何公民；(d) 拦截通信；(e) 向电信运营商索取或获取个人电话和电子通信资料；(f) 打开、检查、扣押或销毁某人私人信件；(g) 干涉个人或家庭事务；(h) 没收或摧毁个人财产。《宪法》和《刑事诉讼法》继续禁止许多此类活动。

《城区和村落管理法》修正案

83. 2月13日，国家管理委员会对《城区和村落管理法》进行了非法修订，恢复了全国民主联盟政府已废除的一项法律条款，即要求人们向乡镇政府报告过夜客人，以批准其客人的旅行和来访。恢复这一通知要求，再加上以前允许乡镇长官以检查“法律和秩序现况”和维持“纪律”名义搜查住宅，侵犯了隐私权，并赋予国家管理委员会更大的搜查和扣押权力。此外，修正案增加了一项内容，准许乡镇官员请求军政府许可他替换当选的城区和村落长官。

和平集会和结社的权利

84. 如上所述，国家管理委员会于2月8日发布紧急命令，禁止公共场所五人或五人以上的游行、抗议和集会，从晚上8时至凌晨4时实行宵禁。军政府是根据《刑事诉讼法》第144条下达这项命令的。该条允许行政长官发布紧急命令，指示任何人不应该实施某种行为，如果行政长官“认为这一指示可能防止或趋向于防止对任何合法受雇人员的妨碍、烦扰或伤害或可能的妨碍、烦扰或伤害，或危及人的生命、健康或安全，或扰乱公共安宁，或骚乱，或寻衅滋事”。根据《刑法》第188条，违反该命令者，可处以最高6个月监禁。

85. 军政府极为宽泛地禁止五人以上集会和实行宵禁，违反了《世界人权宣言》第二十条所载的和平集会和结社权利。

86. 与言论自由一样，军政府利用政变前已有过于宽泛的条款拘留个人，侵犯了他们的和平集会权。2月1日至2月25日，军政府根据《和平集会与和平游行法》第19条以参加反军方抗议活动为由拘留了至少15人。第19条将事先未经许可举行抗议，在行动上可能“破坏政府”或公共或私人财产或污染环境，在言论或行动上“可能影响国家或联邦、种族或宗教、人的尊严和道德原则”的活动，定为犯罪。这些过于宽泛、未加界定的术语侵犯了和平集会权利，因为不够精确，让缅甸社会成员无所适从，不知道如何行事，而且法律赋予执法人员不受约束或全面的酌处权。

87. 军政府通过禁止大多数工会来进一步限制集会和结社自由。工会已成为动员工人参加公民抗命运动总罢工的重要力量。2月26日，军政府宣布已取缔(未经正式授权)至少16个没有根据《劳工组织法》进行适当登记的工会，并威胁说，如果它们不遵守禁令，将采取法律行动。特别报告员收到多份报告称，工会领导人已躲藏起来，警察和军队挨门挨户搜查他们的居处和住所。

五. 政变后的武装冲突、平民保护和流离失所问题

88. 特别报告员收到可靠报告称，缅甸军队与少数民族武装组织多次发生冲突，缅甸军队每天都对克伦邦、掸邦和克钦邦的少数民族进行迫击和枪击。2月20日，囊括此前签署《全国停火协定》的10个少数民族武装组织的和平进程指导小组发表声明，集体谴责政变，呼吁释放文职领导人，并宣布暂停与缅甸军方的所有政治对话。

89. 自政变以来，缅甸军队增加了对克伦邦村落平民居住区的攻击。在政变前和政变后的几个星期，攻击活动迫使7,000多人离开家园，包括帕本县 Butho、Dwelo 和 Luthwa 镇约5,000名平民，以及 Mone、Lerdoh 和 Nyaunglebin 镇的

1,500 名平民。自政变以来，约 3,500 名克伦族平民因缅甸军队的侵扰而背井离乡。据报道，人们害怕频繁炮击和被强征劳务威胁而离开。特别报告员还收到报告称，缅甸军方正在该地区集结部队和物资，100 多辆卡车的物资已抵达克伦邦北部。

90. 特别报告员收到消息称，自政变以来，掸邦几个城镇包括皎脉、昔卜、木姐和南渡镇爆发了武装冲突。自 2 月 1 日以来，交战又导致 2,290 人背井离乡。其中包括缅甸军队与掸邦复兴委员会/掸邦军在昔卜的冲突；缅甸军队与掸邦进步党/掸邦军在木姐的冲突；掸邦复兴委员会/掸邦军与掸邦进步党/掸邦军和德昂民族解放军联军在皎脉、昔卜、木姐和南渡镇的冲突。2 月 15 日在皎脉的战斗中，一枚炮弹落在一个村庄，炸死一名怀孕八个月的妇女和一名男子，并炸伤另外六名平民。

91. 2 月 5 日，缅甸军队与缅甸全国民主联盟军在掸邦北部腊戍和老街镇发生交战，打死 9 名平民，打伤 8 人，其中包括儿童。

92. 据报，缅甸军队自政变以来多次在掸邦北部的木姐镇袭击未签署《全国停火协议》的克钦独立军。特别报告员收到报告称，2 月 10 日、2 月 21 日和 22 日以及 2 月 26 日发生交火，包括缅甸军队如第 99 轻步兵师进行炮击和地面进攻。据称，2 月 21 日木姐镇的一名男子被迫击炮弹片击中身亡。

93. 若开邦社区报告说，他们对全国各地抗议活动引发的暴力颇为担心。据报道，在实兑县举行了支持政变的小型抗议活动，而在安县、丹兑县、洞鸽镇和其他地方则举行了反对政变的小型抗议活动。2021 年 2 月初，缅甸军方代表访问了实兑县的拘留营，当局自 2012 年以来在那里安置了 12.5 万多名罗兴亚平民。军事代表会见了营地管理委员会，并指示他们通知境内流离失所者，这些人不应参加任何抗议活动，如果参加，将对他们采取行动。军方还指示实兑的营地管理委员会，要确保预防 COVID-19 的居家措施得到遵守，禁止外人进入营地。

94. 若开军没有对政变表明公开立场。在若开军与缅甸军队近两年的武装冲突后，双方的交战在 2020 年 11 月 8 日大选后基本停止。然而，平民伤亡，特别是触雷死伤事件仍在发生。2 月 4 日，布帝洞镇的一枚未爆弹药爆炸，造成一名 14 岁男孩死亡，另外两名男孩受伤；2 月 17 日，据报道，安镇的一名男子因地雷爆炸受伤。

95. 截至 2 月 7 日，缅甸军队与若开军之间的冲突导致若开邦和钦邦 10.1 万多人奔走他乡。由于安全和通行限制，约 2.4 万多人得不到援助。自 11 月初冲突停止恢复长时间平静以来，人道主义伙伴正在寻找可能机会向他们提供援助。

96. 佤邦联合军(该国最大的民族武装组织)在当前的危机中一直保持沉默。

六. 对人道主义援助准入的影响

97. 军事政变以多种方式阻碍向少数民族地区运送人道主义援助。在编写本报告时，军方尚未发布人道主义援助准入的最新指示或其他要求。然而，先前存在的准入难题现在仍然存在。

98. 对克伦邦流离失所者的人道主义援助主要由当地机构负责实施。特别报告员收到报告称，服务提供机构需要更多的后勤支持，特别是预计克伦邦村庄将遭受新一轮缅甸军事打击。

99. 对掸邦北部冲突地区的大多数人道主义援助主要通过该国非政府组织和民间社会组织运送。由于缅甸军队与少数民族武装组织之间冲突不断，造成新的流离失所人群，需要当地伙伴立即展开救济。然而，一些援助人员报告说，从银行提款发给新的境内流离失所者有诸多困难。

100. 在克钦邦，大多数人道主义组织在政变后暂时限制人员进入。那里的援助人员也报告说，很难从银行提取现金，通信连接(电话和互联网)缓慢或时续时断又阻碍了远程管理援助活动。人们担心，进入非政府控制地区将进一步受限，并可能完全封锁。

101. 一些组织能够在其负责的地区保持通信畅通，包括若开邦、钦邦、克耶邦和克伦邦以及勃固省和德林达依省。援助人员通过先前建立的社区保护机制，以及与村落、境内流离失所者营地和流离失所者安置点的人道主义伙伴合作，实现了这一目标。

102. 在若开邦，人道主义组织在经过短暂的“观望”期后，逐渐恢复了对罗兴亚人以及若开族和钦族平民的拯救生命援助。食品和卫生合作伙伴是首批恢复服务的组织之一。繁琐的旅行许可程序仍然存在，合作伙伴预计政变后将有更多延误。

103. 若开邦的几个人道主义民间社会组织报告说，它们在政变后暂停了方案活动，以评估风险，确保其人员安全。COVID-19 疫情发生后，国际人道主义伙伴将更多责任转移给国内伙伴和民间社会组织。国内援助人员和民间社会组织将面临更多风险。

104. 此外，日益高涨的公民抗命运动产生了广泛影响，包括对人道主义援助行动的影响。主要政府部门公务员参加了这场运动，放慢了行政手续的办理，包括审查旅行证件、发放签证和入境许可，以及批准救济航班的乘客名单。卫生和体育部以及许多医院在工作人员有限的情况下运行。银行停业也对各组织的行动和计划带来了流动性危机。

七. 对返回权的影响

105. 在2月12日举行的人权理事会第二十九届特别会议上，军政府声称将继续努力从孟加拉国遣返罗兴亚人，并“立即”协助境内流离失所罗兴亚人返回若开邦中部的家园。事实上，2012年、2016年和2017年因军方大规模暴行而流落他乡的罗兴亚人返回家园重建生活的日子似乎没有拉近。近年因武装冲突背井离乡的若开族和钦族平民也是如此。此外，在当前条件下，迅速将罗兴亚人遣返若开邦可能不符合安全、有尊严、自愿和可持续返回的原则。

106. 据报道，军政府计划关闭若开邦的境内流离失所者营地，首先从早以计划关闭的皎塔隆村(Kyauk Ta Lone)营地开始。此种关闭不符合国际标准，因为不允许境内流离失所者返回家园或原籍地。相反，当局只将他们转移到同一地点安置，同时禁止他们工作。

八. 国际社会对政变的反应

A. 会员国和国际组织

107. 许多国家和国际组织公开谴责政变，但只有少数国家采取了具体步骤向军政府及其经济利益施压。¹⁰ 加拿大、大不列颠及北爱尔兰联合王国和美利坚合众国实施了初步制裁，针对直接发动政变或与军政府有关联的现任和前任军官，如国家管理委员会成员。新西兰暂停与缅甸的高层政治和军事接触。在撰写本报告时，欧洲联盟宣布准备实施制裁，但尚未这样做。

108. 截至 3 月 2 日，军方的经济利益大多未受到会员国的触动，只有美国对军方控制的缅甸经济控股集团下属两家矿业子公司采取了措施，并扣押存在美国的 10 亿美元缅甸国家基金。联合王国宣布暂停与缅甸的所有贸易促进活动，同时对其在缅甸的贸易和投资方式进行审查。会员国也开始调查它们在缅甸的培训方案和发展项目，以确定真正的受益者。新西兰、瑞士、联合王国和美国暂停或调整援助资金分配，以确保民间社会得到援助；欧盟暂停了自 2016 年以来实施的警察培训方案。挪威冻结了对缅甸的双边援助，2021 年约为 800 万美元。日本也在考虑暂停发展援助。

109. 世界银行集团宣布，它已暂停对其在缅甸的业务拨付资金，并加强对已实施项目的监测。¹¹

110. 2 月 1 日，东南亚国家联盟发表一项联合声明，鼓励“根据缅甸人民的意愿和利益，进行对话、和解和恢复正常”。¹² 3 月 2 日，它重申其立场，马来西亚单独呼吁“迅速和无条件释放政治领导人”，包括昂山素季和温敏。¹³ 新加坡外交部指出，安全部队对手无寸铁的平民实施暴力是“不可原谅的”，如果局势继续升级，“将对缅甸和该地区带来严重的不利后果”。¹⁴ 2 月 24 日，泰国接待了军方任命的副部长长来访，泰国外交部长和总理与其会晤，这是军政府自政变以来的首次境外活动。印度尼西亚外交部长会见了军政府驻泰国代表。她申明，印度尼西亚打算与所有各方包括代表联邦议会的委员会保持沟通。¹⁵

¹⁰ 见附件一图表，介绍政变以来会员国的经济制裁和暂停援助情况。

¹¹ “缅甸的动态”，声明，2021 年 2 月 19 日。可查阅以下网页：
www.worldbank.org/en/news/statement/2021/02/01/developments-in-myanmar。

¹² 可查阅以下网页：<https://asean.org/asean-chairmans-statement-developments-republic-union-myanmar/>。

¹³ 见 <https://asean.org/storage/FINAL-Chairmans-Statement-on-the-IAMM.pdf> 和 www.pmo.gov.my/wp-content/uploads/2021/03/YAB-PM-MEDIA-STATEMENT_MYANMAR.pdf。

¹⁴ “外交部发言人对缅甸局势的评论”，2021 年 2 月 20 日，可查阅以下网页：
www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2021/02/20210220-mfa-spokesperson-comment-myanmar。

¹⁵ “关于曼谷之行成果的新闻稿”，2021 年 2 月 24 日。可查阅以下网页：
<https://kemlu.go.id/portal/en/read/2192/berita/minister-for-foreign-affairs-of-indonesia-press-briefing-on-the-outcome-of-the-visit-to-bangkok>。

B. 国际商界

111. 公民抗命运动和国际人权组织发起了国际运动，要求对国家管理委员会和缅甸军方及其商业利益实施制裁。大多数组织促请对制裁作出具体安排，以便对军政府及其经济利益造成最大影响，同时对缅甸人民产生最小冲击，包括在获得食物、水、衣服和医疗服务方面。政变前，缅甸问题独立国际实况调查团已明确认定，与缅甸军方或任何关联企业做生意不符合保护或促进人权。

112. 自政变以来，越来越多的国际公司宣布对其缅甸业务进行重大调整。¹⁶ 缅甸经济控股有限公司的合资伙伴麒麟(Kirin)控股株式会社已宣布终止有关合资企业的计划。销售反无人机设备的新加坡 TRD 公司取消了即将对缅甸的销售，并宣布不再向军方提供反无人机产品。Vero 是一家活跃在印度尼西亚、缅甸、泰国和越南的公关公司，已确认不再为军方拥有的公司代言。大韩航空货运公司将搬出缅甸经济控股有限公司旗下的缅甸妙瓦底银行豪华综合大楼，迁至新址办公。彪马能源(Puma Energy)运营着缅甸最大的燃料进口码头，并与国有缅甸石油产品企业建立了航空燃油合资公司，也以安全为由暂停了所有业务。澳大利亚伍德赛德石油(Woodside Petroleum)公司最初称政变是“过渡性问题”，后来宣布遣散其在缅甸的钻井队。¹⁷ 其他公司，如与缅甸经济控股有限公司有合资关系的韩国钢铁制造商浦项(Posco)制铁国际公司，也表达了关切，并考虑效仿麒麟控股株式会社的先例。¹⁸

113. 脸书已采取措施限制军方发布有关内容，从脸书和Instagram下架所有官方媒体、缅甸军方和军方控制的页面，以及与军方有关联企业的付费广告。然而，禁令不包括与军方有关联公司的网页。

九. 结论和建议

A. 结论

114. 缅甸人民正经历着政府被非法推翻和军事独裁政权实施严酷镇压的时刻。但他们不畏强权，作为一个多元但有力团结的整体，揭竿而起。非暴力公民抗命运动已证明是非常有效的，从人民坚定不移的民主愿望中汲取有机力量。事实上，缅甸似乎从未如此统一。

115. 虽然缅甸的未来将由其人民决定，但国际社会必须采取紧急果断的行动来支持他们。利害关系不言自明。特别报告员希望，国际社会将追随缅甸人民的步伐和感召力，迎接这一历史时刻，正义、尊严和人权终将占据上风。

¹⁶ 见附件二图表，介绍政变以来个人和国际公司取消与军方相关业务的情况。

¹⁷ Sonali Paul, “澳大利亚伍德赛德公司首席执行官称缅甸政变不会影响其勘探计划”，路透社，2021年2月19日。

¹⁸ 商业与人权资源中心，“浦项制铁的回应”，2021年2月15日。可查阅以下网页：www.business-humanrights.org/en/latest-news/poscos-response/。

B. 建议

116. 特别报告员建议军政府：

- (a) 停止对缅甸人民过度使用致命武力；
- (b) 尊重缅甸人民的和平集会和结社权利；
- (c) 放弃通过非法政变获得的权力；
- (d) 无条件释放所有被非法拘留的人；停止对缅甸人民行使人权的迫害和起诉；允许民主选举的合法议会召开会议并允许组建政府；
- (e) 允许人道主义和发展援助机构立即、安全和不受阻碍地进入所有需要援助的社区，并允许缅甸所有人民，包括少数民族，不受不必要限制地自由行动，包括不受阻碍地获得服务和生计；
- (f) 允许人权监察人员，包括联合国人权事务高级专员办事处、缅甸人权状况特别报告员和秘书长缅甸问题特使不受阻碍地进入；
- (g) 永久停止迫害行使言论自由权的新闻工作者、人权维护者和其他人，释放所有因合法活动而被拘留的人。撤销所有出于政治动机违反人权，包括言论自由、和平集会和结社自由权利的指控。确保对这些人的任何心理或身体伤害给予补救。

117. 特别报告员建议缅甸军队和少数民族武装组织：

- (a) 停止在有争议地区部署军队，并遵守全国停火；
- (b) 停止侵害平民，包括定点谋杀和肆意杀害、强奸、纵火、强迫流离失所、强迫劳动以及对民用物体和非军事目标的破坏；
- (c) 保证人道主义救援组织向有需要的人提供拯救生命援助；为人道主义援助工作者建立更可预测和更有效的旅行许可机制；允许媒体和人权监察人员自由进入受冲突和暴力影响的地区，并报告其调查结果。

118. 特别报告员建议联合国：

- (a) 紧急召开安全理事会会议，评估缅甸局势，包括警察和安全部队针对缅甸人民的暴力升级，并根据《联合国宪章》第七章行使其权威，以便：
 - (一) 实施全球武器禁运；
 - (二) 对缅甸军方及其收入来源实施定向经济制裁；
 - (三) 将缅甸局势提交国际刑事法院，以调查并可能起诉已发生的残暴犯罪，包括灭绝种族罪、战争罪和危害人类罪；
- (b) 拒绝承认军政府是代表缅甸人民的合法政府。

119. 特别报告员建议会员国：

- (a) 建立多边和协调的经济制裁制度，各国同意对军政府高级领导人和同伙及其资金来源实施定向制裁，包括对军政府拥有企业和缅甸石油天然气公司实施制裁，该企业现在由军政府控制，是该国最大的单一收入来源；

(b) 酌情利用国内反洗钱和其他金融机构，封锁或冻结该国所有实体的所有海外账户，直至恢复合法政府，以确保军政府不会挪用缅甸的公共资金；

(c) 加入已对缅甸军方实施武器禁运的 41 个国家行列；

(d) 利用一切影响力，鼓励没有对缅甸实施武器禁运的国家实施武器禁运，并考虑各种办法，追究继续允许此种销售者的责任；

(e) 确保各国不向军政府非法转让武器，包括两用技术；

(f) 拒绝承认军政府是代表缅甸人民的合法政府。

120. 特别报告员建议人道主义和发展捐助机构，包括联合国、国际开发银行、会员国和民间社会组织，尽可能与当地民间社会和援助组织直接合作，将援助直接送到民众手中，而不是通过现由军政府控制的中央机制分发援助。

Annex I

Member States imposition of economic sanctions and suspension of aid to Myanmar since the coup (as of 1 March 2021)

No.	Country or union	Actions
1	Canada	Imposed sanctions against nine military officials, bringing the total number of individuals sanctioned by Canada to 54. The previous trade embargo on arms, related material, and technical and financial assistance still stands. ¹
2	European Union	Has announced it is ready to adopt sanctions targeting those directly responsible for the coup and their economic interests. Suspended the Mypol program, ² which has trained and equipped Myanmar's military-controlled police since 2016, ³ as well as the EU-funded Myanmar Sustainable Aquaculture Program. ⁴
4	New Zealand	Suspended all high-level political and military contact with Myanmar. All current and future aid programs will not include projects that are delivered with, or benefit, the military. A travel ban on military leaders is also in the works. ⁵
5	Switzerland	Temporarily suspended aid payments to investigate if their projects are managed by the military or benefit it in any way. ⁶
6	United Kingdom	Imposed sanctions against nine military officials, bringing the total number of individuals sanctioned by the United Kingdom to 23. ⁷ The UK suspended all aid directly or indirectly involving the Myanmar government and will temporarily suspend all trade promotion with Myanmar as it launches a trade and investment review. ⁸
7	United States	Designated 12 individuals responsible for the coup and or associated with the military regime. These former and current military officials along with three military-owned subsidiaries are under sanctions. ⁹ USAID redirected US \$42 million of assistance away from projects that would have benefited the Myanmar government to civil society. ¹⁰ Blocked access to ~\$1 billion in Myanmar government funds held in the United States.

¹ "Canada imposes sanctions on Myanmar military officials in response to coup d'état," Government of Canada, 18 February 2021, <https://www.canada.ca/en/global-affairs/news/2021/02/canada-imposes-sanctions-on-myanmar-military-officials-in-response-to-coup-detat.html>.

² "EU Statement on MYPOL," MYPOL, 18 February 2021, <http://www.mypol.eu/eu-statement-on-mypol/>.

³ "EU suspends training of military-controlled Myanmar police force," Burma Campaign UK, 7 February 2021, <https://burmacampaign.org.uk/eu-suspends-training-of-military-controlled-myanmar-police-force/>.

⁴ "EU-funded MYSAP aquaculture program suspended following Myanmar coup," *Seafood Source*, 18 February 2021, <https://www.seafoodsource.com/news/aquaculture/eu-funded-mysap-aquaculture-program-suspended-following-myanmar-coup>.

⁵ "New Zealand takes measures against Myanmar following military coup," Government of New Zealand, 9 February 2021, <https://www.beehive.govt.nz/release/new-zealand-takes-measures-against-myanmar-following-military-coup>.

⁶ "Switzerland temporarily suspends aid payments to Myanmar," *Swiss Info*, 18 February 2021, <https://www.swissinfo.ch/eng/switzerland-temporarily-suspends-aid-payments-to-myanmar/46381184>.

⁷ "Consolidated List of Financial Sanctions Targets in the UK," Office of Financial Sanctions

Implementation, 25 February 2021,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964719/Burma.pdf.

- ⁸ “UK sanctions further Myanmar military figures for role in coup,” Government of the United Kingdom, 25 February 2021, <https://www.gov.uk/government/news/uk-sanctions-further-myanmar-military-figures-for-role-in-coup-february-25-2021>.
- ⁹ “United States Targets Leaders of Burma’s Military Coup Under New Executive Order,” US Department of Treasury, 11 February 2021, <https://home.treasury.gov/news/press-releases/jy0024>.
- ¹⁰ “USAID Immediately Redirects \$42 Million in Response to the Military Coup in Burma,” USAID, 11 February 2021, <https://www.usaid.gov/news-information/press-releases/feb-11-2021-usaid-immediately-redirects-42-million-response-military-coup-burma>.

Annex II

Non-exhaustive list of individuals and international companies disengaging from Myanmar and from military-affiliated enterprises since the coup

<i>No.</i>	<i>Company or individual</i>	<i>Country</i>	<i>Background</i>	<i>Action</i>
1	Axiata Group	Malaysia	Subsidiary edotco Group owns 3,150 towers in Myanmar, some of which are leased to MEC-owned Mytel. ¹	Axiata put off plans to sell US \$500 million stake in edotco. ²
2	Coda Pay	Singapore	Provided cardless payment services to Mytel.	Coda removed Mytel from its portfolio of payment channels. ³
3	HAECO Xiamen	Hong Kong, China	Signed a US \$4.8 million contract with Aero Sofi Co. Ltd. for VIP luxury refurbishment of an Airbus A319-112 once used by Myanmar Airways International. ⁴	After the coup, HAECO informed OCCRP that the contract had been terminated in January 2021. ⁵
4	Kirin Holdings	Japan	Joint venture partner in Mandalay Brewery and Myanmar Brewery with MEHL.	Kirin will terminate both ventures by the spring or within a year. ⁶
5	Korean Air Cargo	South Korea	Rented office in Myawaddy Bank Luxury Complex, which is owned by MEHL. ⁷	Korean Air will move its office to a new location. ⁸
6	Lim Kaling	Singapore	Owned a one-third stake in RMH Singapore Pte. Ltd., which operates joint venture Virginia Tobacco Company with MEHL.	Decided to dispose of his stock in the company and exit the investment in response to the coup. ⁹
7	Posco International	South Korea	Joint ventures partner with MEHL in Myanmar Posco C&C Company Ltd. and Myanmar Posco Steel Company Ltd.	Posco has suspended dividends until MEHL proves previous dividends were not used for purposes that violated human rights. If proven otherwise, Posco will consider a thorough review its joint ventures and might follow the precedent of Kirin Holdings. ¹⁰
8	Transworld Group Singapore	Singapore	Used Ahlone International Port Terminal 1, which is owned by MEC.	Transworld Group will no longer use military-owned ports in Yangon. ¹¹
9	TRD Singapore	Singapore	Sold Orion-7 drone signal disruptor to the Myanmar police.	TRD Singapore cancelled a deal to sell anti-drone products to Yangon International Airport and will not supply Myanmar with anti-drone products while under the regime. ¹²

No.	Company or individual	Country	Background	Action
10	Vero	Thailand, Vietnam, Myanmar, Indonesia	Public relations firm.	Vero will no longer represent military-owned companies. ¹³
11	Woodside Petroleum	Australia	Has one of the largest offshore petroleum acreage holdings in Myanmar. Partners with Total and MRPL E&P in a joint venture developing A-6, Myanmar's first ultra-deepwater gas project.	Woodside will de-mobilize its entire offshore exploration drilling team and halt any business decisions until the situation has improved. ¹⁴

- ¹ "Nodes of Corruption, Lines of Abuse," Justice For Myanmar, 20 December 2020, https://jfm-files.s3.us-east-2.amazonaws.com/public/JFM_Nodes_of_Corruption_high_res.pdf.
- ² "Myanmar's Axiata Group shelves plans for sale of stake in tower unit," *Reuters*, 25 February 2020, <https://www.reuters.com/article/axiata-results/malaysias-axiata-group-shelves-plans-for-sale-of-stake-in-tower-unit-idUSL1N2KV0FB>.
- ³ "Coda Pay Removed From 'Dirty List,'" Burma Campaign UK, 2 March 2021, <https://burmacampaign.org.uk/coda-pay-removed-from-dirty-list/>.
- ⁴ "Myanmar military Airbus deals for troop transport and luxury travel," Justice For Myanmar, 8 December 2020, <https://www.justiceformyanmar.org/stories/a-dangerous-use-of-public-funds-myanmar-military-airbus-deals-for-troop-transport-and-luxury-travel>.
- ⁵ "Hong Kong Firm Cancels Contract with Myanmar Military After OCCRP Investigation," Organized Crime and Corruption Reporting Project, 10 February 2021, <https://www.occrp.org/en/37-ccb/ccb/13827-hong-kong-firm-cancels-contract-with-myanmar-military-after-occrp-investigation>.
- ⁶ "Statement on the situation in Myanmar," Kirin Holdings, 5 February 2021, https://www.kirinholdings.co.jp/english/news/2021/0204_01.html.
- ⁷ Sales office address listed as Room No. 601 & 603, 6th Floor, Tower-B, Myawaddy Bank Luxury Complex, No.151, Wardan Street, Corner of Bogyoke Aung San Road, Lanmadaw Township, Yangon, Myanmar, https://cargo.koreanair.com/Branch-Details?airport_code=RGN.
- ⁸ "Korean Air to move Yangon office from military-owned offices," Burma Campaign UK, 16 February 2021, <https://burmacampaign.org.uk/korean-air-to-move-yangon-office-from-military-owned-offices/>.
- ⁹ "Statement by Mr. Lim Kaling on the Situation in Myanmar," Justice For Myanmar, 9 February 2021, <https://twitter.com/JusticeMyanmar/status/1358922269024681984?s=20>.
- ¹⁰ "Posco's Response," Business & Human Rights Resource Center, 15 February 2021, <https://www.business-humanrights.org/en/latest-news/poscos-response/>.
- ¹¹ "Transworld removed from 'Dirty List,'" Burma Campaign UK, 23 February 2021, <https://burmacampaign.org.uk/transworld-removed-from-dirty-list-will-no-longer-use-military-ports/>.
- ¹² "Singapore anti-drone firm cuts Myanmar ties after coup," *Reuters*, 19 February 2021, <https://www.reuters.com/article/us-myanmar-politics-singapore/singapore-anti-drone-firm-cuts-myanmar-ties-after-coup-idUSKBN2AJ0XF?il=0>.
- ¹³ "PR firms distance themselves from military as brands navigate Myanmar coup," *Provoke Media*, 5 February 2021, <https://www.provokemedia.com/latest/article/pr-firms-distance-themselves-from-military-as-brands-navigate-myanmar-coup>.
- ¹⁴ "Woodside statement on Myanmar," Woodside Australia, <https://www.woodside.com.au/what-we-do/international-developments-marketing-and-exploration/myanmar>.

Annex III

The Situation of Human Rights in Myanmar in 2020 and Up to the Coup d'état

Introduction

1. This report is submitted as an annex to the Special Rapporteur's main report. In this annex, the Special Rapporteur reflects on the human rights situation in 2020 and up to the military coup in Myanmar. If not for the coup d'état on 1 February, this annex would have reflected the main components of the Special Rapporteur's report to the Human Rights Council and recommendations to the Myanmar government, Ethnic Armed Organizations, and the International Community.

2. This annex also addresses the Special Rapporteurs mandate of conducting thematic research to assess compliance with the Independent International Fact-Finding Mission on Myanmar's recommendations. For purposes of this annex, the Special Rapporteur examines the extent to which international businesses and member states heeded the call to end business interests with Myanmar military-owned enterprises and to cease arms transfers to the military. See appendix I for charts summarizing the findings.

I. Democratic space prior to the military coup

General elections

3. On 8 November 2020, Myanmar held multi-party elections. Those deemed eligible to vote could choose candidates from a wide spectrum of political parties in addition to the ruling National League for Democracy (NLD) and the Myanmar military-affiliated Union Solidarity and Development Party (USDP). Since 2015, the political landscape has developed with new political parties and merged ethnic parties competing in elections. The ruling NLD party had a decisive electoral victory, winning 71 percent of seats in both upper (Amyotha) and lower (Pyithu) houses of Parliament. This margin provided the NLD with a more than two-thirds majority in the Union Assembly (Pyidaungsu Hluttaw). Had the parliament been allowed to convene, the NLD would have had a greater capacity than in the previous parliament to pass new legislation that would meet the commitment that was made during the second Universal Periodic Review (UPR) cycle (the third cycle), to bring all relevant statutes in line with Myanmar's international human rights obligations.¹

4. Although the general elections represented an important (and necessary) step in Myanmar's transition to a federal democracy, they were not flawless. The right to vote should extend to all regardless of ethnicity, race, and religion. Unfortunately, nearly the entire Rohingya community was disenfranchised.

5. Political party candidates were unable to engage in typical campaign activities due to COVID-19 restrictions. These restrictions presented the greatest challenge for new candidates who were seeking to introduce themselves to voters. Political parties and candidates with greater financial resources and presence on social media outpaced those with more limited resources. While the UEC provided political parties and candidates with access to state TV, only UEC-approved messaging was allowed to be broadcasted. During the campaign period, the Commission reportedly deleted parts of the speeches provided by at least two political parties, including a speech which reportedly contained reference to a UNICEF report on child poverty. Several candidates refused to participate under these conditions. This created a significant disadvantage for lesser-known candidates and political parties.

6. Additionally, out of seven Rohingya candidates who submitted nominations, only one Rohingya candidate in Yangon Region was permitted to stand for the 2020 election and no Rohingya could run in Rakhine State after all six candidates' nominations were rejected,

despite appeals to the UEC. The rejections appear to have been undertaken in a discriminatory manner based on ethnicity, where the candidates were reportedly subjected to stricter conditions and burden of proof than other candidates.

7. The absence of any Rohingya electoral candidates in Rakhine State and use of the term “Bengali” or “Kalar,” especially on social media during election campaigns, further perpetuated a hostile environment and discrimination against them. Two Muslim NLD candidates were elected to the Pyithu Hluttaw. The Special Rapporteur notes that this was a slight improvement from 2015 where no Muslim candidates contested the elections. He welcomed reports that the NLD resisted calls to replace Muslim candidates with Buddhists. When democracy is restored, he will urge the NLD to intensify efforts to ensure that Muslims and Rohingya, and all members of religious minorities in Myanmar, can freely enjoy their civil and political rights without discrimination or harassment.

8. Although there were more female candidates in 2020 compared to 2010, the proportion in this election remained at a low 16 percent.¹ This represents a significant underrepresentation of women. Temporary special measures are therefore required to ensure that Myanmar allows for a 30 percent “critical mass” of women parliamentarians in line with recommendations by the Committee on the Elimination of Discrimination against Women.¹ Furthermore, the Myanmar military has not appointed any women to the unelected seats in the parliament that the constitution sets aside exclusively for the military. This means that women would need to win almost half of the seats elected democratically to reach this standard. Additionally, the UEC had no serving female commissioners or female staff in senior positions in its secretariat. Several political parties reportedly decided to implement special measures in the absence of a normative framework at the Union level and nominated several female candidates for lower house positions.¹ This is a notable step forward and underscores the need for similar measures to ensure full participation and representation of women.

9. Persons with disabilities faced widespread discrimination in the elections. Less than a third of all polling stations in Myanmar were reportedly accessible to persons with disabilities, for example, and there is no evidence that any form of accommodation was otherwise made. A comprehensive review and assessment of obstacles to the enfranchisement of persons with disabilities should be made in close consultation with persons with disabilities and organizations of persons with disabilities. This should include the right to vote, the right to seek political office, and the right to participate fully in the political process.

10. Elections were cancelled due to alleged security reasons in several townships in Rakhine and Chin States, and in parts of Shan, Kachin, Karen, and Mon States, and Bago Region, exacerbating the affected communities’ distrust of Government. In Rakhine State, the government cancelled elections in nine townships (Pauktaw, Ponnagyun, Rathedaung, Buthidaung, Maungdaw, Kyauk Taw, Myebon, Minbya, Mrauk-U) and partially cancelled voting in four (Kyaukpyu, Ann, Sittwe, Toungup) – disenfranchising an estimated 1.2 million people or some 60 percent of eligible voters, most of whom were ethnic nationalities. Uneven information sharing on voter eligibility, rights, and procedures, as well as the non-posting of voter lists were obstacles that also reportedly prevented certain populations from exercising their political rights. There was a reported lack of transparency and consistency in the criteria of the UEC for cancelling polls due to security concerns, given that voting was also cancelled in townships in Shan State with no active armed conflict.

11. It is precisely in areas affected by hostilities that free, fair, and genuinely competitive elections are most important. For elections to be legitimately cancelled, authorities should apply the proportionality principle, whereby, in this case, security concerns were sufficiently great to offset the imperative of holding fair, inclusive elections. A ballot must always be preferable to a bullet. As in 2015, voting in non-government controlled areas (NGCA) in the north and some areas in the southeast of Myanmar reportedly did not take place. In Kachin and northern Shan states, internally displaced persons residing in government-controlled areas were generally able to vote in their areas of displacement; the National Registration and Citizenship Department (NRCD) made efforts to issue citizenship scrutiny cards (CSC) and household lists, and some flexibility was reportedly exercised around required documents and inclusion in voters’ lists. Polls were, however, cancelled in 192 village tracts (11

townships) in Kachin State, including contested areas and NGCAs. Around a reported 21,000 internally displaced people of voting age (out of 39,000 IDPs) living in Kachin NGCA, as well as in Shan and Rakhine, could not vote and faced challenges travelling to government-controlled areas.

Freedom of expression, peaceful assembly and association

12. Notwithstanding the government's legitimate concerns about controlling the spread of COVID-19, the right to peaceful assembly during election periods is particularly important. Although the right is safeguarded by Article 354(b) of the Constitution, it is undermined in practice by the Peaceful Assembly and Peaceful Procession Law. The law, which has a notification regime, includes broad legal provisions in which peaceful assemblies can be denied for vague, highly subjective reasons including that the assembly not cause "annoyance," the reciting of unapproved "chants," nor the "spread" of "rumors or incorrect information" (Article 11). Violations of these broad provisions are punishable by up to six months of imprisonment and/or a fine (Article 19).

13. During the pre-election period, the authorities detained several students who joined protest or sticker campaigns that were critical of the government or the Myanmar military, including specific government policies such as a mobile internet shutdown or the identification of abuses by the Myanmar military in Rakhine and Chin States. Convictions followed for at least 34 students, two of whom received multiple sentences of over six years' imprisonment. Two others were sentenced to more than one year. These laws and their enforcement violate the fundamental right to freedom of expression. Additionally, in November, the ILO Governing Body expressed concern over charges made against trade unionists in Mandalay for staging a protest in 2019 and the use of the law to restrict their right to freedom of assembly.¹

14. Despite the informal ceasefire between the Myanmar military and the Arakan Army, the government instructed all mobile telecommunications operators to extend suspension of 3G and 4G mobile Internet services from the lead up to Election Day until the end of March 2021. Eight townships in Rakhine and Chin States were affected, specifically in Buthidaung, Rathedaung, Mrauk-U, Ponnagyun, Myebon, Kyauktaw, Minbya, and Paletwa. The Special Rapporteur notes that this arbitrary restriction, which has been in place for more than a year and half, represents one of the longest Internet shutdowns anywhere in the world. It is a continuing violation of the fundamental right to freedom of expression and it puts lives in serious danger. Without reliable mobile Internet access, people in Rakhine and Chin States are unable to obtain information and updates on issues that impact their lives and wellbeing, such as COVID-19 or information about the resumption of hostilities. It is also highly discriminatory, as it adversely impacts specific ethnic groups in Myanmar that live in those townships, such as Rakhine, Rohingya, Kaman, Mro, Daingnet, Khami, and Chin. Tellingly, the government announced that the suspension of Internet service would be lifted but then only permitted 2G connectivity. This allowed the claim to be made that Internet connectivity had been restored, while continuing to deny functional access.

15. States have an obligation to protect freedom of expression, offline and online, especially during election periods. Internet and telecommunications shutdowns prohibit access to, and the dissemination of, information. Restrictive policy measures formulated on the basis of overly broad justifications without due regard to the principle of proportionality runs contrary to international human rights law. For restrictions on the right to freedom of expression to be lawful, they must be provided for in law, applied only in specific circumstances to protect the rights and reputation of others, or to ensure national security, public order, public health, or public morals, and be necessary and proportionate. The broad Internet ban in Rakhine State does not meet that criteria. As of the time of writing, the Special Rapporteur had received reports that the Myanmar junta restored mobile Internet access in Rakhine State following the coup.

16. Hate speech, disinformation, and misinformation were prevalent before and after the election on social media. With the help of information classifier algorithms in the Burmese language, photo detection tools, country experts, and civil society, Facebook reported that

they were able to address most hate speech on their site. Content demotions or page removals followed. It also reported that it proactively tackled disinformation and misinformation. It reportedly launched several actions against inauthentic behavior by actors and networks allegedly linked to military propaganda, as well as the manipulation of people. They also demoted reportedly fraudulent election content. Concerns have been raised about the inconsistency of Facebook's handling of fraudulent content, including the retention of pages run by the Myanmar military, as well as the amount of time that it takes to take action. Moreover, Facebook did not act on calls from human rights defenders to stop the Myanmar military from using Facebook to recruit members and to stop the Myanmar military from promoting its businesses, including subsidiaries belonging to Myanmar Economic Holdings Limited and Myanmar Economic Corporation on Facebook. These companies' profits from help fund the military, which engages in atrocity crimes. As of the time of writing, even post-coup, these businesses continue their presence on Facebook, including Innwa Bank, Royal Sportainment Complex, Hanthawaddy Golf Course, and others.

17. Military and state authorities targeted journalists and media professionals for prosecution during the election campaign. Legal actions brought against them were commonly based on vague sections in the Telecommunication Law or Penal Code, typically Sections 66(d) and 505(b) respectively. Interventions by the Myanmar Press Council on some of the actions that the Myanmar military initiated against the media have led to charges being dropped. The same provision, Section 66(d) of the Telecommunication Law which outlaws the legally undefined action of defamation, is also frequently used to file charges against private citizens. In total, it is reported that during the current legislative period, 539 lawsuits have been brought against 1,051 individuals, 495 of whom are civilians, and 326 activists, and 67 journalists/media professionals. Significant reform will be required for Myanmar to meet international standards.

Political Prisoners

18. Regrettably, arbitrary detentions increased in 2019 and 2020. Throughout 2020, the increase in political prisoners was due primarily to peaceful protests and activism, land disputes, and armed conflict. As of December 2020, there were a reported 601 political prisoners. Forty-two were incarcerated while 559 were awaiting trial, 196 of whom remained in detention. This is a dramatic 74 percent increase from the 345 political prisoners at the beginning of 2019, which included 33 incarcerated persons, 78 awaiting trial inside prison, and 234 awaiting trial outside prison. The number of political prisoners rose steadily throughout the first half of 2019 and plateaued around 600 individuals until gradually decreasing to 507 individuals in the first half of 2020. The decrease in numbers was short-lived as the Government continued to abuse the restrictive colonial- and military-era sections 66(d) and 505(b) to arrest and convict journalists, student and labor activists, farmers, civilians with alleged ties to ethnic armed organizations, and others for the remaining duration of 2020. See appendix II for a chart showing the increase in political prisoners from 2016 to 2020.

19. The Government continued to grant amnesty to political prisoners throughout 2019 and 2020, though they made up a small fraction of total prisoners released. In 2019, three separate presidential pardons released 25 political prisoners along with approximately 23,000 prisoners. Among those 25 political prisoners were Kyaw Soe Oo and Wa Lone, two Reuters reporters imprisoned in 2018 for their investigation into the Inn Din massacre. In 2020, only 10 political prisoners were released in a group of 24,896 prisoners pardoned on 17 April 2020. Members of the Peacock Generation, a "thangyat" troupe imprisoned in 2019 for defaming the military in a satirical performance, and hundreds of others remain imprisoned for their political activities.

20. Arbitrary arrests and detentions significantly increased in 2021 following the military overthrow of the government. At the time of writing, reports of these detentions are increasing daily. There is a recurring pattern in which family members are not provided information on the location or well being of those detained, making these situations tantamount to enforced disappearances.

Filtering, interception, and surveillance of communications

21. Prior to the coup, worrying trends in Myanmar's surveillance efforts were emerging. Specifically, the Special Rapporteur received reports of filtering information and blocking websites, including ethnic media sites, that were critical of the government or the military, or otherwise unwelcome by the authorities. This constitutes a violation of the right to freedom of expression. Myanmar should take immediate steps to withdraw the legal provisions allowing for the blocking of websites without due process.

22. In September 2020, Justice for Myanmar, an organization publishing information on the business dealings and relationships of the country's military, had their website blocked, and mobile operators were reportedly requested to filter their name. The government relied on the draconian and overly broad legal provision in Section 77 of the 2013 Telecommunications Law to intercept, filter, survey or suspend communications. It was also used to control the use of telecommunication service and equipment without civilian oversight, due process, or judicial safeguards. This violates international human rights law. These provisions of laws should be stricken.

23. Even before the coup, plans were in place to increase the capacity for government mass surveillance and the interception of communications in Myanmar. Under a new policy, the government would be able to directly tap into the datasets of telecommunications companies without restriction or even a requirement that the company is informed which communications are being intercepted. This would significantly increase the government and Myanmar military's interception and surveillance capabilities without independent judicial oversight. This policy would create a powerful surveillance state that would make citizens vulnerable to government or military surveillance in a country with a manifestly poor legal framework to protect the right to privacy and freedom of expression. Once a democratically-elected government is restored, government leadership must cease all efforts at mass, unfettered digital surveillance.

II. Protection of civilians

Conduct of hostilities, killing, and maiming

24. Myanmar's security situation in 2020 was characterized by intensified armed conflict across Rakhine State and Paletwa Township in southern Chin State, in or near populated areas; ongoing fighting in northern Shan State; sporadic clashes in Kayin State (Karen State); and recently clashes in Bago East, with lingering impacts of conflict in Kachin State.

25. Since the conclusion of the general election on 8 November 2020, the intensity of armed clashes reduced significantly in Rakhine and Chin states, with no armed clashes reported between the Myanmar military and the Arakan Army (AA) since 12 November. The apparent thaw in relations between the warring parties and the discussions between them, however tentative, raises some hope for peace in the area.

26. Between January and October 2020, there was a marked increase in intensity of fighting in Rakhine and Chin states, with a discernible pattern of attacks against non-combatants, including the indiscriminate use of heavy weaponry in civilian areas. In 2020, at least 226 people were killed in armed conflict in Rakhine and Chin states with another 555 reported wounded. Throughout that period, the UN Human Rights Office documented a pattern of violations by the Myanmar military, including the targeted use of heavy weaponry on civilian areas, disappearances and extra-judicial killings, torture and deaths in custody, and the use of airstrikes and landmines. In September 2020, a report by the High Commissioner for Human Rights outlined that war crimes and crimes against humanity may have been perpetrated by the Myanmar military in the course of the conflict in Rakhine and Chin states and called for an investigation (A/HRC/45/5). The report outlined how attacks affected members of a wide range of ethnic groups, including Rakhine, Chin, Mro, Khumi, Kaman, Maramagyi, and Daignet people.

27. In northern Shan State, armed clashes continued between the Northern Alliance (Kachin Independence Army, the AA, Ta'ang National Liberation Army, and Myanmar National Democratic Alliance Army) and the Restoration Council of Shan State, a signatory to the National Ceasefire Agreement (NCA). The population continues to be subjected to forced recruitment, abduction, arbitrary arrest, and injuries due to landmine contamination, severely impeding movement, access to livelihoods, and compromising the civilian character of IDP camps. Despite fewer clashes during the reporting period, tensions between the Myanmar military and the Kachin Independence Army appeared to be mounting since mid-2020. Forced recruitment, however, continues in Kachin State, as well as killing, maiming, and assault.

28. The end of 2020 marked a visible change in relationships between the Myanmar military and Ethnic Armed Organisations (EAOs) in South East Myanmar. These organisations – notably the Karen National Liberation Army (also signatory to the NCA) – demanded the withdrawal of the Myanmar military's presence in the EAOs' controlled areas, citing Article 3 of the NCA. There were skirmishes between the Myanmar military and the KNLA in Kayin (Karen) State throughout 2020, which extended to the Bago East region at the end of 2020. Close to 4,000 civilians were displaced as a result. The Special Rapporteur echoes the concerns raised by many local civil society organizations regarding escalating tensions in Kayin (Karen) State and calls for the withdrawal of Myanmar military troops in these ethnic areas.

29. During the first 10 months of 2020, the Mine Risk Working Group reported 217 casualties. Rakhine State accounted for approximately 50 percent of the total number of casualties, where 108 casualties were recorded in 2020, compared to 45 in 2019, representing a 240 percent increase.¹ Shan and Kachin represented 26 percent and 10 percent of the total number of casualties respectively. In militarized and/or conflict-affected areas, arbitrary detention (short-term detention at military checkpoints, and longer-term detentions) was also reported, with some IDPs accused of association with unlawful organizations/terrorism.

30. Clashes increasingly took place in more populated areas and along main roads and waterways. As a result, there were hundreds of casualties from stray bullets, crossfire, landmines, and improvised explosive devices. Rights violations attributed to the Myanmar military and the AA were reported. The deployment of additional security forces and the setting up of new checkpoints along main roads in various townships have caused more anxiety among and difficulties for villagers, including delayed access to humanitarian aid. Use of civilian vehicles/transport and the occupation, damage to, and use of civilian properties (including schools and religious sites) by parties to the conflict were also reported. With continued restrictions on rights – including freedom of movement and access to livelihoods and basic services – and ongoing reports of harassment, arbitrary arrest and detention, forced labour, physical threats, and violence, the conflict has heightened the longstanding vulnerabilities of the Rohingya and other ethnic groups, including the Rakhine (Arakanese), Chin, Mro, Khumi, Kaman, Maramagyi, and Daignet people.

Violating the International Court of Justice provisional measures order

31. An Order by the International Court of Justice on 23 January 2020 in the case of *The Gambia v. Myanmar* instructed Myanmar to take all necessary measures to protect members of the Rohingya community from acts proscribed by the Genocide Convention. From 23 January 2020 to 22 January 2021, at least 33 Rohingya civilians were killed as a result of the conflict, with at least 39 others injured. According to information received by the Special Rapporteur, in the year following the ICJ's Provisional Measures Order, 19 Rohingya men, women and children were killed as a result of targeted or indiscriminate attacks by the Myanmar military; one was killed in a targeted killing by police; ten were killed as a result of landmines or unexploded ordnance; and two were killed in targeted killings by other unidentified armed groups. The 33 killed included 15 children and three women.

32. The following incidents are illustrative of the attacks on Rohingya civilians in 2020:

(a) On 12 February 2020, three Rohingya – two children and a civilian – were killed when a shell fired from a security outpost at a nearby bridge landed on a home in Buthidaung township;

(b) On 29 February 2020, six Rohingya civilians were killed in Mrauk-U township when the Myanmar military fired indiscriminately for an hour and a half on a Rohingya village after a vehicle in their convoy was damaged in an explosion;

(c) On 5 October 2020, three Rohingya civilian who worked as vegetable sellers, were shot dead by the Myanmar military in Minbya township after they failed to stop a boat that they were traveling in;

(d) On 5 October 2020, two Rohingya teenagers were killed by bullet wounds that were inflicted in an exchange of fire between the Myanmar military and the AA. The two teenagers were among 15 abducted by the Myanmar military in two neighboring Buthidaung township villages that morning and incurred the injuries after being used as “human shields” by the Myanmar soldiers who abducted them.

33. See appendix III for an accounting of reported killings and serious injuries against the Rohingya, in violation of the ICJ order.

34. In addition to the killings of Rohingya by the Myanmar military, scores more were injured as a result of incidents similar to those described above and Rohingya are among the thousands of people who have been internally displaced by the conflict. Those displaced have experienced severe food and other shortages during a time when Myanmar, like the rest of the world, is dealing with the COVID-19 pandemic. An internet blackout across most of the areas affected by the conflict prevented people living in these areas from receiving and sharing information during a critical time, while travel restrictions have prevented journalists and others from reporting on the conflict. At the same time, Rohingya continue to be subject to severe restrictions on movement within Myanmar and efforts continue to enforce members of the community to accept the National Verification Card, a form of identification which may preclude future efforts by individuals to access their citizenship; while a further 130,000 Rohingya IDPs – separate and distinct to those displaced by the ongoing conflict – continue to reside in camps in central Rakhine nearly nine years after those camps were established.

Arbitrary Arrests and Detentions, Torture, and Enforced Disappearances in Rakhine and Chin State

35. The armed conflict between the Myanmar military and the AA, recognized by the International Committee of the Red Cross as a non-international armed conflict, began in December 2018 in Rakhine and Chin states and expanded in scope and intensity until the general election in November 2020. The military’s longstanding strategy for fighting ethnic armed groups EOAs such as the AA is known as the “Four Cuts Policy,” so-called as it seeks to cut armed groups off from funding, food, intelligence, and recruits from the local population. Consistent patterns of attacks by the Myanmar military against non-combatants, including enforced disappearances, arbitrary arrests and detentions, torture and other cruel, inhumane or degrading treatment or punishment, and extra-judicial killings of civilians have been documented since the beginning and throughout the conflict. In keeping with the Four Cuts Policy, the Myanmar military’s strategy is to target the support of the AA from the local population, relying on demonstrative acts of violence that do not appear to distinguish between AA fighters and Rakhine civilians. While the victims of targeted attacks were largely ethnic Rakhine, other ethnic minorities, particularly Rohingya, were also targeted. In cases of arrests, detention, and extrajudicial killing, the Myanmar military seemed less concerned by any link between the suspect and the AA, rather their main focus appeared to be to instil terror among the civilian population.

36. In more than two years of fighting between the Myanmar military and the AA, there have been dozens of cases of arbitrary arrest of civilians by the Myanmar military on accusations of ties to the AA. Arrests of large groups of men were routinely documented throughout the conflict and a pattern was observed whereby arrests were carried out in villages adjoining areas where AA attacks on the Myanmar military had been carried out in the days before. According to consistent witnesses’ statements, those detained were often of fighting age and many were detained because they were not native to the village they were found in or because they had marks on their bodies consistent with crawling through vegetation, which the Myanmar military apparently interpreted as conclusive that the individuals were involved in AA manoeuvres. In several instances, entire male populations

of villages were detained and questioned. In some cases, the men were blindfolded. Instances of arbitrary detentions increased markedly in frequency following the 23 March 2020 Presidential Order that designated the AA as a terrorist organization.¹ According to local civil society, the Myanmar military arrested more than 360 civilians who were convicted or are awaiting trial, while only 78 were released.

37. In the overwhelming majority of cases of arbitrary detention investigated, torture and other ill-treatment has been documented. Detainees, family members, and lawyers relayed detailed accounts of beatings and instances of burning detainees' flesh with metal rods, the extraction of fingernails, and electrocution. For the most part, arrests were carried out by Myanmar military soldiers and torture almost exclusively in military custody. Detainees are usually held in military barracks for a period of days or weeks, when they are eventually transferred to police custody and criminal cases are initiated against them. Torture usually stopped once detainees were handed over to police. Several individuals provided information concerning loved ones who died in custody. In many of these cases, the body of the detainee was not handed over to the family. In cases where families have seen the bodies of deceased relatives, they described marks that they believed were the result of beatings and electrocution. In 2019, detainees in one instance were shown the dead body of a man that was detained with them during interrogation.

38. Myanmar military units active in northern Rakhine State have an established practice of arbitrary arrests and deaths in their custody. Between 2019 and 2020, there were nine separate instances of deaths in military custody that resulted in 20 fatalities. Twenty-three others are missing and presumed dead following a series of enforced disappearances by Myanmar military Battalion 55 in Kyauktaw township in March 2020 (described below). Given the difficulties in gathering information resulting from an Internet blackout and the ban on media access to the conflict areas, it is probable that this figure does not reflect the full extent of deaths in military custody in Rakhine State over this period. On 26 February 2020, at least 20 people were arrested – 13 women and seven men – near Taung Shay Daung Pagoda in Kyautaw township. All 13 women and one man were released shortly later, but three of the other six men died in custody. Three men were traders of small goods who had plied routes in the area for almost 20 years. One of the men was reportedly hung from a tree by his feet, beaten, and burnt with boiling water. Soldiers reportedly stabbed detainees with knives and forced them to drink noxious substances. In another incident in Mrauk U on 27 September 2020, soldiers of the military's battalion 377 stopped a taxi driver at a checkpoint and took him to the battalion base. His body was returned to his family the next day with visible wounds on his body, and with his hands and legs broken. He had been shot in the head.

39. Myanmar military Battalion 55 displayed a particularly clear pattern and practice of conduct that repeatedly amounted to serious human rights violations, including deaths in custody, enforced disappearances, and the use of torture. Three men died in custody after being detained at Taung Shay Daung Pagoda, as described above. Elements from Battalion 55 carried out a series of arrests in Tin Ma Thit and Tin Ma Gyi villages in Kyauktaw in March 2020. According to multiple eyewitnesses, soldiers took 21 individuals into custody and have since been unaccounted for. They are presumed dead one year later. Myanmar military Battalion 55 never acknowledged the detention of these individuals and never accounted for their presence. As a result, these cases amount to enforced disappearances.

Children in armed conflict

40. Violations of international humanitarian and human rights laws as well as impunity for violations in Rakhine State were pervasive during the reporting period. Serious incidents were reported, including the death of two children and the maiming of another by artillery fire in Myebon Township on 10 September, the killing of two children as they were used as human shields in Buthidaung Township on 5 October, and the death of a boy hit by an artillery shell in Mrauk-U Township on 22 October.

41. According to a UNICEF report, at least 121 incidents involving landmines, explosive remnants of war (ERW), and other explosive hazards took place in the country during the first 10 months of 2020. They killed at least 57 people and injured 160 more, indicating an upward trend in casualties in 2020 compared to 2019, when 57 people were killed and 170

injured in the course of the entire year. The highest number of casualties in 2020 was reported in Rakhine State, with 37 people killed and 71 injured. Rakhine State also accounted for the highest rate of child casualties, with 13 children killed and 34 injured, representing over 44 percent of the total number of people killed or injured across the state, compared to two children injured in Kachin State, and two killed and 18 injured in northern Shan State. Incidentally, in 2020, children represented 34 percent of casualties from landmines and unexploded ordnances (UXOs) countrywide with Rakhine State, accounting for the highest rate (44 percent) of child casualties.

42. In conflict-affected areas, armed conflict presents a significant obstacle to access to education. The majority of incidents in the reporting period took place in northern Rakhine State and Paletwa Township in neighbouring Chin State. The conflict regularly disrupted education for students in these areas.

43. While high schools briefly reopened for approximately one month between 21 July 2020 and 27 August 2020, nearly half the schools in Paletwa Township were reportedly unable to reopen due to the ongoing conflict, and experienced a shortage of teachers ahead of the new academic year, after nearly 200 teachers had applied for relocation due to insecurity in the region. After schools were forced to shut nationwide following the second wave of COVID-19, schools in Myanmar remained closed for the remainder of 2020. At present, the Ministry of Education was expected to roll out its home-based learning programmes in early 2021 to support students in continued learning for the academic year 2020/21. However, distribution of physical copies of home-based learning materials is limited to a relatively small number of townships nationwide, and it is anticipated that students from lower-income families, or living in conflict-affected and rural areas, may not be able to access home-based learning. As a result, the pandemic poses a significant risk of exacerbating existing disparities in access to education and learning outcomes.

Freedom of movement

44. The Rohingya remain cut off from livelihoods, education, and basic services due to ongoing, severe movement restrictions. Reports note impediments to accessing quality medical care were especially problematic during the COVID-19 pandemic. The inability of IDPs to temporarily return to their lands at harvest time has further undermined their self-reliance. Displaced communities have recently described being afraid of going back to their villages due to the presence of landmines within and around their villages. This creates substantial barriers to durable solutions for this oppressed community.

45. Virtually all Rohingya (excluding the very small number who hold citizenship cards) require authorization to leave Rakhine State and to travel outside of their villages or townships within Rakhine State. This time-limited authorization is exceedingly difficult to obtain, considering the administrative and financial requirements, making it unattainable for most. Permission and documentation are needed even to travel short distances from their township and/or village tracts (including to urban areas within townships), severely restricting access to livelihoods as well as basic and life-saving services. Further movement restrictions in some locations were observed with the introduction of new requirements for people to hold National Verification Cards, including for travel within townships. Rohingya can only obtain such a card if they identify themselves as “Bengali” and self-identify as non-indigenous to Myanmar.

46. As part of the Myanmar New Year presidential pardon in April 2020, authorities withdrew all charges against Rohingya arrested for travelling without documents and pardoned those convicted of the same charges. Over 880 Rohingya were consequently released from arrest or detention and returned to Rakhine State. Subsequently, it was observed that Rohingya intercepted en route within Myanmar without requisite documentation had been apprehended and then returned to Rakhine State. They were denied the right to freedom of movement and forcibly returned but charges were not filed. No official or publicly available statement was made by the authorities in this regard. The Special Rapporteur notes reports that treatment of those apprehended has also been inconsistent, ranging from timely release (in line with COVID-19 measures) to prolonged detention in

police stations, prison, or quarantine facilities. But the right to freedom of movement is being consistently denied.

47. An estimated 600,000 vulnerable, stateless Rohingya still live in Rakhine State, including some 130,000 whom the government has confined to IDP camps in central Rakhine since 2012. The cumulative effect of the armed conflict, COVID-19, and attendant measures comprising curfews and other movement restrictions as well as mobile data/internet shutdowns, exposes already vulnerable populations (including IDPs in protracted situation and ongoing new displaced populations), to even greater risks, and significantly impacts access to livelihoods and essential services. While restrictions on movement affected all communities, the Rohingya faced additional obstacles/threats – for instance, when seeking safety or accessing life-saving services at night – due to pre-existing movement restrictions. The pandemic exacerbated longstanding prejudices and negative rhetoric against the Rohingya in Rakhine State (i.e. in relation to “illegal” cross-border movements) accompanied by increased calls for the Government to control the country’s borders.

48. In Rakhine State, Rohingya and other communities of ethnic nationalities, including Rakhine (Arakanese), Chin, Mro, Khumi, Kaman, Maramagyi, and Daignet are most susceptible to extortion by state security forces when attempting to access livelihoods, services, education, or health care, not least when permission is required from authorities. Limitations on movement and other COVID-19 measures aggravated incidents of extortion. Extortion not only impedes daily activities but also compromises the already precarious safety and security situation, and overall protection/wellbeing of individuals and their community. Beset by structural poverty and formal and informal movement restrictions (including the frequent change in documentary and other requirements) that impede access to services and livelihoods, prolonged extortion erodes resilience, heightens risks of negative coping strategies (debt, gender-based violence, trafficking), and negatively impacts trust/confidence and community self-governance. Government authorities, such as local administrators, security forces (police, military), and Camp Management Committees (CMCs), have been the main perpetrators in the Rohingya camps. Incidents largely take place at checkpoints (both police and military) and in IDP camps, which includes distribution points. Those affected include men, women, and children passing through checkpoints. In IDP camps, families dependent on CMCs for approvals (to leave camps, visit clinics, or secure referral to hospitals) or for inclusion in household lists are prone to extortion perpetrated by the CMC members.

Humanitarian Access

49. Throughout 2020, humanitarian organizations had varying degrees of difficulties gaining access to crisis-affected people in targeted locations due to security challenges and government restrictions. Access constraints imposed by the government since 2016 frequently resulted in difficulties and delays in assessing needs and implementing and monitoring response activities.

50. In Kachin State, despite a lull in conflict since 2018, access for many humanitarian organizations continued to be challenging. International humanitarian organizations have had very limited access to camps in Kachin Independence Organization areas that have hosted some 40,000 displaced persons since early 2016. Local partners continued to respond in these areas, albeit in challenging circumstances, with closures of the border with China in response to the COVID-19 pandemic further complicating movement, programming, and access to markets. In addition to the government’s non-issuance of travel authorizations for aid workers, poor infrastructure and monsoon flooding further complicated efforts to reach people in need in locations across Kachin State, undermining the quantity, quality, and sustainability of assistance and services provided to IDPs and host communities.

51. Permission for humanitarian actors to access areas in Southeast Myanmar remain limited, particularly in areas controlled by EAOs, impacting delivery of assistance to displaced communities.

52. In northern Shan State, sporadic outbreaks of fighting seriously impacted the civilian population, in addition to the many of challenges noted in relation to neighboring Kachin

State. Securing travel authorization is particularly challenging for UN and INGO partners attempting to access locations hosting internally displaced persons. Organizations operating in these areas also faced challenges relating to poor infrastructure and military checkpoints.

53. In Rakhine and Chin states, national and international humanitarian organizations continued facing increasing challenges in reaching affected people despite an agreement reached with UNHCR and UNDP. Many areas were cut off due to restrictions including shifting travel authorization requirements, insecurity, landmines, or poor infrastructure. This has exacerbated already limited access in many parts of Rakhine State. Access to sites hosting people displaced by the armed conflict between the Myanmar military and the AA has been particularly challenging, especially in rural areas, with travel authorization often limited to particular sectors and granted for short periods of time, impeding the provision of quality, predictable humanitarian assistance and services.

Impact of COVID-19 on humanitarian access in Rakhine

54. The government imposed stringent measures in Rakhine State after the first locally transmitted COVID-19 case was diagnosed in the state in mid-August, which severely impacted the delivery of humanitarian aid. These measures included the full suspension of activities of humanitarian organizations whose staff tested positive, including activities such as mobile-clinic services, quarantine for primary and secondary contacts, and a requirement for frontline humanitarian staff to undergo testing before resuming their activities. The Rakhine State Government limited the humanitarian response to “essential assistance,” which initially only included activities, such as health, food support, water and sanitation, and COVID-19 response. The State Government also imposed restrictions on the movement of humanitarian personnel into and between camps and displacement sites and instructed humanitarian actors to hand over supplies to camp management committees and/or local authorities. It is reported that around half of the activities were partially disrupted and one third fully disrupted.

III. Statelessness, internal displacement and the right of return

Statelessness

55. No tangible progress was reported in improving the situation of the Rohingya with regard to their legal status and right to a nationality, or restoring citizenship in line with the Government of Myanmar’s endorsed Advisory Commission on Rakhine State recommendations. Without reform of the 1982 Citizenship Law, discrimination based on an applicant’s ethnicity – in both law and practice – continues to impede the acquisition of citizenship documentation among minority groups, with the Rohingya being the most affected.

56. Citizenship remains inaccessible to almost all Rohingya. The citizenship process continues to lack transparency and involve prohibitively high unofficial fees and burdensome evidentiary and administrative requirements. Recent trends also indicate that the Rohingya are being issued Naturalized citizenship even when eligible for full citizenship. Access to civil and citizenship documentation remains challenging countrywide, with ethnic and religious minority groups being the most, but not exclusively, affected. Several reports have highlighted numerous barriers faced by different groups across Myanmar in obtaining nationality documents, including logistical, gender-based, administrative, and cost, as well as parallel administrative systems in non-governmental controlled areas (NGCA). Measures aimed at improving access to citizenship documents, such as streamlined procedures and mobile missions, apply exclusively to persons from the 135 officially recognized ethnic groups, despite that the origins and legal nature of the “official” list remain dubious. The burden of proof rests fully on the applicant, and officers mandated to determine nationality have a high discretion on the type and number of documents that they can request the applicant to submit. This results in a complex, lengthy, time consuming, and at times arbitrary and discriminatory, process preventing disadvantaged and vulnerable groups from realizing their right to nationality.

57. The Government of Myanmar had been planning to introduce a digitized identity management system (the e-ID system) to develop a digital population registry with biometric data of all individual residents. The plan would include the issuing of smart card IDs to registered individuals verified as citizens. While this would have advantages if implemented with critical protections in place, such a system has significant disadvantages under current conditions in Myanmar. The government, the military, and the private sector allegedly collect personal biometric data without comprehensive data protection legislation in line with international human rights law. This renders people in Myanmar vulnerable to abuse of their personal information without adequate independent oversight and protection of their rights. It is therefore necessary to ensure that personal biometric and identity information is adequately protected from undue interference or manipulation, including surveillance and interception of communications, and to guarantee effective civilian oversight and procedural safeguards of the population register. Developing a digital civilian-controlled population register is corollary to adopting legislation that is in line with international human rights law. Advancing a digitized identity management system without first addressing the gaps in the laws and their implementation will not only fail to address the underlying issues, but risk entrenching existing discrimination and rights deprivations.

Internal displacement

58. Protracted and recurrent displacement, poor living conditions, dependency on humanitarian assistance, and the impact of COVID-19 on access to services and livelihoods have negatively impacted both displaced and non-displaced populations. In some cases, this has significantly exacerbated the existing challenges faced by marginalized communities. The Myanmar military-Arakan Army fighting contributed to the largest increase in displacement, with over 100,000 people displaced as of the end 2020. Humanitarian organizations project that one million people in Kachin State, northern Shan State, Rakhine State, southern Chin State, eastern Bago Region, and Kayin (Karen) State will continue requiring urgent humanitarian assistance in 2021; estimating 30 percent of IDPs as falling into the “extreme” severity of need, with close to 70 percent in the “severe” category.¹

59. In Rakhine and Chin states, close to 50,000 people were forced to flee from their homes in 2020, and by the end of the year, around 100,000 people were displaced in over 194 sites in the two states. This increase in displacement compounded challenges faced by host communities that were in many cases also affected by the conflict, including growing landmine and unexploded ordnance contamination. Hostilities also hampered access to markets and livelihoods, with roads and waterway transportation regularly blocked by the parties, particularly in Paletwa Township in Chin State and the Dar Lett Village Tract in Ann Township in Rakhine, disrupting logistics and supply chains.

60. In central Rakhine State, 130,000 people, the vast majority of whom are stateless Rohingya, 54 percent of whom are children, were confined to what can best be described as desolate internment camps. Under the best of circumstances, they had extremely limited access to healthcare, even before the onset of the COVID-19 pandemic. In total, an estimated 600,000 Rohingya live in Rakhine State under highly repressive conditions that severely limit their ability to move or make a living, let alone access health care or education for their children. Conditions for Rohingya in Rakhine State appear designed to be destructive to the survival of the community.

61. In northern Shan State, clashes between the Myanmar military and Ethnic Armed Organizations (EAOs), especially with the Restoration Council of Shan State/Shan State Army (RCSS/SSA), led to the displacement of around 8,700 people throughout 2020. Namtu and Kyaukme townships registered the highest number of internal displaced persons, with 4,000 people displaced in Kyaukme in early October alone. Civilian casualties were reported in northern Shan State due to the armed clashes, as well as explosions of landmines and ERW. An estimated 9,700 IDPs remained in protracted displacement in sites in northern Shan State.

62. Despite a decrease in clashes between Myanmar military and the KIA in Kachin State since mid-2018, landmines and explosive hazards continue to pose a deadly risk to civilians.

Nearly 96,000 people remained in IDP camps established after fighting broke out in 2011, roughly 40,000 of whom are in areas controlled by non-state armed actors.

63. Access barriers remain in Kachin and northern Shan states for some 105,000 IDPs in protracted displacement and who continue to depend on humanitarian assistance to meet their basic needs. Of particular concern was the impact of COVID-19-induced restrictions on the Chinese border, which limited access to cross-border livelihoods and provision of food assistance to IDPs in NGCAs in Kachin State. Fear of the pandemic and shrinking livelihood opportunities resulted in increased IDP movements to and from their villages of origin, including to villages in militarized and/or contested areas where armed actors' positions and explosive remnants of war contamination risks remain.

64. Implementation of the National Strategy on the resettlement of internally displaced persons remained problematic. Concerns remained around the Government's approach of prioritizing quick, visible gains and infrastructure-oriented intervention, leading to the premature closure of camps and/or return of IDPs without guarantees of voluntariness, safety, and dignity. Humanitarian landmine-clearance has yet to be undertaken as mines continue to be used, and efforts to clear mines remain dependent on the fledgling peace process and stymied by trust issues between parties to the conflict. The 2012 Farmland Law links citizenship to the right to register and acquire the right to use farmland, while the revised 2018 Vacant, Fallow and Virgin Land Management Law classifies land not being used as vacant and available for grants of use rights to other parties – compromising the housing, land, and property (HLP) rights of stateless and displaced persons.

65. The Government's approach toward the closing the Kyauk Ta Lone IDP Camp in central Rakhine State demonstrates the gap between the principles set out in the National Strategy and facts on the ground. Concerns center around possible undue influence being exerted on affected communities – mostly Rohingya Muslims – to accept the relocation plan without safeguards of rights and pathways for freedom of movement. Occupants allegedly remain confined to their sites without freedom of movement to access education, markets, or health services, including shelter and Water, Sanitation, and Hygiene interventions requiring immediate interventions in some locations.

The right of return

66. In 2020, the actual movement of IDPs to their villages of origin remained, at best, modest. In fact, rather than returning to live, many were only able to try to verify that the village continued to exist or try to undertake livelihood activities. Clearing landmines, engaging in meaningful consultations with IDPs about their interests and needs, addressing land rights, and promoting access to basic services and livelihoods remain key unresolved issues. The Special Rapporteur notes that in November and December, Government officials reportedly took steps to encourage populations displaced during the Myanmar military-AA armed conflict in several townships throughout Rakhine State to consider returning to their places of origin. These IDPs remain concerned about the resumption of clashes, the possible presence of landmines, access to services, and other relevant issues.

67. In Kachin State and, to a lesser extent, in northern Shan State, IDP movements from areas of displacement have been driven by a combination of self-initiated returns or relocations, local civil and faith-based organizations, and/or EAO arranged interventions, as well as some local Government supported programmes. Displacement fatigue on the part of IDPs and host communities, capitalizing on modest opportunities for improvement, have reportedly motivated these efforts, even if the solutions have been less than ideal or more transitory in nature.

68. In northern Rakhine State, the right of refugees to return to their original places and recover their house, land, and property further deteriorated in 2020, with reports of bulldozing and the clearing of homes and land, encroachment and confiscation of the house plots/land left behind. Additionally, Rohingya villages were subjected to reclassification, in some cases being removed from official maps. As widely reported, including a report to the Human Rights Council by the Special Rapporteur, refugee land has been used by various actors for different purposes including the development of security compounds, government buildings,

and development projects in new villages/settlements. Moreover, an apparent shift in policy was observed since the escalation of the COVID-19 cases, as “spontaneous” refugee returnees from Bangladesh previously processed under the Union Enterprise for Humanitarian Assistance, Resettlement and Development framework and permitted to return to their original or other places, instead faced charges and were sentenced for illegal entry. On the Thailand-Myanmar border, more than 120,000 refugees remained stranded in camps and unable to return, which has been exacerbated by the resumption of armed conflict between the Myanmar military and the KNLA.

IV. Ending business and arms trade with the Military

Business with the Myanmar Military

69. The Independent International Fact-Finding Mission on Myanmar (FFM) published its report on the economic interests of the Myanmar military to the Human Rights Council at its 42nd session in August 2019 (A/HRC/42/CRP.3). The FFM concluded that no business “should enter into an economic or financial relationship with the security forces of Myanmar, in particular the military, or any enterprise owned or controlled by them or their individual members, until and unless they are re-structured and transformed as recommended by the [FFM].”¹

70. The Special Rapporteur can report that following the publication of the 2019 report, several companies took steps to follow the recommendations laid out by the FFM. That said, many companies continued to conduct business with military-owned enterprises and the Special Rapporteur will subsequently report his findings. The Special Rapporteur is encouraged to see many companies re-examining their business relationships following the coup. See Annex IV for a list of actions companies have taken since the August 2019 FFM report.

71. Newtec, now ST Engineering, a Belgian satellite communications company, was one of the first businesses to cut ties following the FFM report. In 2018, it supplied equipment and technology to Mytel – a network operator jointly owned by MEC and Viettel (part of Vietnam’s Ministry of Defence) – through a deal with Com & Com to launch a mobile backhaul network. In August 2019, Newtec released a statement saying it would “follow the recommendations by the UN and stop commercial ties with Mytel” by refusing requests made by Com & Com to use Newtec products and services in the Mytel network.¹

72. Maersk (Denmark), the largest shipping company in the world, announced in October 2020 that it would no longer use TMT Port, which is owned by MEHL.¹ TMT Port is jointly managed by a British company, Portia Management Services, and domestic company, KT Services.¹ Portia Management Services stated in June 2020 that it had no plans to renew its contract with the port past its expiration in 2021.¹

73. In January 2020, Western Union (US) confirmed it would be ending its contract with Myawaddy Bank, which is owned by MEHL.¹

74. Kirin Holdings, which once controlled 80 percent of Myanmar’s beer market through its joint ventures with MEHL in Mandalay Brewery Ltd and Myanmar Brewery Ltd, began taking steps in line with the FFM’s recommendations in February 2020, when it announced it met with MEHL management to discuss the issues identified in the 2019 report and requested that MEHL provide updated details on its financial and governance structures.¹ In June 2020, Kirin appointed Deloitte Tohmatsu Financial Advisory LLC to conduct an independent review of said structures to determine the destination of profits from both joint ventures.¹ Kirin eventually suspended dividend payments from Myanmar Brewery and Mandalay Brewery to MEHL in November 2020, and on 5 February announced it would be ending the joint ventures with MEHL in light of the military coup.¹

75. Rothmans Myanmar Holdings Singapore (RMHS) is a joint venture partner with MEHL in Virginia Tobacco Co. Ltd., which produces the two most popular cigarette brands in Myanmar, Red Ruby and Premium Gold. RMHS announced in December 2020 that it would be taking legal action against MEHL for “oppressive treatment” and a failure to meet

its demands for greater transparency following the release of the 2019 report. Following the coup, RMHS major shareholder Lim Kaling announced he was exiting the joint venture.¹

Transfer of Arms to Myanmar Military

76. The FFM also called for sanctions and a comprehensive arms embargo on the Myanmar military (A/HRC/42/CRP.3). In June 2020, the Human Rights Council expressed deep concern that illicit arms transfers were seriously undermining human rights (A/HRC/43/26). Several nations prohibit the sale of weapons and military equipment to Myanmar, including dual-use goods. See appendix IV for a list of countries with arms embargoes against Myanmar, which includes the United States, United Kingdom, Australia, Canada, and European Union member states.

77. From the release of the FFM report up until January 2021, numerous reports highlighted that the Myanmar military continued to purchase military infrastructure and dual use technology, including cargo aircrafts, air defence systems, drones, and radar. Moreover, international businesses continued to purchase information and communications technology from Mytel, a company run by the Myanmar military.

78. The FFM report identified sixteen state-owned and private companies that sold conventional arms and related goods to the military and seven private companies from which the military bought or attempted to buy dual-use goods and technologies from. Only two of these companies, Dejero (Canada) and Jotron (Norway), reported taking action. Dejero confirmed its newsgathering equipment had been resold to a television network in Myanmar in both 2017 and 2018. Following the recommendations of the 2019 report, Dejero instructed the reseller in August 2019 to end such business.¹ Internal investigation at Jotron revealed their Singapore-based subsidiary delivered air traffic control communications equipment to Myanmar, following Singaporean guidelines that had no restrictions on supplying dual-use goods to Myanmar at the time. However, Jotron instructed all subsidiaries to follow the guidelines set by the Norwegian Department of Foreign Affairs (which lists Myanmar as a restricted zone) instead of local jurisdiction moving forward.¹

V. Ending Land and Labour Exploitation

Forced labour

79. Forced labour, the recruitment of children, and violence against workers continued to be reported during the reporting period. A significant rise was reported in both adults and children being forced to act as porters, guides, and human shields. In northeast Kachin and northern Shan states there were numerous reports of men and teenagers intercepted outside of the camps when returning home. Despite the commitment of the Myanmar military to engage with the Country Task Force on Monitoring and Reporting (CTFMR), the death of two boys in Buthidaung Township on 5 October demonstrated continued use of children. The Myanmar military denied any responsibility for the incident.¹

80. Myanmar military-owned business conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC), continued to be actively involved in business and commercial activities such as construction, mining, tourism, banking, pharmaceuticals, and insurance. After a long and devastating history of State-sponsored forced labour, the 2008 Constitution included a prohibition of forced labour in Article 359. However, the Article contains a broad provision allowing legal exception for the use of forced labor in cases of “duties assigned by the Union in accordance with the law in the interest of the public.” The constitution should be amended in order to bring it into conformity with the Forced Labour Convention, 1930 (No.29), which Myanmar ratified in 1955, and to strengthen parliamentary oversight functions relating to forced labour.¹

81. In June 2020, Myanmar ratified the Minimum Age Convention of 1973 (138). This represents a significant step forward for children, particularly in the midst of the COVID-19 pandemic. Child labour severely impairs the health, well-being, and development of an

estimated 1.13 million children across the country. The Special Rapporteur echoes the need to adopt the ILO recommended hazardous work list along with enabling regulation, to prevent the worst forms of child labour. The Special Rapporteur notes that the National Forced Labour Complaints Mechanism Committee in Nay Pyi Taw continued to work on institution building and pending cases following its establishment in February 2020. He calls for a credible national mechanism in line with the comments by ILO supervisory bodies.

Development projects, forced evictions and land grabbing

82. There were reports of forced eviction and land grabbing that were allegedly used by the government and Myanmar military to expand development projects in Myanmar in violation of the rights of individual landowners and tenancy holders. The majority of residents in informal settlements endure tenuous forms of tenure security and the pervasive threat of evictions. Land confiscation, proliferating commercial/foreign agri-business investments, and landmine contamination further impact the ability of displaced persons to return to areas of origin and reacquire use of their land.

83. In May 2020, UN-Habitat published its rapid assessment of the impact of COVID-19 on informal settlements and found that 53 percent of respondents were afraid of being evicted from their homes during the pandemic.¹ More women respondents reported eviction-related insecurity (57 percent) compared to men (49 percent). COVID-19 has brought a renewed threat of mass eviction to informal settlements, which compounds the increasing number of reports of domestic violence during lockdown and susceptibility to infection. Evictions or the threat of evictions have been related to a range of negative health outcomes, including high blood-pressure, depression, anxiety, and forms of psychological distress.

VI. Conclusion and Recommendations

Conclusion

84. **These recommendations remain relevant when democracy is restored in Myanmar and the Special Rapporteur includes them herein.**

85. **This annex demonstrates that even prior to the military coup, the Myanmar government and military violated people's rights to freedom of expression, assembly and association, and right to life, liberty, and security of person. Individuals were disenfranchised because of their ethnicity and unable to attain citizenship. Myanmar security forces engaged in arbitrary arrests, torture, and enforced disappearance just as in post-coup Myanmar. The next democratically elected government must address these glaring violations of human rights.**

Recommendations

86. **The Special Rapporteur's recommendations after the restoration of a legitimate government include:**

(a) **Initiate a process to consider fundamental changes to the constitution whereby the military is fully accountable to a legitimate democratically elected government;**

(b) **Ensure the rights to freedom of opinion and expression, peaceful assembly and association, and repeal any law that criminalizes or unduly restricts their enjoyment, online or offline, or that is used as an instrument of repression, including against land and environmental activists, artists, journalists, human rights defenders, civil servants, civil society organizations, ethnic nationalities, and displaced people. Suspend the enforcement of these laws until they can be stricken;**

(c) **Protect the right to information to ensure rapid and practical access to information of public interest;**

- (d) Urgently address the situation of armed conflict in various parts of Myanmar by ensuring a continuation of formal and informal ceasefire agreements, ending armed conflict with Ethnic Armed Organizations, taking all possible measures to avoid civilian casualties and cease the use of, and damage to, homes, schools, and religious facilities;
- (e) Address the unresolved issues involving ethnic minority states and communities including justice for the Rohingya ethnic community;
- (f) Ensure full cooperation with the proceedings at the International Court of Justice and other justice initiatives by international and domestic courts or tribunals, including the Office of the Prosecutor at the International Criminal Court, to address allegations of gross violations of international human rights and humanitarian law;
- (g) Lift all restrictions arbitrarily imposed and enforced on Rohingya that, taken as a whole, create conditions that are destructive to the Rohingya, including, but not limited to, restrictions on freedom of movement, health, education, livelihoods, and equal access to citizenship;
- (h) Invite the Office of the United Nations High Commissioner for Human Rights to open an office in Myanmar with a broad mandate to monitor and investigate human rights violations and to provide technical support as needed;
- (i) Welcome the UN Special Rapporteur on the situation of human rights into the country, providing full cooperation and unfettered access;
- (j) Engage with persons with disabilities and organizations of persons with disabilities to fully implement the Law on the Rights of Persons with Disabilities that provides the legal framework for implementing the Convention on the Rights of Persons with Disabilities;
- (k) Ensure that the use of information technology that includes biometric data to register citizens for elections, and the use of new voting technologies, are established by law and in accordance with international standards, including the principle of non-discrimination, the right to privacy, and the rights of ethnic nationalities;
- (l) Develop a legal framework required to ensure data protection through a transparent, inclusive, and participatory consultative process with all stakeholders;
- (m) Restore full Internet and mobile connectivity in Rakhine and Chin states, repeal provisions in the 2013 Telecommunications Law that allow for arbitrary disconnection, and ensure its compliance with international law;
- (n) Undertake broad and comprehensive legal reform of laws and provisions that unduly restrict and criminalize legitimate activity, such as the Penal Code, the Official Secrets Act, the Unlawful Associations Act, the Telecommunications Law, the Law on Protecting the Privacy and Security of Citizens, the Electronic Transactions Law, the Counter-Terrorism Law, and the News Media Law;
- (o) Urgently amend the Penal Code to include a definition of torture, violence against women and other forms of sexual and gender-based violence, and of serious international crimes, including genocide, crimes against humanity, and war crimes, and include provisions for compensation and redress for victims, and for protection of witnesses;
- (p) Adopt legislation on the Prevention of Violence Against Women that covers conflict-related violence and accords adequate support to victims and witnesses. Amend or repeal laws that are not compatible with the Convention on the Elimination of all Forms of Discrimination Against Women, including with regard to gender stereotypes inconsistent with the promotion and protection of women's rights to equality and non-discrimination. Take decisive steps to put an end to conflict-related sexual violence, including violations committed by the Myanmar military and Ethnic Armed Organizations, and develop policy measures to expressly prohibit rape and other forms of sexual violence, and to bring perpetrators to justice through fair trials;

(q) Ensure that freedom of religion and belief can be exercised and guarantee that any advocacy for or incitement to hatred and violence is effectively addressed and countered, including in print, broadcast, and social media, in line with Human Rights Council resolution 16/18 and the Rabat Plan of Action. Publicly counter dangerous nationalist and populist narratives and actively promote pluralism, tolerance, and inclusion;

(r) Permanently end the persecution of journalists, human rights defenders, or others who exercise their right to freedom of expression and release all persons held in detention for legitimate activities. Dismiss all politically motivated charges that contravene human rights, including the rights to freedom of expression, peaceful assembly, and association. Ensure that redress is provided for any psychological or physical harm caused to them;

(s) End arbitrary detention, including incommunicado detention, of people suspected of being associates of Ethnic Armed Organizations and ensure the right to a fair trial and judicial guarantees in all cases. Address torture or ill-treatment in prisons and detention settings and undertake independent and impartial investigations into any allegations of torture, ill-treatment, and deaths in custody, including those during the riot in Shwebo prison in May 2020;

(t) Take decisive steps to improve and strengthen the justice system, including by countering political influence and corruption in the judiciary, guaranteeing civilian jurisdiction over crimes committed by the military and related personnel, and guaranteeing the independence of judges and prosecutors. Undertake reforms to strengthen justice-sector capacity and guarantee full access to justice and legal aid for all people, including ethnic nationalities; and

(u) Implement the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, and amend the founding law of the Myanmar National Human Rights Commission to bring it in line with the Paris Principles.

87. The Special Rapporteur recommends the Government of Myanmar and Ethnic Armed Organizations:

(a) Cease deployment of military forces to contested areas and observe a nation-wide ceasefire;

(b) End violations against civilians, including targeted and indiscriminate killings, rape, arson, forced displacement, forced labour, and damage to civilian objects and non-military targets;

(c) Guarantee full access to humanitarian actors providing lifesaving support to people in need; establish a more predictable and efficient Travel Authorization mechanism for humanitarian aid workers; and allow for media and human rights monitors to freely access areas affected by conflict and violence and report on their findings; and

(d) Immediately stop laying landmines, ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, clear landmines and unexploded ordnances from contaminated areas in accordance with international mine action standards, properly mark and fence contaminated areas prior to clearance activities, and carry out systematic mine-risk and education activities, and permit humanitarian mine-action organizations to engage in mine clearance activities.

Appendix I

Non-exhaustive list of international companies disengaging from Myanmar military-affiliated entities following the Independent International Fact-Finding Mission on Myanmar's August 2019 report (Aug. 2019–Jan. 2021)

<i>No.</i>	<i>Company</i>	<i>Country</i>	<i>Background</i>	<i>Action</i>	<i>Date</i>
1	Dejero	Canada	According to FFM, the Tatmadaw procured dual-use Dejero data streaming equipment. Dejero confirmed its equipment was resold to a Myanmar “television network” in 2017 and 2018.	Instructed the reseller to suspend further sales of their products to Myanmar. ¹	August 2019
2	Esprit Holdings	Hong Kong, China, Germany	Ordered from Perfect Gains Garment Manufacturing, a factory inside Ngwe Pinlae Industrial Zone that is owned by MEHL.	Halted all future orders made to the factory. ²	August 2019
3	Jotron	Norway	According to FFM, Jotron supplied nearly US \$45,000 in air traffic control communications equipment to the Tatmadaw. Jotron confirmed its Singapore-based subsidiary delivered the equipment to Myanmar.	Instructed its subsidiaries to comply with guidelines set by the Norwegian Dept of Foreign Affairs (Myanmar is under an arms embargo) instead of local jurisdiction. ³	February 2020
4	Kirin Holdings	Japan	Operated joint ventures Mandalay Brewery Ltd and Myanmar Brewery Ltd with MEHL; partner companies of Myanmar Brewery donated Ks 17.9 million (US \$12,785) to the Tatmadaw.	Appointed Deloitte to conduct review of joint ventures to determine destination of their profits; suspended dividend payments; announced ending on 5 February. ⁴	June 2020
5	LafargeHolcim	France, Switzerland	Lafarge (now LafargeHolcim)’s cement repacking subsidiary had leadership links with SinMinn Cement, an MEHL subsidiary.	Liquidated subsidiary. ⁵	July 2020
6	Maersk	Denmark	Used TMT Port, which is owned by MEHL and managed by a subsidiary of crony conglomerate KT Group of Companies.	Announced it will no longer use TMT Port. ⁶	October 2020

No.	Company	Country	Background	Action	Date
7	Marks & Spencer	United Kingdom	Used Myanmar Wise-Pacific Yangon Co., an MEHL joint venture, as a supplier.	No longer sources from Wise-Pacific. ⁷	August 2019
8	Newtec (ST Engineering)	Belgium	Supplied equipment and technology to Mytel through a contract with Com & Com.	Announced it would stop all commercial ties with Mytel and refuse requests made by Com & Com to use Newtec products in the Mytel network. ⁸	August 2019
9	Pan-Pacific	South Korea	Joint venture Myanmar Wise-Pacific Yangon Co. with MEHL.	MWY was renamed to EO Yangon Co. Ltd. and MEHL is no longer a joint venture partner. EO Yangon is now wholly owned by EO Co. Ltd. ⁹	September 2020
	Portia Management Services	United Kingdom	Operated TMT Port in Yangon jointly with crony company KT Services. The port is owned by the military controlled Myanmar Economic Holdings Ltd.	Decided to not renew contract with KT Group (set to expire in 2021). ¹¹	June 2020
11	Rothmans Myanmar Holdings Singapore	Singapore	Joint venture Virginia Tobacco Co. Ltd. with MEHL.	Taking legal action against MEHL for failure to meet demands for greater transparency following FFM report.	December 2020
12	Western Union	United States	Contract with Myawaddy Bank, which is owned by MEHL.	Ended contract with Myawaddy Bank.	January 2020

¹ “Response by Dejero,” Business & Human Rights Resource Centre, 16 February 2020, <https://www.business-humanrights.org/en/latest-news/response-by-dejero/>.

² “Fashion brands rethink Myanmar position after report on military ties,” *Nikkei Asia*, 26 August 2019, <https://asia.nikkei.com/Business/Business-trends/Fashion-brands-rethink-Myanmar-position-after-report-on-military-ties>.

³ “Response by Jotron,” Business & Human Rights Resource Centre, 16 February 2020, <https://www.business-humanrights.org/en/latest-news/response-by-jotron/>.

⁴ “Progress Report Regarding Kirin’s Operations in Myanmar,” Kirin Holdings, 5 June 2020, https://www.kirinholdings.co.jp/english/news/2020/0605_01.html.

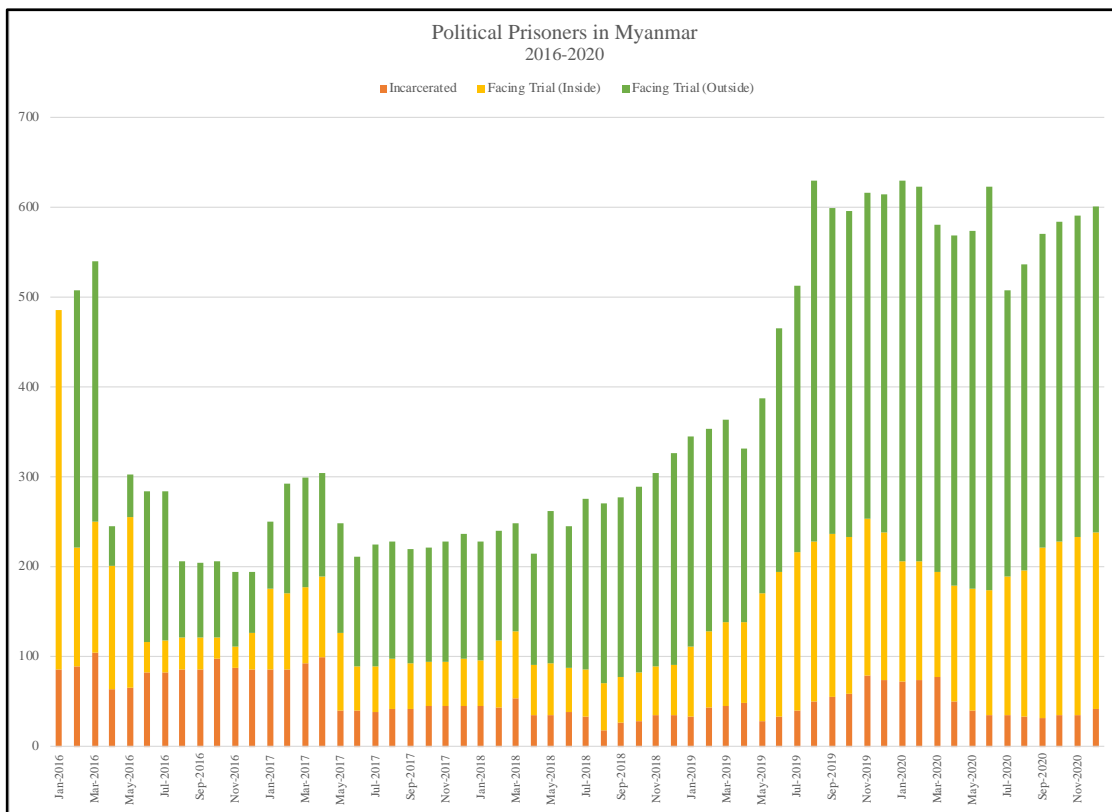
⁵ “LafargeHolcim to shut down company in Myanmar,” Global Cement, 28 July 2020, <https://www.globalcement.com/news/item/11133-lafargeholcim-to-shut-down-company-in->

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- ⁶ “Shipping Giant Maersk To Stop Using Military Ports in Burma,” Burma Campaign UK, 8 October 2020, <https://burmacampaign.org.uk/shipping-giant-maersk-to-stop-using-military-ports-in-burma/>.
- ⁷ “Fashion brands rethink Myanmar position after report on military ties,” *Nikkei Asia*, 26 August 2019, <https://asia.nikkei.com/Business/Business-trends/Fashion-brands-rethink-Myanmar-position-after-report-on-military-ties>.
- ⁸ “Newtec Statement on the Findings of The International Fact-Finding Mission on Myanmar,” Burma Campaign UK, 6 August 2019, <https://burmacampaign.org.uk/media/Newtec-Statement-on-the-findings-of-the-Independent-International-Fact-Finding-Mission-on-Myanmar.pdf>.
- ⁹ “EO Yangon Co. Ltd. Statement,” Justice For Myanmar, 1 March 2020, https://uploads-ssl.webflow.com/5e691d0b7de02f1fd6919876/603c5afb875cc7c8e02cbd3a_EO%20Yangon.png.
- ¹⁰ “British Company Portia to Stop Managing Military Port in Yangon,” Burma Campaign UK, 23 July 2020, <https://burmacampaign.org.uk/british-company-portia-to-stop-managing-military-port-in-yangon/>.

Appendix II

Political Prisoners in Myanmar, January 2016-December 2020¹



¹ AAPP Political Prisoner Lists, Assistance Association for Political Prisoners (Burma), January 2016 to December 2020, <https://aappb.org/?cat=105>.

Appendix III

Reported killings and serious injuries of Rohingya civilians (January 2020–January 2021)*

Targeted killings

<i>Date</i>	<i>Type</i>	<i>Summary</i>	<i>Civilians killed</i>	<i>Civilians injured</i>	<i>Alleged perpetrator</i>	<i>State/Township</i>
18 February 2020	Execution	A Rohingya civilian was executed by an identified armed group.	1	-	Other armed groups	Rakhine State/Mrauk-U
29 February 2020	Small arm fire	The Arakan Army ambushed a convoy of 18 Myanmar military vehicles near the village which led to a clash. Afterwards, the Myanmar military fired into a nearby Rohingya village for an hour and a half, killing six Rohingya civilians.	6	-	Myanmar military	Rakhine State/Mrauk-U
2 August 2020	Execution	The Myanmar police shot two Rohingya civilians. One died and another was injured.	1	1	Police	Rakhine State/Sittwe
5 October 2020	Execution	The Myanmar military entered into two adjoining villages and detained 14 villagers to be porters and guides. Some of those detained were Rohingya cattle herders. The detainees fled and one person was injured. 12 villagers out of 14 detained villagers returned to the village. Two missing civilians were found dead with gun wounds on the next day, having been used by the Myanmar military as “human shields.”	2	1	Myanmar military	Rakhine State/Buthidaung
5 October 2020	Execution	On 5 October 2020, in Minbya Township the Myanmar military shot three Rohingya civilians to death.	3	-	Myanmar military	Rakhine State/Minhya
9 October 2020	Execution	A Rohingya civilian was detained by the Myanmar military in Maungdaw township and later died in custody.	1	-	Myanmar military	Rakhine State/Maungdaw

* Non exhaustive.

** Total: 33 killed, including 15 children and 3 women, and 38 injured.

<i>Date</i>	<i>Type</i>	<i>Summary</i>	<i>Civilians killed</i>	<i>Civilians injured</i>	<i>Alleged perpetrator</i>	<i>State/Township</i>
11 January 2021	Execution	A Rohingya civilian went to the paddy fields at the night. His body was found the following day having been killed by an identified armed group.	1	-	Other armed groups	Rakhine State/Minbya

Civilian Casualties

<i>Date</i>	<i>Type</i>	<i>Summary</i>	<i>Civilians killed</i>	<i>Civilians injured</i>	<i>Alleged perpetrator</i>	<i>State/Township</i>
25 January 2020	Shelling	An artillery shell landed in a bed of a house and killed two Rohingya civilians and injured 7 others.	2	7	Myanmar military	Rakhine State/Buthidaung
10 February 2020	Landmine/UXO	On 10 February, four Rohingya civilians were killed and six were injured in Buthidaung township as a result of a landmine/UXO.	4	6	Unidentified	Rakhine State/Buthidaung
10 February 2020	Shelling	A Rohingya civilian was killed and three were injured by an artillery shell fired from the Myanmar military navy ship on Kaladan river.	1	3	Myanmar military	Rakhine State/Kyauktaw
12 February 2020	Shelling	An artillery shell landed into a house killing three Rohingya civilians and injuring two others. Relatives of the victims state that the artillery shell came from a security outpost where Myanmar military border guard forces are stationed.	3	2	Myanmar military	Rakhine State/Buthidaung
18 February 2020	Landmine/UXO	A Rohingya civilian was killed by a landmine blast.	1	2	Unidentified	Rakhine State/Buthidaung
26 February 2020	Small arm fire/Landmine/UXO	A Rohingya civilian who was tending the cows near a border police checkpoint was hit by stray pieces of artillery shell and killed. However, it was unclear whether he was hit and killed by the artillery shell or he stepped on a landmine and the explosion killed him.	1	-	Myanmar military	Rakhine State/Buthidaung
6 March 2020	Landmine/UXO	A landmine exploded while five Rohingya civilians were herding livestock in a pasture near the village. One was killed, four others were injured.	1	4	Unidentified	Rakhine State/Mrauk-U

<i>Date</i>	<i>Type</i>	<i>Summary</i>	<i>Civilians killed</i>	<i>Civilians injured</i>	<i>Alleged perpetrator</i>	<i>State/Township</i>
9 March 2020	Landmine/ UXO	A mine killed one Rohingya civilian and injured five others.	1	5	Unidentified	Rakhine State/Mrauk-U
10 March 2020	Landmine/ UXO	A landmine went off as two Rohingya civilians were herding cattle. One died on the way to the hospital.	1	-	Unidentified	Rakhine State/Rathedaung
22 April 2020	Small arm fire	A Rohingya civilian was killed in a crossfire between the Arakan Army and the Myanmar military. Six others were injured.	1	6	Unidentified	Rakhine State/Minbya
12 May 2020	Landmine/ UXO	A landmine explosion killed two Rohingya civilians and injured one.	2	1	Unidentified	Rakhine State/Buthidaung

Appendix IV

Countries with arms embargoes against Myanmar

<i>No.</i>	<i>Country</i>	<i>Description</i>
1	Albania	Aligned with EU sanctions and embargo.
2	Armenia	Aligned with EU sanctions and embargo.
3	Australia	Australia bans the direct or indirect sale or transfer of arms and related materials, as well as the provision of services related to the supply, manufacture, maintenance, or use of arms and related material under the Autonomous Sanctions Regulations of 2011. ¹
4	Bosnia and Herzegovina	Aligned with EU sanctions and embargo.
5	Canada	Since 2007, Canada has imposed an arms embargo, which includes the prohibition of exporting or importing arms and related material, or related technical and financial assistance, to and from Myanmar, under the Special Economic Measures Act. ²
	European Union	The EU has maintained an embargo on arms, munitions, and military equipment since 1991. ³ In recent years, the EU has expanded the embargo to include an export ban on dual-use goods, monitoring communications equipment, and prohibitions on military training and cooperation. ⁴
6	Austria	EU member state – sanctions, arms embargo applies.
7	Belgium	EU member state – sanctions, arms embargo applies.
8	Bulgaria	EU member state – sanctions, arms embargo applies.
9	Croatia	EU member state – sanctions, arms embargo applies.
10	Cyprus	EU member state – sanctions, arms embargo applies.
11	Czech Republic	EU member state – sanctions, arms embargo applies.
12	Denmark	EU member state – sanctions, arms embargo applies.
13	Estonia	EU member state – sanctions, arms embargo applies.
14	Finland	EU member state – sanctions, arms embargo applies.
15	France	EU member state – sanctions, arms embargo applies.
16	Germany	EU member state – sanctions, arms embargo applies.
17	Greece	EU member state – sanctions, arms embargo applies.
18	Hungary	EU member state – sanctions, arms embargo applies.
19	Ireland	EU member state – sanctions, arms embargo applies.
20	Italy	EU member state – sanctions, arms embargo applies.
21	Latvia	EU member state – sanctions, arms embargo applies.
22	Lithuania	EU member state – sanctions, arms embargo applies.
23	Luxembourg	EU member state – sanctions, arms embargo applies.
24	Malta	EU member state – sanctions, arms embargo applies.
25	Netherlands	EU member state – sanctions, arms embargo applies.
26	Poland	EU member state – sanctions, arms embargo applies.

<i>No.</i>	<i>Country</i>	<i>Description</i>
27	Portugal	EU member state – sanctions, arms embargo applies.
28	Romania	EU member state – sanctions, arms embargo applies.
29	Slovakia	EU member state – sanctions, arms embargo applies.
30	Slovenia	EU member state – sanctions, arms embargo applies.
31	Spain	EU member state – sanctions, arms embargo applies.
32	Sweden	EU member state – sanctions, arms embargo applies.
33	Iceland	Aligned with EU sanctions and embargo.
34	Liechtenstein	Aligned with EU sanctions and embargo.
35	Moldova	Aligned with EU sanctions and embargo.
36	Montenegro	Aligned with EU sanctions and embargo.
37	North Macedonia	Aligned with EU sanctions and embargo.
38	Norway	Aligned with EU sanctions and embargo.
39	Switzerland	Aligned with EU sanctions and embargo. ⁵
40	United Kingdom	Following its exit from the EU, the UK adopted various restrictions on the trade of military and dual-use goods as well as prohibitions on the provision of monitoring communications equipment and military-related services to Myanmar. These regulations under the Burma (Sanctions) (EU Exit) Regulations 2019 work to the same effect as the current EU sanctions and regulations on military goods. ⁶
41	United States	On June 9, 1993, the United States issued Public Notice 1820 suspending all export licenses and other approvals to export or otherwise transfer defense articles or defense services to Burma, and since 1999, the US has designated Myanmar as a “Country of Particular Concern” under the International Religious Freedom Act of 1998, enacting the arms embargo in 22 CFR 126.1(a). ⁷

¹ “Sanctions Regimes: Myanmar,” Government of Australia, <https://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/myanmar.aspx>.

² “Canadian Sanctions Related to Myanmar,” Government of Canada, https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/myanmar.aspx?lang=eng.

³ Declaration by the General Affairs Council, July 29, 1991.

⁴ Council Decision (CFSP) 2020/563 of 23 April 2020 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma, <https://eur-lex.europa.eu/eli/dec/2020/563/oj>; “Declaration by the High Representative on behalf of the EU on the alignment of certain countries concerning restrictive measures against Myanmar/Burma,” European Council, 18 May 2020, <https://www.consilium.europa.eu/en/press/press-releases/2020/05/18/declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-alignment-of-certain-countries-concerning-restrictive-measures-against-myanmar-burma/>.

⁵ “Mesures à l’encontre du Myanmar (ex-Birmanie),” Secrétariat d’Etat à l’économie SECO, 17 October 2018, https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/massnahmen-gegenueber-myanmar--burma-.html.

⁶ The Burma (Sanctions) (EU Exit) Regulations 2019, <https://www.legislation.gov.uk/uksi/2019/136/contents/made>.

⁷ United States, Code of Federal Regulations, Title 22 §126.1, https://www.ecfr.gov/cgi-bin/text-idx?node=22:1.0.1.13.63&rgn=div5#se22.1.126_11.