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Human rights situations that require the Council's attention

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

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

[31 May 2021]

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

Governments and International Companies Globally and in Japan Must Take Action to Address the Human Rights Situation in Myanmar

Human Rights Now (HRN), a Tokyo-based international human rights NGO, is gravely concerned about the human rights violations by the military in Myanmar following the February coup. We are also alarmed by the possibility that the governments and companies of Japan and other countries maintain links to the military which may support the coup and further violations in Myanmar, and we call on these actors to investigate any such potential links and end them.

1. Introduction

On the morning of 1 February 2021 Myanmar's armed forces, the Tatmadaw, announced the imposition of a one year state of emergency in the country and seized control as a junta over the government, transferring executive authority to Senior Gen. Min Aung Hlaing, the Tatmadaw leader. The Tatmadaw has since cut off independent media and lines of communication in areas of Myanmar.

The coup follows years of impunity by the Tatmadaw over grave and widespread crimes in Myanmar, particularly against ethnic minorities. The Tatmadaw's actions during and after the coup have also violated human rights, including serious violations that may constitute crimes against humanity and war crimes, the rights to liberty and security of person, freedom of expression, association, and access to information, and the right to vote. The ousted government has assembled 180,000 pieces of evidence supporting claims of violations.[1]

2. Human Rights Violations

Support for the assertion by the Special Rapporteur on the situation of human rights in Myanmar that the junta's acts meet the elements for crimes against humanity, as well as human rights violations, is also growing.[2] These include acts of murder, imprisonment, persecution and other crimes directed against a civilian population in a widespread and systematic manner. The Myanmar coup has crushed Myanmar's aspirations towards democracy and ended rule of law in the country.

(a) Right to Life, Liberty and Security of person

The junta has waged an increasingly deadly campaign against anti-coup protesters. At least 772 Individuals have been killed since February 1, among them 46 children.[3] There has been an increase in the disproportionate use of force, with credible reports providing information that the security forces have randomly fired live ammunition into crowds of protesters, resulting in a high level of fatalities; and bystanders have also been lethally targeted.[4] Such intentional and widespread violence against civilians may constitute crimes against humanity. Nearly 250,000 people have been displaced in Myanmar by the crackdowns against demonstrators.[5]

Thousands have been arbitrarily detained since the coup. This includes political leaders, government officials, civil society members, activists, civil servants, student leaders, celebrities, journalists and anti-coup demonstrators. There have also been unlawful night-time targeted arrests sans arrest warrants, with the armed forces forcibly taking away individuals.[6] There is no indication of charges in the majority of these arrests, effectively making them enforced disappearances. Former detained persons have reported after their release that they were tortured.[7] Additionally, it has been estimated that more than 500 children have been arbitrarily detained. There is a lack of due process of law as those detained and arrested have no access to legal counsel.[8]

(b) Rights to peaceful assembly and association

The military junta's exceedingly burdensome ban on gathering of more than five people and nightly curfew and its detention of anti-coup protestors on the sole grounds of staging a protest against the military, as under Section 19 of Myanmar's Peaceful Assembly and Peaceful Procession Law, are flagrant violations of the rights to freedom of assembly. The law's ambiguity provides officials with expansive and unjustified discretionary powers to curtail these rights and must be narrowly tailored to be consistent with Myanmar's human rights obligations. Most trade unions have also been barred, with the junta having threatened, arrested and harassed many trade unionists into hiding.[9]

(c) Right to privacy

The junta has made amendments to its law to establish an arbitrary search and seizure policy which transparently contravenes the right to privacy. These amendments extend to unreasonable surveillance and investigation, allowing the forces to spy on communications without justification. The military forces also continue to interfere in individual's personal and family matters.

(d) Freedom of expression and access to information

The military is extensively controlling the freedom of expression and has tightly restrained the flow of information. Journalists have been targeted and attacked, with many of them being arbitrarily detained. There is also a restriction on their freedom of movement, with the imposition of an 8:00 pm to 4:00 am curfew imposed under Section 144 of Myanmar's criminal procedure law. Furthermore, the licences of five local media outlets have been revoked.[10]

Access to the internet has also been restricted, with the additional imposition of an expanded shutdown every night. On 4 May 2021, the junta announced a ban on satellite television to control the dissemination of information.[11] Almost all of the population of Myanmar now receives their news exclusively from sources allowed by the military. [12] This blanket ban on the internet and other restrictions violate the right to freedom of expression and access to information and are one more way for the military to maintain its illegitimate grip on power.

(e) Targeting of ethnic groups and humanitarian needs

The military continues to strike civilian-populated areas among numerous ethnic groups by airstrikes and mortar shelling, destroying homes and displacing thousands, including almost 40,000 in Kayin state and Bago region in April, adding to the number of existing displaced people throughout Myanmar to leave more than 336,000 living in camps.[13] These strikes may also constitute crimes against humanity and war crimes.

According to OCHA, almost a million people in Myanmar, over two-thirds of which are women and children, are in need of humanitarian assistance and protection, and according to WFP up to 3.4 million people are facing high levels of food insecurity, while humanitarian assistance commitments have been woefully inadequate to meet the need.[14]

3. Links between Japanese Businesses and the Myanmar Military

Despite the illegal coup, some Japanese companies continue to conduct business linked to the military junta which can offer it financing and assets that may facilitate its abuses. We have recently released statements about such links by Tasaki and Kirin.[15] An investigation by Kyodo News identified at least 10 Japanese companies with direct business ties with firms affiliated with Myanmar's military, and about 400 Japanese companies entered Myanmar since 2011 whose business connections should be reviewed for possible links.[16] Such links contravene businesses' human rights responsibilities under the UN Guiding Principles on Business and Human Rights to identify possible links to human

rights violations through due diligence and to take actions to address and prevent any violations associated with their business activities and relationships.

The Japanese government has also been relatively light-handed in its statements and pressure against the Myanmar military. As a long economic supporter of the Myanmar government through Official Development Assistance and promoting private sector Foreign Direct Investment, despite the risk of this benefiting the Tatmadaw even as it committed widespread atrocities, the Japanese government has a particular responsibility to promote democracy and respect for rights in Myanmar.

The governments and companies of other countries, including in the US and Europe, must also review their economic and business relationships in Myanmar to identify associations that may support the military, and then end such associations.

4. Recommendations

To promote democracy, rule of law, and respect for rights in Myanmar, HRN offers the following calls and recommendations to:

1. The Tatmadaw to immediately end all violence against civilians, identify and hold perpetrators of unjustified and excessive force and other violations accountable, release all persons detained as part of its coup, respect the results of the 8 November 2020 election, and restore the government to its non-emergency constitutionally required state.
2. The international community to implement targeted sanctions against the Tatmadaw, its officers, and their economic interests and any other appropriate forms of pressure to end its emergency rule, as well as to support all accountability mechanisms against the Tatmadaw, including the ICJ, ICC, and other international processes, to finally end its culture of impunity.
3. Global companies, including Japanese companies, with business relations to Myanmar to conduct human rights due diligence to identify possible links to companies connected to the Myanmar military, and to end such ties until the 2020 election results and rights are respected.
4. The Japanese government to revise its vague stand compared to the US and European countries and take a clear, forceful, and zero-tolerance position against human rights abuses in Myanmar, including the coup and to cease Official Development Assistance to Myanmar except for humanitarian support.

[1] <https://www.theguardian.com/world/2021/apr/07/myanmar-coup-ousted-mps-accuse-military-of-human-rights-abuses>

[2] https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session46/Documents/A_HRC_46_56.pdf

[3] <https://www.dw.com/en/myanmar-at-least-550-civilians-killed-since-coup/a-57093490>; <https://www.aa.com.tr/en/asia-pacific/at-least-772-killed-since-myanmar-coup-rights-group/2232523>

[4] Id.

[5] <https://www.bangkokpost.com/world/2103295/junta-attacks-displace-nearly-250-000-people-in-myanmar-un>

[6] <https://aappb.org/?p=13091>; <https://www.theguardian.com/world/2021/feb/12/election-officials-held-in-myanmar-in-bid-to-prove>

[7] <https://edition.cnn.com/2021/04/27/asia/myanmar-coup-detainees-torture-intl-hnk/index.html>

[8] <https://www.unicef.org/press-releases/unicef-condemns-killings-and-arbitrary-detentions-children-security-forces-during>

[9] <https://www.reuters.com/article/us-myanmar-politics-ilo-idUSKBN2B71GC>

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- [10]<https://www.dw.com/en/myanmar-military-coup-press-freedom/a-56829376>
- [11]<https://www.reuters.com/world/asia-pacific/myanmar-parcel-bomb-blasts-kill-five-including-ousted-lawmaker-media-2021-05-04/>
- [12]<https://www.dw.com/en/myanmars-media-under-pressure-from-all-sides/a-57405936>
- [13]<https://reliefweb.int/sites/reliefweb.int/files/resources/Myanmar%20Humanitarian%20Snapshot%20-%2026%20April%202021.pdf>; https://ec.europa.eu/echo/printpdf/293_en
- [14]<https://news.un.org/en/story/2021/04/1090802>
- [15]<https://hrn.or.jp/wpHN/wp-content/uploads/2021/04/45cffa44ca89139934395bb3cac330d5.pdf> (in Japanese); <https://www.ft.com/content/0deb1860-cd46-45aa-8992-e7849c025f37>. The Kirin CEO made a statement in February that Kirin will end its Myanmar ventures “within a year”, but given the scale of violations, this is a significantly unreasonable delay. <https://asia.nikkei.com/Editor-s-Picks/Interview/Japan-s-Kirin-seeks-end-to-Myanmar-ventures-within-a-year-CEO>. Also see our joint statement on Tasaki, https://hrn.or.jp/eng/news/2021/04/22/tasaki_joint_statement/.
- [16]<https://www.japantimes.co.jp/news/2021/05/09/business/corporate-business/japanese-firms-business-links-myanmar-junta/>