

To Member and Observer States of the UN Human Rights Council

Open Letter: The UN Human Rights Council Must Seek Ways to Establish Jurisdiction to Prosecute Grave Crimes in Myanmar

7 March 2022

Your Excellencies,

We, the undersigned 116 Myanmar civil society organizations (CSOs), urgently call for the United Nations Human Rights Council (HRC) to explore all possible routes to seek accountability for Myanmar through the establishment of a jurisdiction for atrocity crimes mandated by the UN.

We express our disappointment at the [resolution](#) of the HRC on 24 March 2021 and Special Session [resolution](#) on 12 February 2021, and call for the adoption of a robust resolution on Myanmar during the 49th Regular Session of the Council that reflects the gravity of the crisis Myanmar is facing and focuses on efforts to finally establish a jurisdiction to prosecute international crimes. The UN continues to fail the people of Myanmar by allowing justice and accountability to languish, and in some instances failed to call out impunity entirely, thereby further emboldening the Myanmar military.

For over 15 years, the UN HRC has passed over 20 resolutions on Myanmar, mandating monitoring, documentation and reporting on human rights violations by the Office of the High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Myanmar. Most importantly, in March 2017, the UN HRC created the Independent International Fact-Finding Mission on Myanmar (IIFMM) which found credible evidence of genocide, war crimes and crimes against humanity committed by the Myanmar military. Following the findings of the IIFMM, the UN HRC, in 2019, established the Independent Investigative Mechanism for Myanmar (IIMM) to collect, consolidate, preserve and analyze evidence of the most serious international crimes and violations of international law in Myanmar and prepare files for criminal prosecution. The wealth of information documented and reported by these different mechanisms point to the entrenched impunity of the Myanmar military for grave international crimes. Despite the overwhelming evidence of grave crimes that continue to be committed by the military with complete impunity, none of these mechanisms are mandated to or have jurisdiction to initiate judicial proceedings to hold the military accountable. Unless a full jurisdiction for Myanmar is established, accountability and justice remain distant for victims of the world's most heinous crimes.

The human rights situation in Myanmar has reached its nadir, in which the military junta routinely commits extrajudicial killings, airstrikes, massacres, sexual and gender-based violence, mass arbitrary arrests, torture in detention and other atrocities against the people of Myanmar with total impunity.

In September 2021, the Special Rapporteur on the situation of human rights in Myanmar, Mr. Tom Andrews, [stated](#) that “the junta, in sum, directed its forces to engage in widespread and systematic attacks against the people of Myanmar. There was therefore a compelling case that the military junta was committing crimes against humanity”. Following the massacre of at least 42 people including children and two Save the Children staff members in Karenni State on Christmas Eve, the Security Council issued a [statement](#) stating that there is a “need to ensure accountability for this act.”

The HRC must immediately act to seek all possible ways for the UN to establish jurisdiction to prosecute grave crimes in Myanmar. The work of the IIMM must be put to use, perpetrators must be held to account, and end the cycle of impunity. The UN must not continue to respond with a business as usual

approach to grave violations of human rights in Myanmar, and take up its responsibility to promote and protect human rights.

It cannot be reiterated enough, that the same military that perpetrated genocide against the Rohingya in 2017 and grave atrocity crimes against ethnic communities for decades, is now committing crimes against humanity and war crimes *carte blanche* across the country.

To date, the military junta has [slain](#) 1,603 people, including at least 100 children – with hundreds more [killed](#) in addition to this number as a result of ground attacks and fierce targeted airstrikes. From 1 February 2021 to 25 February 2022, there have been [total](#) of 9,441 armed clashes and attacks involving civilians, forcing communities to flee for safety or over the border into India or Thailand. As of end of 31 January, 2022, there are [estimated](#) over 811,900 internally displaced people across Myanmar.

In their craven effort to suppress the Spring Revolution, the military junta has arbitrarily [arrested](#) 12,534 people, while 9,507 remain in detention, and continue to be subjected to torture, death, starvation, deprivation of healthcare, food and water and sexual and gender-based violence.

The Myanmar people are determined to end the military tyranny and bring the country back to the path towards democracy. For this, the support of the international community and particularly the UN is crucial. Yet, amidst all that has happened during this crisis, the UN has continued to fail to take meaningful actions to halt the military junta's brutal campaign of terror.

The UN's engagement in Myanmar remains fraught with [systemic failures](#), continuing a legacy of ineffectuality over the past decades, which came to the fore prominently leading up to and during the Rohingya genocide, all of which were detailed in the Rosenthal Report. Among other conclusions, the report found UN Agencies in Myanmar [chose](#) to keep quiet about the genocidal atrocities being committed in Rakhine State, in the hope of maintaining access and continuing their programs. Many issues and recommendations outlined within the Rosenthal Report to this day remain unaddressed by the UN. Thus, it is vital that reporting continues to ensure that concrete actions are taken to address the report's findings, as the present unfolding crisis in Myanmar is partly borne out by the failures of the UN to swiftly act to hold the Myanmar military to account for its past crimes.

Moreover, with the current crisis continuing to unfold, it is extremely important for the people of Myanmar to have their legitimate representative at the UN. The UN General Assembly [deferred](#) its credentials decision on Myanmar, unequivocally rejecting the military junta's attempt to claim the seat, leaving Ambassador Kyaw Moe Tun to continue as Myanmar's UN representative. The ambassador, appointed by the National Unity Government (NUG), must be allowed to take his rightful seat to represent Myanmar at the UN Human Rights Council. Leaving Ambassador Kyaw Moe Tun from representing Myanmar in the 49th Regular Session of the Human Rights Council is not acceptable and would deny the people of Myanmar their legitimate representative.

The UN must fully support the will of the people of Myanmar for a federal democracy, and bring about justice and accountability, and end the impunity of the Myanmar military. The path forward in achieving this must be through the establishment of a jurisdiction to investigate and prosecute international crimes.

Therefore, we call on the Human Rights Council to:

- Explore all possible routes to seek accountability for Myanmar through the establishment of a jurisdiction for atrocity crimes mandated by the UN.

- Recommend the UN Security Council to adopt a resolution referring the situation in Myanmar to the ICC.
- Call on the ICC to accept the declaration lodged by the Myanmar government, the NUG, under Article 12(3) of the Rome Statute accepting the Court's jurisdiction with respect to international crimes committed in Myanmar territory since 1 July 2002.
- Support Ambassador Kyaw Moe Tun, appointed by the NUG whose credential has been retained by the UNGA, to represent Myanmar at the HRC.

For further information, please contact:

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Signed by:

1. Action Committee for Democracy Development (ACDD)
2. All Arakan Students' and Youths' Congress (AASYC)
3. All Burma Federation of Trade Unions - ABFTU
4. All Kachin Youth Union - AKYU
5. Assistance Association for Political Prisoners (AAPP)
6. Association of Human Rights Defenders and Promoters (HRDP)
7. Athan - Freedom of Expression Activist Organization
8. Ayeyarwaddy Karen Youth
9. Backpack Health Workers Team (BPHWT)
10. Blood Money Campaign (BMC)
11. Brilliant Future of Myanmar (BFM)
12. Burma Civil War Museum
13. Burma Human Rights Network (BHRN)
14. Burma Medical-Association (BMA)
15. Burmese Rohingya Organisation UK (BROUK)
16. Burmese Women's Union (BWU)
17. Child Protection Organization
18. Chin Human Rights Organization (CHRO)
19. Civic Engagement Development Network
20. CSO Committee for Peace (Tanintharyi)
21. Danu Youth Organization
22. Dawei Probono Lawyers Network
23. Dawei Youth's Revolutionary Movement Strike Committee (DYRMSC)
24. Democracy for Ethnic Minorities Organization (DEMO)
25. Democracy Movement Strike Committee - Dawei (DDMSC)
26. Democracy, Peace and Women's Organization - DPW
27. Equality Myanmar
28. Federal FM Mandalay
29. Future Light Center
30. Future Light Women
31. Future Star Organization
32. Future Thanlwin (FT)
33. General Strike Committee of Nationalities - GSCN

34. Generation Wave (GW)
35. Green Development Network
36. Human Rights Foundation of Monland (HURFOM)
37. Independent Revolution Media Network
38. Interfaith Youth Coalition on Aids in Myanmar (IYCA-Myanmar)
39. International Society of Myanmar Scholars and Professional
40. iPACE Alumni Myanmar (iAM)
41. JIVAKA Medic Team
42. Justice For Myanmar
43. Kachin Peace Network
44. Kachin Women's Association Thailand (KWAT)
45. Karen Environmental and Social Action Network (KESAN)
46. Karen Human Rights Group (KHRG)
47. Karen Peace Support Network (KPSN)
48. Karen Rivers Watch (KRW)
49. Karen Women's Organization (KWO)
50. Karen Youth - Rangoon
51. Karenni Civil Society Network (KCSN)
52. Karenni Human Rights Group (KnHRG)
53. Karenni National Women's Organization (KNWO)
54. Kayaw Women's Association
55. Keng Tung Youth
56. Kyaukse University Interim Administrative Council
57. Kyaukse University Students' Union
58. Let's Help Each Other (LHEO)
59. LGBT Alliance Myanmar
60. LGBT Union Mandalay
61. Ma Thone Nae
62. Mandalay Youth Association
63. Metta Campaign Mandalay
64. Mon MATA
65. Muslim Youth Network
66. Myanmar Alliance for Transparency and Accountability (MATA)
67. Myanmar Cultural Research Society (MCRS)
68. Myanmar Digital Rescue (MDR)
69. Myanmar People Alliance (Shan State)
70. Network for Advocacy Action
71. Network for Human Rights Documentation - Burma (ND-Burma)
72. Nyan Lynn Thit Analytica
73. OCTOPUS - ရောဘဲ (ပြည်သူ့အကြံပြု လူငယ်အဖွဲ့အစည်း)
74. Olive Organization
75. Pa-O Women's Union (PWU)
76. People's Goal (former people's soldiers)
77. People's Voice of Tanintharyi
78. Progressive Myanmar Muslim Network
79. Progressive Voice
80. Representative of South Okkalapa Youth Strike Committee

81. Right for Life & Women Engineers Chapter
82. SaNaR (Save the Natural Resource)
83. Save and Care Organization for Ethnic Women at Border Areas (SCOEWBA)
84. Second Tap Root Organization
85. Shan MATA
86. Sisters 2 Sisters
87. Sitt Nyein Pann Foundation
88. Southern Youth Development Organization
89. Spouses of People's Soldiers (CDM)
90. Spring Revolution Myanmar Deaf (SRMD)
91. Synergy - Social Harmony Organization
92. Ta'ang Women's Organization (TWO)
93. Tanintharyi MATA
94. Taunggyi Youth Center
95. Thint Myat Lo Thu Myar Organization
96. Twitter Team for Revolution
97. Union of Karenni State Youth (UKSY)
98. University Student's Unions Alumni Forces
99. Volunteers in Myanmar
100. Way Way Nay
101. We Change
102. White Coat Society Yangon
103. Women Advocacy Coalition-Myanmar (WAC-M)
104. Women Alliance Burma (WAB)
105. Women for Justice
106. Women's League of Burma (WLB)
107. Yangon Deaf Association
108. Yangon Medical Network
109. Yangon Revolution Force
110. [Name undisclosed]
111. [Name undisclosed]
112. [Name undisclosed]
113. ကလေးမြို့ ပင်မသပိတ် အင်အားစု
114. စိန်ပန်း သပိတ်စစ်ကြောင်း (မန္တလေး)
115. မြို့နယ်ပညာရေးဘုတ်အဖွဲ့-မတ္တရာ
116. မုံရွာလူထုသပိတ်တိုက်ပွဲဦးဆောင်ကော်မတီ