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From impunity to justice: accountability for grave human rights violations in Myanmar

Conference room paper of the Special Rapporteur on the situation of human rights in Myanmar*

Summary

Impunity lies at the heart of the human rights crisis in Myanmar and has enabled decades of grave violations by the military with devastating consequences for the country's people. Since the 2021 coup, the military has intensified its campaign of violence and repression, killing thousands of civilians, arbitrarily detaining tens of thousands, displacing millions, and systematically employing airstrikes, arson, torture and sexual violence to crush resistance and dissent. These abuses are not aberrations but the predictable result of a long-entrenched culture of impunity in which senior military leaders have remained above the law.

In this final report of his tenure, the Special Rapporteur examines viable pathways to accountability for grave human rights violations in Myanmar. Drawing on years of documentation and the testimonies of survivors and victims' families, the report underscores that justice, truth and reparations are essential both to address the immense suffering endured by victims and to protect future generations from recurring cycles of military rule and abuse. The report assesses steps already taken at the national and international levels and sets out concrete recommendations for states, United Nations bodies and other actors to advance accountability and help dismantle the culture of impunity that has long shielded the perpetrators of atrocities in Myanmar.

* Information complementary to that contained in the official report (A/HRC/61/58), submitted to the Human Rights Council pursuant to resolution 58/20.

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I. Introduction

1. “There has never been accountability. That is why the military can launch the coup and commit abuses against the people. They have no sympathy. They committed these crimes for a long time. It is important to hold the perpetrators accountable. It is not only important for us, but for the next generation. ... If we don't have accountability, we can't escape from the cycle of coups and military dictatorship. We have lived in fear for decades. We don't want future generations to live in fear.”

- Exiled academic from Myanmar

2. Impunity lies at the heart of the crisis in Myanmar and the immense suffering of its people. Resolving the crisis, therefore, requires not only depriving the military of its ability to attack and oppress the people of Myanmar, but also holding perpetrators of grave human rights violations fully accountable. Ending impunity is essential both to deliver justice to victims and to protect future generations from the same harms.

3. In reports published over the past six years, the Special Rapporteur has extensively documented grave human rights violations committed by the Myanmar military, many of which amount to crimes under international law. These violations and crimes are the tragic and predictable result of a culture of impunity that has prevailed in Myanmar for decades. Senior military officials, including those who have recently donned civilian clothes following a sham election, have been, and continue to be, above the law in Myanmar.

4. Justice and human rights require confronting and dismantling this culture of impunity.

5. In this final report of his tenure, the Special Rapporteur examines viable pathways to accountability for grave human rights violations in Myanmar. The report assesses important steps that have already been taken and recommends actions that could be taken by a range of actors to help secure justice, truth and reparations for the long-suffering people of Myanmar.

6. Since the 2021 military coup, thousands of civilians in Myanmar have been murdered by the military, tens of thousands detained, and millions displaced. The military has systematically used airstrikes, arson attacks and torture to crush resistance and suppress dissent. Sexual violence by security forces has been widespread.

7. These military atrocities echo a cycle of violence, oppression and impunity that stretches back decades. Since independence, the military has systematically targeted civilian populations in its counter-insurgency campaigns. Violence and mass imprisonment have repeatedly been used to crush society-wide pro-democracy uprisings. The Rohingya population has been stripped of citizenship and rights and has faced decades of persecution and violence.

8. The Special Rapporteur has spoken with hundreds of survivors of grave human rights violations as well as the family members, friends and colleagues of victims. Their accounts of killings, torture, indiscriminate airstrikes, arson attacks, sexual violence, persecution and other acts of violence and oppression have animated the Special Rapporteur's reports and laid bare the brutality and depravity of Myanmar's military junta. After providing harrowing accounts of atrocities by the Myanmar military and others, survivors and victims' loved ones have time and again called for justice. They have demanded that perpetrators be held to account, that harms be redressed, and that the truth be told about what has happened to them, their communities and their country.

9. A woman displaced by violence in central Myanmar told the Special Rapporteur:

We need to hold junta leader Min Aung Hlaing accountable. He committed many atrocities. The military burned our homes and killed many villagers. ... Now we have to live in the jungle, and aircraft are circling overhead every day. ... Women need to hide because they will be raped if seen by a military column. Men will be used for forced labor. We are fleeing all the time, and our children can't go to school. Please help us. I want the international community to help us end the military dictatorship and push for the freedom of Aung San Suu Kyi. We want accountability for Min Aung Hlaing, Soe Win, Zaw Min Tun and all members of the military council. We would like to root out the whole system.

10. A Rohingya man who was tortured by Myanmar security forces and displaced by genocidal attacks in 2017 told the Special Rapporteur:

The international community should understand that this violence we faced, the genocide we faced, will never be forgiven. We saw the military come and shoot everyone and burn our villages without any thought. It was like a dream or a scene in a movie. [We saw them] loot our homes and bring people to the field and shoot them. ... We can only forgive or be happy when justice is totally served, every single perpetrator is held accountable, and people are given compensation for their loss. [In our minds] we still see our people being killed and tortured. Trauma remains fresh in the mind of every Rohingya person. Women saw their husbands and children killed. Men saw their wives and daughters raped in front of their eyes. They can never forget these things. They ask justice from you, from everyone who has heard about the suffering of the Rohingya, from everyone who is talking about human rights in the world.

11. The people of Myanmar are not waiting for justice. Political leaders, activists, lawyers and human rights defenders are developing institutions and processes in areas outside of the control of central authorities to secure justice for the people of Myanmar and hold perpetrators to account. Many ethnic resistance organizations maintain formal justice systems with courts, prosecutors, prisons and law enforcement bodies. The National Unity Government and other emerging governance institutions have set up new court systems to administer justice in liberated areas. Customary and informal justice processes are providing remedies for community members who cannot access, or do not trust, courts run by central authorities or armed groups.

12. As important as these steps are, they will not break the culture of impunity that has shielded the military from accountability for decades. Broad, robust accountability for grave human rights violations in Myanmar will require constitutional reform, the establishment of civilian control over the military, and the long, hard work of reforming and rebuilding a justice system hollowed out by decades of military domination and subversion.

13. Until such time, international mechanisms and partnerships between the international community and actors in Myanmar offer a critical opportunity to advance accountability for grave human rights violations.

14. Members of the international community have taken some important steps to support justice and accountability. The Gambia has filed and argued a historic genocide case against Myanmar at the International Court of Justice concerning mass atrocities committed against the Rohingya. The Prosecutor of the International Criminal Court has requested an arrest warrant for Min Aung Hlaing, and a court in Argentina has issued arrest warrants against Myanmar military and government officials, both in cases concerning crimes against the Rohingya. Authorities are reviewing universal jurisdiction complaints in other countries. The Independent Investigative Mechanism for Myanmar has collected a massive amount of evidence for use in ongoing and future accountability processes.

15. Too often, however, the international community has failed the people of Myanmar. The Security Council has not referred the situation in Myanmar to the International Criminal Court (ICC), depriving the Court of jurisdiction over most of the military's crimes. Some states have failed to provide international investigators access to witnesses and evidence on their territories. Authorities in various countries have declined to take up universal jurisdiction cases that address atrocities committed in Myanmar despite having the discretion to do so.

16. Breaking the cycle of impunity that has gripped Myanmar for so long will require sustained effort, political will and the investment of significant resources over many years. There are, nevertheless, important steps that can and should be taken right now.

17. First, the international community should support the institutions and leaders in Myanmar that are building the foundation for future justice and accountability. Opposition groups are building court systems in liberated areas, reforming legal codes in line with international standards, and training the judges, lawyers and investigators who will form the backbone of future accountability processes. Brave human rights defenders are documenting

human rights violations and amassing evidence of the military's crimes. These champions of justice and accountability deserve support, including long-term funding and technical assistance.

18. Second, UN agencies, states, the National Unity Government and other opposition institutions in Myanmar should begin to lay the foundation for the prosecution of high-level perpetrators for serious crimes under international law, potentially before a hybrid court established by a future democratic government with strong international support and involvement. In such a court, Myanmar judges, lawyers and investigators would work alongside experienced counterparts from other countries to hold perpetrators accountable, a process that would simultaneously build the capacity of the justice sector in Myanmar.

19. Third, the international community should prepare for a ruling by the International Court of Justice in the genocide case brought by the Gambia. The ruling, expected in the coming months, could be the first time the Court finds a state directly responsible for the crime of genocide. Given that the Security Council is unlikely to act to enforce potential remedies provided by the Court, it will fall on states to give meaning to the Court's judgment. Diplomatic isolation and targeted sanctions are among the measures available to states to pressure Myanmar to comply with any orders given by the Court and make clear that there are consequences for states that are responsible for genocide.

20. Fourth, states should support accountability before the International Criminal Court, including by facilitating access to witnesses and evidence and cooperating on the enforcement of any arrest warrants issued by the Court. State parties to the Rome Statute could request the ICC Prosecutor to expand the scope of his investigation beyond the 2016 and 2017 attacks on the Rohingya.

21. Fifth, government officials in countries that recognize universal jurisdiction should facilitate such cases to the maximum extent permitted by the law. Legislators in other countries should consider legislation enabling courts to exercise universal jurisdiction.

22. Sixth, the international community should work with actors in Myanmar to establish a reparations fund for victims of grave human rights violations in Myanmar. States could explore innovative methods to finance such a fund, such as the repurposing of seized assets linked to the military or fines from sanctions enforcement actions.

23. Finally, states should deny recognition and legitimacy to the new military-controlled government that has emerged from the sham election concluded earlier this year. Leaders of the new government—starting with the new president and coup leader Min Aung Hlaing—should be in a courtroom answering for atrocity crimes, not welcomed as dignitaries in foreign capitals.

24. A comprehensive set of recommendations is provided at the conclusion of each of the sub-sections of this paper's section V and compiled in Annex I.

25. The Special Rapporteur spoke with a group of villagers from Sagaing Region who described killings, arson attacks and near-daily airstrikes in their area. A man who was injured in a drone attack and whose house was burned by the military told the Special Rapporteur:

They should be punished and sentenced to prison. I would like to request the international community to help us. ... You have already documented everything that happened in Myanmar. We can't live our lives. We can't sleep. ... Please help us. That's the only thing I can say.

II. Background: grave human rights violations in Myanmar

26. The 2021 military coup precipitated a spiraling human rights crisis that has impacted people in every corner of Myanmar. Over the past five years, millions of lives have been touched by the junta's campaign of brutality.

27. The Myanmar military has murdered thousands in attacks that deliberately targeted civilian populations. Civilians have been shot during ground assaults, tortured to death,

executed en masse, and burned alive in their homes. Victims have included women, children, elders and persons with disabilities. Soldiers have sexually assaulted and gang raped victims before killing them. They have beheaded, dismembered, disembowelled and burned the bodies of victims, at times displaying body parts after a killing in an apparent effort to terrorize the local population.

28. Military airstrikes have killed or injured civilians in towns, villages, displacement sites, markets, tea shops, mining sites, medical clinics, schools, religious buildings and locations hosting weddings, funerals, festivals or other celebrations. Airstrikes usually come without warning and often at night, making it less likely that civilians are able to flee or take shelter. According to credible reports, the military has burned 100,000 or more civilian homes since the coup. Arson attacks form part of the military's systematic campaign of forced displacement. As a result, 3.6 million people are displaced within Myanmar, according to conservative UN estimates, and untold millions have fled the country.

29. Over 30,000 people have been arrested on political grounds since the coup. Many have been tortured. The Special Rapporteur has received reports of severe beatings with fists, guns and rods, stabbing or cutting, burning of the skin, electrocution, pulling out of fingernails and teeth, the use of stress positions, hanging by ropes, the denial of food or water, sleep deprivation, mock executions, waterboarding, shackling and the prolonged use of blindfolds or hoods, often in conjunction with other torture techniques. The junta has executed four political detainees on death row and is also responsible for an unknown number of extrajudicial killings of political prisoners.

30. Fraudulent elections orchestrated by the junta in late 2025 and early 2026 have done nothing to stem the violence and oppression being directed at the people of Myanmar. Thousands of political prisoners remain behind bars, and the military's attacks on civilian targets have continued unabated. Tellingly, Min Aung Hlaing, the architect of the coup and general most responsible for the junta's atrocities, now sits atop a nominally civilian but military-controlled government. The military's campaign of brutality against the people of Myanmar appears certain to continue.

31. While the last five years have been unprecedented in many respects, the people of Myanmar have lived under the shadow of military oppression, state-sponsored violence and systematic persecution for decades.

32. Since the 1962 coup led by General Ne Win, the military has dominated Myanmar's political sphere and systematically repressed all forms of dissent. Brutal military crackdowns crushed mass non-violent pro-democracy uprisings in 1988, 1996 and 2007.¹ For decades, Myanmar's prisons have held thousands of political prisoners, who have suffered torture, solitary confinement, sexual violence, medical neglect and inhumane conditions.² Although the decade of quasi-civilian rule beginning in 2010 marked a break in a succession of military regimes, the generals continued to utilize military firepower and control of state institutions to target opponents and suppress dissent.

33. Myanmar has been at war since independence from Britain, with military forces committing grave human rights violations in conflict zones throughout the entirety of this period. The military's notorious "Four Cuts" policy, aimed at cutting off resistance forces' access to food, financing, information and recruits, was a license to target civilian populations. In military-denoted "black areas," soldiers were instructed that all persons were

¹ Amnesty International, "'In the national interest': Prisoners of conscience, torture, summary trials under martial law," 7 November 1990, <https://www.amnesty.org/en/documents/asa16/010/1990/en/>; Amnesty International, "Myanmar: Update on Political Arrests and Trials," September 1996, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa160461996en.pdf>; Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, on the implementation of Council resolutions S-5/1 and 6/33, UN Doc. A/HRC/8/12, 3 June 2008, <https://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A.HRC.8.12.pdf>.

² Assistance Association for Political Prisoners (Burma), "The Darkness We See: Torture in Burma's Interrogation Centers and Prisons," December 2005, <https://aappb.org/wp-content/uploads/2014/03/The-darkness-we-see.pdf>; Human Rights Watch, "Burma's Forgotten Prisoners," 16 September 2009, <https://www.hrw.org/report/2009/09/16/burmas-forgotten-prisoners>.

to be treated as enemies and given shoot-on-sight orders.³ Soldiers have been accused of killings, rape, torture, arbitrary arrest and forced labor, among other human rights violations, in ethnic areas.⁴

34. Throughout Myanmar's history, sexual and gender-based violence has been a dark shadow that follows women, girls and LGBT people. For decades, women's rights groups have extensively documented widespread conflict-related sexual violence, which has disproportionately impacted women and girls from ethnic minority communities.⁵ Cruelty and dehumanization are hallmarks of sexual crimes perpetrated by junta forces, with reports of gang rapes, rape with objects, the rape of children and pregnant women, and rape followed by execution. Since the 2021 coup, gender-based violence and sexualized forms of torture and interrogation have been rampant in places of detention.

35. The Rohingya people, whose homeland is in western Myanmar's Rakhine State, have faced decades of systematic persecution and violence at the hands of the Myanmar military, government authorities, non-state armed groups and other civilian populations. Since independence, civilian and military authorities have adopted policies to deprive Rohingya of their citizenship and rights. Violent attacks forced hundreds of thousands of Rohingya to flee to Bangladesh in waves starting in the 1970s.⁶ The 1982 Citizenship Act cemented the disenfranchisement and statelessness of the Rohingya. In 2012, violence between Rakhine and Rohingya communities morphed into a state-sponsored campaign to expel the Rohingya people.⁷ In the aftermath of the 2012 conflict, hundreds of thousands of Rohingya were confined to displacement camps with severe restrictions on movement, livelihoods and other rights, ushering in an apartheid system that persists today.⁸

36. In 2016, Myanmar security forces responded to attacks by the Arakan Rohingya Salvation Army (ARSA) by carrying out "clearance operations," per the military's terminology, targeting the Rohingya civilian population. In 2017, the military and other security forces launched a larger and more sustained campaign of violence against the Rohingya that pushed over 700,000 refugees across the border into Bangladesh. The UN Fact-Finding Mission on Myanmar, established by the Human Rights Council following the attacks, found the campaign against the Rohingya to be "brutal and grossly

³ Harvard Law School International Human Rights Clinic, "Policy Memorandum: Preventing Indiscriminate Attacks and Wilful Killings of Civilians by the Myanmar Military," March 2014, <https://humanrightscampus.law.harvard.edu/wp-content/uploads/2022/10/2014-04-22-IHRC-Military-Policy-Memorandum-FINAL-webreprint.pdf>.

⁴ Amnesty International, "Myanmar (Burma): Continuing killings and ill-treatment of minority peoples," 31 July 1991, <https://www.amnesty.org/en/documents/asa16/005/1991/en/>; Human Rights Watch, "'We Are Like Forgotten People': The Chin People of Burma: Unsafe in Burma, Unprotected in India," 27 July 2009, <https://www.hrw.org/report/2009/01/28/we-are-forgotten-people/chin-people-burma-unsafe-burma-unprotected-india>.

⁵ Shan Human Rights Foundation and Shan Women's Action Network, "License to Rape: The Burmese military regime's use of sexual violence in the ongoing war in Shan State," May 2002, <https://shanhumanrights.org/?p=901>; Karen Women's Organisation, "Shattering Silences: Karen Women speak out about the Burmese Military Regime's use of Rape as a Strategy of War in Karen State," 27 August 2004, <https://karenwomen.org/2004/08/27/shattering-silences/>; Women's League of Burma, "'If they had hope, they would speak': The ongoing use of state-sponsored sexual violence in Burma's ethnic communities," November 2014, https://www.womenofburma.org/sites/default/files/2018-06/2014_Nov_VAW_Iftheyhadhope_TheywouldSpeak_English.pdf.

⁶ Amnesty International, "Union of Myanmar (Burma): Human rights violations against Muslims in the Rakhine (Arakan) State," 30 April 1992, <https://www.amnesty.org/en/documents/asa16/006/1992/en/>; Human Rights Watch, "The Rohingya Muslims: Ending a Cycle of Exodus," September 1996, <https://www.hrw.org/reports/pdfs/b/burma/burma969.pdf>.

⁷ Human Rights Watch, "'All You Can Do is Pray,': Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State" 22 April 2013, <https://www.hrw.org/report/2013/04/22/all-you-can-do-pray/crimes-against-humanity-and-ethnic-cleansing-rohingya-muslims>.

⁸ Amnesty International, "'Caged without a Roof': Apartheid in Myanmar's Rakhine State," 2017, <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA1674842017ENGLISH.pdf>.

disproportionate.”⁹ It documented indiscriminate attacks, pervasive sexual violence, forced labor, arson attacks and other human rights violations that were “shocking for their horrifying nature and ubiquity.”¹⁰

37. Since the 2021 military coup, the situation of the Rohingya has—tragically—become even more harrowing and desperate. In Rakhine State, where the Arakan Army is battling the military and Rohingya armed groups, Rohingya civilians are caught in a vortex of violence and oppression. All parties to the conflict stand accused of grave human rights abuses against the Rohingya, as well as Rakhine and other populations. Many Rohingya presently view the Arakan Army, which now controls the Rohingya’s homeland in northern Rakhine State, as the primary source of violence and oppression against their community. The Arakan Army has been accused of grave human rights abuses against the Rohingya, including arbitrary detention, torture, killings, arson attacks, forced recruitment and forced labor.

38. The Arakan Army and Rohingya armed groups are not the only non-state armed groups accused of grave human rights abuses. Throughout Myanmar, credible reports link resistance forces and junta-aligned militias to killings, torture, sexual violence, forced recruitment and other abuses.

39. Many of the grave human rights violations committed by the Myanmar military and others in Myanmar likely constitute crimes under international law. Both since the coup and historically, many human rights violations and abuses in Myanmar have been committed in the context of non-international armed conflict and likely constitute war crimes. Attacks on civilians in ethnic areas, on city streets, in prisons, and, recently, in rural areas of central Myanmar, have been widespread and systematic. Human rights violations associated with these operations likely amount to crimes against humanity. Attacks on the Rohingya, including but not necessarily limited to those in 2016 and 2017, appear to have been committed with an intent to destroy, in whole or in part, the Rohingya population. The military and other parties may therefore be responsible for the crime of genocide.

40. The UN Fact-Finding Mission on Myanmar, following its extensive investigation, concurred that the military’s actions in ethnic areas since 2011 likely included crimes under international law.¹¹ The Fact-Finding Mission named Min Aung Hlaing and other senior generals among those who should be investigated and prosecuted for war crimes, crimes against humanity and genocide.

41. To date, no senior military officer has ever been held accountable for international crimes in Myanmar.

III. The right to a remedy

42. The concept of accountability is rooted in victims’ right to a remedy for grave human rights violations. The right to a remedy includes a victim’s right to justice, right to reparations and right to truth.¹² Beyond fulfilling the rights of victims, remedies are important because

⁹ Report of the independent international fact-finding mission on Myanmar, UN Doc. A/HRC/39/64, 12 September 2018, <https://documents.un.org/doc/undoc/gen/g18/274/54/pdf/g1827454.pdf>, para. 33.

¹⁰ Ibid. para. 100.

¹¹ Ibid.

¹² Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles and Guidelines), adopted by the UN General Assembly on 16 December 2005, <https://docs.un.org/A/RES/60/147>, art. 11. (“Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim’s right to the following as provided for under international law: (a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; (c) Access to relevant information concerning violations and reparation mechanisms.”)

they can deter future human rights violations and help break cycles of violence and oppression that are driven by impunity.¹³

43. The right to a remedy is set out in the Universal Declaration of Human Rights and is widely regarded as forming part of customary international law, including customary international humanitarian law.¹⁴ The ASEAN Human Rights Declaration also recognizes the right to a remedy.¹⁵ It is also guaranteed in binding international treaties. Myanmar has ratified or acceded to treaties that guarantee the right to a remedy including the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.¹⁶ The National Unity Government has announced its commitment to ratifying the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, treaties that guarantee the right to a remedy.¹⁷

44. *Justice.* The right to a remedy requires that victims have access to effective judicial remedies. States have a corresponding obligation to investigate, prosecute and punish perpetrators of grave human rights violations.¹⁸ Administrative remedies may also help realize victims' right to justice, but they cannot wholly replace the right to access judicial remedies. To give meaning to the right to justice, states have an obligation to disseminate information concerning available remedies, assist victims seeking justice, and ensure the safety and protect the privacy of victims, their families and witnesses, among other measures.¹⁹

45. *Reparations.* Victims of grave human rights violations have a right to adequate, effective and prompt reparations that are proportional to the gravity of the harms they have

¹³ Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, adopted 29 March 2004, <https://docs.un.org/en/CCPR/C/21/Rev.1/Add.%2013>, art. 17.

¹⁴ Universal Declaration of Human Rights, adopted 10 December 1948, <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>, art. 8; International Law Commission, Draft articles on Responsibility of States for Internationally Wrongful Acts, 2001, https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf, art. 31; International Committee of the Red Cross, Customary International Humanitarian Law, 2005, Volume 1: Rules, Rule 150, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule150>.

¹⁵ ASEAN Human Rights Declaration, adopted 19 November 2012, <https://asean.org/asean-human-rights-declaration/>, art. 5.

¹⁶ Convention on the Rights of the Child, adopted 20 November 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>, article 39; Convention on the Rights of Persons with Disabilities, adopted 12 December 2006, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>, art. 13 and 16. Both the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of All Forms of Discrimination against Women have stated that remedies must be made available for the treaties which they monitor (and to which Myanmar is a party). Committee on Economic, Social and Cultural Rights, General Comment No. 9: The domestic application of the Covenant, 3 December 1998, <https://docs.un.org/en/E/C.12/1998/24>; Committee on the Elimination of Discrimination against Women, General recommendation No. 33 on women's access to justice, 2 August 2015, <https://docs.un.org/en/CEDAW/C/GC/33>.

¹⁷ International Covenant on Civil and Political Rights, adopted 16 December 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, art. 2(3); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 December 1984, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>, art. 14; Ministry of Human Rights, National Unity Government, "Statement on United Nations International Day in Support of Victims of Torture," 26 June 2021, <https://mohr.nugmyanmar.org/wp-content/uploads/2021/07/torture-statement-final-en.pdf>.

¹⁸ Basic Principles and Guidelines, art. 4. Report of the independent expert to update the Set of principles to combat impunity, Diane Orentlicher, Addendum, Updated Set of principles for the protection and promotion of human rights through action to combat impunity (Orentlicher Principles), UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005, <https://docs.un.org/en/E/CN.4/2005/102/Add.1>, principle 19.

¹⁹ Basic Principles and Guidelines, art. 12-14.

suffered.²⁰ A state has an obligation to provide reparations for violations that can be attributed to the state. States should also enforce judgements for reparations against private parties responsible for violations. Full and effective reparations take the following forms:

- Restitution: measures to restore victims to the situation they were in prior to human rights violations;
- Compensation: monetary payment for economically assessable damage;
- Rehabilitation: care or services to mitigate the harm suffered by victims;
- Satisfaction: non-monetary measures that help restore the dignity of victims, including by establishing the truth, acknowledging violations and harms done, and assigning or acknowledging responsibility; and
- Guarantees of non-repetition: measures to prevent the recurrence of violations.²¹

46. *Truth.* Both the general public and victims have a right to know the truth about situations of grave human rights violations.²² Victims and their family members have a specific right to information about the violations they have experienced, as well as the causes and conditions that led to those violations. States therefore have an obligation to inform the public and provide mechanisms for victims to seek the truth regarding violations affecting them. Such mechanisms may include procedures to establish the fate and whereabouts of individuals who have disappeared or been abducted or killed.²³ States also have a duty to preserve evidence of human rights violations and protect against the development of revisionist narratives.²⁴

47. When states fail in their obligations to provide a remedy for grave human rights violations, international mechanisms and processes play an important role in fulfilling victims' rights. International or internationalized tribunals may exercise jurisdiction and help victims realize their right to access judicial remedies when national courts lack independence or impartiality.²⁵ States should support international criminal justice processes in line with their legal obligations, including by arresting and extraditing suspects and providing access to witnesses and evidence.²⁶ Universal jurisdiction can also help give meaning to victims' right to justice.²⁷ Victims should have access to international and regional mechanisms in order to secure their right to reparation.²⁸ Reparations programs may be supported by international funding.²⁹ Third countries should support truth-telling and truth-seeking processes.³⁰

IV. Centering victims and the people of Myanmar in approaches to justice and accountability

1. Perspectives on accountability: views of the people of Myanmar

48. The people of Myanmar have a strong and deeply felt desire for accountability. Their thirst for justice derives not only from the widespread human rights violations committed since the 2021 military coup, but also from decades of repression and atrocities. To victims and survivors in Myanmar, accountability is not an abstract legal principle, but a necessary

²⁰ Basic Principles and Guidelines, art. 15.

²¹ Basic Principles and Guidelines, art. 19-23.

²² Basic Principles and Guidelines, art. 24. See also, Orentlicher Principles, principles 2-5; UN General Assembly Resolution 68/165, Right to the Truth, UN Doc. A/RES/68/165, 21 January 2014, <https://docs.un.org/en/A/RES/68/165>.

²³ Basic Principles and Guidelines, art. 24(c).

²⁴ Orentlicher Principles, principle 3.

²⁵ Basic Principles and Guidelines, art. 14; Orentlicher Principles, principle 20.

²⁶ Orentlicher Principles, principle 20.

²⁷ Orentlicher Principles, principle 21.

²⁸ Orentlicher Principles, principle 32.

²⁹ Orentlicher Principles, principle 32.

³⁰ Orentlicher Principles, principle 18.

response to immense personal and collective suffering. Accountability, to them, means dignity, recognition and the hope that atrocities will not be repeated in the future. In conversations with the Special Rapporteur, survivors, family members of victims and affected communities repeatedly called for those responsible to be identified, prosecuted and punished. Over and over, they asked for the assistance of the international community in halting atrocities in Myanmar and bringing perpetrators to account. Their demands reflect both a deep-seated desire for justice and a determination to break the cycle of violence, oppression and impunity that has repeated throughout Myanmar's history.

A deep desire for justice

49. A Rohingya man who was tortured by Myanmar security forces and displaced by genocidal attacks in 2017 told the Special Rapporteur:

The international community should understand that this violence we faced, the genocide we faced, will never be forgiven. We saw the military come and shoot everyone and burn our villages without any thought. It was like a dream or a scene in a movie. [We saw them] loot our homes and bring people to the field and shoot them. ... We can only forgive or be happy when justice is totally served, every single perpetrator is held accountable, and people are given compensation for their loss. [In our minds] we still see our people being killed and tortured. Trauma remains fresh in the mind of every Rohingya person. Women saw their husbands and children killed. Men saw their wives and daughters raped in front of their eyes. They can never forget these things. They ask justice from you, from everyone who has heard about the suffering of the Rohingya, from everyone that is talking about human rights in the world.

50. A journalist and former political prisoner told the Special Rapporteur:

We have never had any accountability in my whole life. If you look at our history, since 1962 the military has always controlled our country. [In my lifetime,] I have experienced uprisings in 1988, 1996 and 2007 and the Spring Revolution. With every uprising, we tried to resist the dominance of the military, but they always cracked down and killed us. ... We have faced a lot of atrocities by the military. We never held them accountable for what they have done to our people.

51. A young activist from a prominent political family described the many ways in which her family has suffered because of their commitment to democracy and opposition to military oppression. She described how accountability, for her, is personal:

There are people who say they are participating in this revolution for our country. "We do this for our country, for Daw Aung San Suu Kyi, for the NLD," [they say.] But for me, I am only participating because we suffered. I have seen my parents beaten, not one time, but many times. I have seen my mother crying hundreds of times. I have seen my father with his teeth missing and with bruises all over his body. I have seen my brother and parents behind prison bars. I do this only for my family. They have to pay for what they have done.

52. While researching this paper, the Special Rapporteur was often reminded how entire communities and populations have been affected by the human rights crisis in Myanmar, with trauma being passed from generation to generation. A young Rohingya woman who grew up in Bangladesh told the Special Rapporteur:

I absolutely believe there should be accountability. This is very personal for me. I grew up with all these stories from my parents' neighbors and what people went through. I have seen the impact on those families until today. I believe that those who are responsible should be held accountable through legal processes because if there's no accountability, it feels like our suffering doesn't matter.

53. For many survivors and family members of victims, accountability must begin with coup leader Min Aung Hlaing and other senior military commanders. A woman displaced by violence in central Myanmar implored the Special Rapporteur to help bring Min Aung Hlaing to justice:

We need to hold junta leader Min Aung Hlaing accountable. He committed many atrocities. The military burned our homes and killed many villagers. We would like to pound him into ash. Now we have to live in the jungle, and aircraft are circling overhead every day. We struggle to find food. We don't know where we will live day-to-day. We are in a lot of trouble. I would like to request you to help us hold Min Aung Hlaing accountable.

54. “I would sacrifice my own life if we could punish Min Aung Hlaing,” said another woman whose village was burned by the military.

55. A man whose son was killed in a military airstrike only weeks before told the Special Rapporteur:

It is very important to take immediate action against Min Aung Hlaing and his followers. Daily we are feeling insecure because the fighter jets are circling overhead day and night. We can't sleep well because we might be attacked at any time. ... I would like to root out the military council from our country. To do that, we need help from the international community.

56. Many victims and survivors were clear about the need to apply criminal law against Min Aung Hlaing and other perpetrators. However, the Special Rapporteur talked to many people who expressed a desire for retribution. “We want them to suffer as we have suffered,” said a man whose village has been repeatedly targeted in military airstrikes. A woman who lost her leg in an airstrike told the Special Rapporteur, “The punishment should be appropriate for the atrocities they committed. In the airstrike my uncle and aunt lost their lives, and I lost my leg and my hand was injured. All of my family was injured. I would like them to get a punishment equal to what we suffered.”

Skepticism about amnesty

57. People with whom the Special Rapporteur spoke while preparing this report set a very high bar for the possibility of a mass amnesty for perpetrators. The leader of a Myanmar human rights organization told the Special Rapporteur:

What people expect this time around, and what I personally expect, is that every person who is found responsible should be held accountable. What form of accountability, that is another matter. We should be afraid of any amnesty or political negotiation. Politics is unpredictable. We should make these decisions outside of politics. We must break the cycle of impunity. There is abundant evidence against the junta leaders, and the fact that they have been accused of international crimes should mean something. At the end of the day, what is the purpose of international law? People need to answer for their crimes. Most people in Burma would not accept a negotiated political settlement where [perpetrators] can wash their hands of these crimes. Looking at the widespread nature of the crimes that have been committed, everyone is personally affected by this, either as a victim or as a survivor. Having some kind of solution that looks like a political settlement by the elites, that would not work. We need to hold accountable everyone who is found responsible.

58. A woman human rights defender said:

In our history, the perpetrators of war crimes have never been accountable. We would like to hold accountable those who have given the orders to commit human rights violations. We would like this to be a lesson for the future, so that others will not commit these types of human rights violations. We are closely involved with the people on the ground. They will not accept some sort of apology. It is very important for the future of our country. ... The military never keeps its promises. They continuously committed human rights violations against the ethnic minorities, including women and children. They are not trustworthy and should not get amnesty because they never keep their promises.

59. When discussing the possibility of an amnesty, many made distinctions regarding the severity of the violation or seniority of the perpetrators, dismissing the possibility of amnesty for serious crimes or high-ranking perpetrators. A former political prisoner and human rights defender told the Special Rapporteur:

If the perpetrators give an apology, that is fine, but for some types of human rights violations, that is not enough. Some families have lost their loved ones. An apology will not satisfy them because they lost a loved one. If they burned a village and they pay to rebuild the village, that is acceptable, but if some family member was killed, that is not enough.

60. A woman human rights defender said, “It will be very difficult to give amnesty to someone who committed war crimes, crimes against humanity or conflict-related sexual violence. Those three crimes shouldn't be considered for amnesty.”

61. Many human rights defenders emphasized that decisions about whether to provide amnesty to perpetrators of serious human rights violations should not be made by political leaders, but by the victims of those violations themselves. A human rights defender working in central Myanmar told the Special Rapporteur, “We were taught by our parents, ‘let the past be the past.’ That is painful. I don't think the survivors and victims can simply let the past be the past. They need accountability and their rights.”

62. A human rights defender said, “Without truth and reparation for victims, they will continue to suffer from injustice. If we really consider amnesty, it is not fair for the victims or the survivors. The ones who suffered these crimes should make those decisions.” Some women human rights defenders felt uncomfortable even offering their own opinions about a potential amnesty, saying that such questions should be directed to victims. One said, “The communities that suffered the most should be the ones to make a decision about whether to give amnesty. We can't represent all the survivors in Myanmar.” “If it is discussed at all, it needs to be discussed with the victims themselves,” said another.

63. A young Rohingya woman who grew up as a refugee in Bangladesh told the Special Rapporteur:

The question is whether they deserve amnesty. Do they? How many people have been killed? How many women have been raped? How many people have been displaced because of [the military]? I think that for every action there is a price to pay. It's not that I'm being cruel. It's a really hard question for me, actually. How are you going to forget? For the people who have lost mothers, fathers, brothers, kids and children—the answer should come from them, actually. ... Some women have children from soldiers who raped them. Do you not think every time she looks at her kids, she will remember what happened to her? The amnesty matter should be viewed from her perspective. ... [A friend's] father was killed on the way to Bangladesh. I think we should ask her whether she would like to give the military amnesty or not, or if she could forgive them.

64. Many people in Myanmar oppose an amnesty because they believe the military cannot be trusted. They worry that if amnesty was offered to military officials as a part of a political settlement, the military would subsequently break its promises. A man from a village in Sagaing Region that has been repeatedly attacked by the military said, “We can't accept amnesty. Even when there is a peace agreement, the generals never keep their promises. That's why we don't trust them.”

65. A human rights defender and interfaith activist said:

Over the years, the military has made many ceasefire agreements. But they cannot be trusted. They make an agreement in the front but continue the violations in the back. The other thing is the military mindset. They think they are the owners of the country. They have the mentality that people have to take the peace that they offer. They have always had the upper hand. The question is whether they should really be forgiven for just telling the truth given the level and intensity of their violations. If there is a [political] transition in the country, we need to make sure that the military is not part of this process. That is the accountability that people want.

66. A journalist who was tortured in prison told the Special Rapporteur:

When Aung San Suu Kyi led the NLD government, they tried to get national reconciliation through Parliament. But how effective was it? It is not the time to give forgiveness or tolerate human rights violations. We have suffered a lot. We have been

lied to many times. There is a Burmese proverb: If someone lies to you one time, it is not your fault. But if someone lies to you many times, whose fault is it?

Beyond punitive justice

67. Despite the clear desire for punitive justice, many in Myanmar have more immediate priorities. Those facing ongoing human rights violations and life-threatening conditions are often more focused on survival and meeting their immediate material needs. Many people responded to the Special Rapporteur's questions about accountability by describing their need for food, shelter, medical care, education for their children and safety from ongoing attacks by the military. A woman human rights defender said:

After 2021, people lost so many things and are living with trauma. ... Criminal accountability is not the priority [for many victims.] First of all, they want to survive. They want to have a safe place to sleep and enough food. The other thing is the guarantee of non-recurrence. The conflict should not be repeated. People fled their homes before 2021, and now they have to flee again. It shouldn't be like that in the future.

68. For many in Myanmar, accountability simply means stopping the violations that threaten their lives. When asked what a future democratic government could do to promote accountability for human rights violations, a man who has been displaced by attacks in Sagaing Region told the Special Rapporteur:

We cannot wait for a future democratic government. If we wait, we will all be dead and our villages will be gone. We cannot sleep well. When we hear the sound of fighter jets, we run for cover. We also need to run from the military columns that attack us. We would like to hold them accountable as soon as possible. We want to be free from the military regime. So many civilians have been killed. Our whole generation will be dead if we wait for a future democratic government. We are in a lot of trouble on the ground.

69. Victims, human rights defenders and others repeatedly described the need for accountability to interrupt the cycle of violence, oppression and impunity that has gripped Myanmar for decades. "Peace without accountability will not last long," said a woman human rights defender.

70. A lawyer and former political prisoner told the Special Rapporteur:

If we don't take any action, then the people who have committed human rights violations will have the mindset that they have the right to violate human rights. We have to take action. ... If we don't expose these atrocities, the prisoners who are still serving their prison terms will face a more dangerous situation. The perpetrators will think they can violate human rights as much as they like.

71. A professor who joined the Civil Disobedience Movement and fled Myanmar following the coup told the Special Rapporteur:

There has never been accountability. That is why the military can launch the coup and commit abuses against the people. They have no sympathy. They committed these crimes for a long time. It is important to hold the perpetrators accountable. It is not only important for us, but for the next generation. ... If we don't have accountability, we can't escape from the cycle of coups and military dictatorship. We have lived in fear for decades. We don't want future generations to live in fear.

72. A former political prisoner and human rights defender told the Special Rapporteur:

If you want long-lasting peace, there should be accountability. Under the NLD government and the leadership of Aung San Suu Kyi, we tried so many ways to reconcile with the military, but it was never accomplished. If we don't have accountability, whatever peace we build will not be sustainable and there will still be the culture that if you have a weapon or power, you can do anything you want. We already learned this lesson in the past.

73. A Myanmar human rights defender said, “When we talk about accountability, it also means protection. Communities say justice is not only about punishment, but also deterrence. It must interrupt the cycle of the attacks, airstrikes, torture and arbitrary arrest. Without consequences, abuses become routine.”

74. A Rohingya man displaced by genocidal attacks in 2017 told the Special Rapporteur:

Those in positions of power, who abused the Rohingya and other vulnerable communities, must be held accountable. Justice must be fair and transparent. If the world allows impunity, it will send the message that these crimes can be committed again. The Myanmar military has gotten impunity and so has been committing more and more crimes. Airstrikes are happening every day. The arbitrary detention of journalists and activists, it is happening every day. This is the consequence of impunity.

75. Many victims told the Special Rapporteur that it was important to them that perpetrators not be able to serve in the military or government in a future democratic Myanmar. A former political prisoner told the Special Rapporteur:

It is not only senior military generals who are responsible for human rights violations, but also those who have cooperated with or encouraged them. I have a record of those who beat and tortured me. ... I would like them to be suspended from their positions and blacklisted. Those perpetrators involved in the atrocities against me, I don't want to see them in government positions. I would like to see them prosecuted. I would like them to apologize.

76. Many victims of human rights violations in Myanmar feel it is very important that the truth be known about the military's violence and oppression. Indeed, many implored the Special Rapporteur to tell the world about the suffering they have endured. A former political prisoner told the Special Rapporteur, “We have suffered a lot and spent a lot of time in prison. But our suffering has been kept a secret. First of all, I would like people to know the truth about what we have suffered.” A human rights defender put it simply, “Without truth, accountability is incomplete.”

77. A lawyer and former political prisoner told the Special Rapporteur that he plans to submit formal complaints about the mistreatment of political prisoners to courts in Myanmar as well as the newly formed Parliament in order to create a historical record of human rights violations. He explained his motivation:

It is very important to raise our voices. ... We know that the courts and Parliament might dismiss our complaint. But we are trying to create a record of what we have faced. I would like to get case numbers for cases against perpetrators that have committed violations. Whether they take action or not is another issue. If they don't take any action or they don't show any interest, we will take it to the international tribunal. But we want this to be recorded at Parliament and the court.

78. A human rights defender involved in the documentation of human rights violations said:

At the ground level, people say they want recognition and acknowledgment. When we record their stories, they say they want their suffering acknowledged. They want the region and the world to know what happened in their villages, and what happened to their children and families.

79. Many victims stressed that apologies, while important, are not sufficient. A man facing severe hardship because of repeated military attacks on his village in Sagaing Region told the Special Rapporteur, “Even if those perpetrators apologize and tell the truth, I will never be satisfied because of all I have suffered.” A young Rohingya woman told the Special Rapporteur:

I believe that [an apology] gives people a sense that they are not completely forgotten. But at the same time, it makes them frustrated because the statement also does not change our reality. A single statement does not change the reality of what happened. I think a strong public statement and apology is important, but they should be followed by real meaningful actions.

A call for international support for accountability in Myanmar

80. Survivors of human rights violations, victims and human rights defenders again and again asked the Special Rapporteur to urge the international community to support accountability for human rights violations in Myanmar. A man whose house was burned and who was injured in a military drone strike said to the Special Rapporteur:

You have already documented everything that has happened in Myanmar. We can't live our lives. We can't sleep. I would like the international community to help us. Whenever I think about the situation in Myanmar, I cry. Please help us. That's the only thing I can say.

81. Those who spoke with the Special Rapporteur were, without exception, supportive of the use of international mechanisms to hold perpetrators accountable for their crimes and halt human rights violations.

82. Many articulated that their desire for international action on accountability reflected the limited domestic opportunities to secure justice at the present moment. Indeed, many victims who spoke with the Special Rapporteur had difficulty even contemplating the prospect of domestic accountability. A human rights defender said, "Any kind of justice-seeking is important. If that were to happen inside the country, that would be great. I don't see any possibility now, but hopefully soon."

83. A human rights defender said:

Not only is Myanmar's judicial system controlled by the military, but the legal framework has been written by the military. We have tried to reform the laws ... but we have gotten nowhere. ... International courts have all the standards and credentials [that our courts lack]. International courts are fair and give people their rights. That's why people trust them. International courts provide a neutral ground, where a survivor's statement is the same as a general's statement. That is totally different than the situation in Myanmar. ... So, the international courts are very important for the people of Myanmar. Not only the International Criminal Court, but [courts applying] universal jurisdiction. Other countries need to open up their courts so that the suffering of the Myanmar people is shared with the world.

84. A human rights defender said:

Even before the military coup, the justice system had collapsed in the country. The military always enjoys impunity. Under the 2008 constitution, we cannot seek justice for human rights violations. That's why we always rely on international mechanisms like the International Criminal Court, the International Court of Justice and universal jurisdiction, like the cases in Argentina and the Philippines. That's why we collaborate with the [Independent Investigative Mechanism for Myanmar], and before that the [UN Fact-Finding Mission for Myanmar].

85. A common message from victims and local communities to human rights defenders is simply, "do anything you can" to support accountability. Advocates understand this as a mandate to pursue international avenues to justice so long as domestic pathways are blocked. A former political prisoner and human rights defender told the Special Rapporteur:

Right now, it is not possible to hold perpetrators responsible in Myanmar, so it is very important to have accountability at the International Criminal Court. That way, the next generation will realize that even if you have weapons or power, you cannot do as you wish. It will lead to a better future for our society and our country.

86. Despite the overwhelming support for the application of international criminal law to perpetrators in Myanmar, many human rights defenders and victims recognize that, at most, international mechanisms will only address a small set of human rights violations by the most prominent perpetrators. Thorough justice will require the development of domestic accountability systems and mechanisms. A human rights researcher working in central Myanmar told the Special Rapporteur:

We support international mechanisms, but there are millions of victims and survivors just in central Burma. We have 15.4 million people in Sagaing Region. 3.4 million

have been displaced. We have experienced massacres, killings, forced displacement. We cannot bring all of the perpetrators to the international accountability mechanisms. We need a domestic solution. That's why we push for ... community justice. ... We want to see domestic justice within Myanmar's legal framework. ... We can't send millions of victims to the court in the Hague or Argentina or Australia or Germany.

2. Victim-centered approaches to accountability

88. A victim-centered approach to accountability recognizes victims as rights-holders and fully respects their dignity, views, priorities and concerns.³¹ It prioritizes victims' role in the design, implementation and monitoring of accountability mechanisms.

89. A victim-centered approach is not just a matter of principle; it improves the outcomes associated with accountability mechanisms and processes, including by:

- ensuring that mechanisms are aligned with the needs of victims;
- increasing the likelihood that victims will perceive that justice has been delivered;
- providing a measure of recognition to victims and ensuring their visibility;
- building common ground between different victim groups; and
- connecting technical discussions to the humanity of victims.³²

90. To this end, victims must be continuously and meaningfully consulted throughout the design and implementation of mechanisms and processes. A victim-centered approach to consultation stands in contrast with tokenistic consultation, which is all too common. Building trust with victims and communities is a process that takes time and requires dedicated resources. These processes are worth the effort. Meaningful, sustained consultation ensures that accountability processes enjoy broad support and participation, build the legitimacy needed for long-term impact, and are oriented toward the priorities of victims.

91. Accountability processes should foster broad community ownership, including by bringing in traditionally marginalized and excluded groups. Participants should be drawn from all parts of the country and from diverse ethnic, religious and social groups. Cross-generational participation, including participation by youth, is essential. Civil society organizations should be deeply involved in mobilizing victims, building capacity among various actors, and providing technical and logistical support.

92. The design of accountability mechanisms and processes should address the significant risks that victims may face because of their participation. These can include security risks, stigmatization, economic costs, retraumatization and conflict between different victim groups. Strong informed consent policies, witness protection programs, support services and psychological counseling are among the measures that can help to address these risks.

93. The National Unity Consultative Council's Joint Coordinating Committee for Transitional Justice is currently developing a Victim and Survivor-Centered Policy Framework for Transitional Justice. The policy is being designed to align transitional justice mechanisms and processes with a victim-centered approach, including by ensuring the

³¹ See, Guidance Note of the Secretary-General, "Transitional Justice: A Strategic Tool for People, Prevention and Peace," 2023, https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf; Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, UN Doc. A/HRC/34/62, 27 December 2016, <https://docs.un.org/en/A/HRC/34/62>; Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, UN Doc. A/71/567, 25 October 2016, <https://docs.un.org/en/A/71/567>, para. 26-36; Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, UN Doc. A/HRC/21/46, 9 August 2012, <https://docs.un.org/en/A/HRC/21/46>, para. 54-57.

³² Report of the Special Rapporteur, UN Doc. A/HRC/34/62, para. 25-26.

meaningful consultation and participation of victims and survivors in all phases of accountability processes.

3. Gender-responsive approaches to accountability

94. Conflict and human rights violations are not experienced in the same way by men, women, children and LGBT people. For example, while men are more often the victims of violations associated with active participation in armed conflict, women and children are disproportionately impacted by displacement and other harms associated with the aftermath of armed conflict.³³ As highlighted in a previous conference room paper by the Special Rapporteur, sexual and gender-based violence is a dark shadow that follows women, girls, and LGBT people throughout Myanmar.³⁴

95. A gender-responsive approach recognizes that human rights violations affect people differently because of their sex, gender, sexual orientation or other identities. It accounts for those differences in the design and implementation of accountability processes and mechanisms. A gender-responsive approach does not treat harms associated with human rights violations as gender-neutral, but addresses the particular experiences of women, girls and LGBT people, as well as the gendered experiences of men and boys.³⁵

96. A gender-responsive approach requires the meaningful participation of women and gender-diverse people in the design, implementation and monitoring of accountability processes and mechanisms. Moreover, women must hold leadership positions in the bodies that design and implement these processes, a point that has repeatedly been emphasized by the UN Security Council in its Women, Peace and Security resolutions.³⁶

97. Remedies provided by accountability mechanisms and processes must reflect the harms experienced by women, girls and LGBT people as well as their priorities. They should address not only the specific violations that have occurred, but also the root causes of those violations, including systematic discrimination and patriarchal power structures. For example, reparations should extend beyond monetary compensation to address deficits and

³³ Report of the Special Rapporteur, UN Doc. A/HRC/21/46, para. 58.

³⁴ Special Rapporteur on the situation of human rights in Myanmar, “Courage amid crisis: gendered impacts of the coup and the pursuit of gender equality in Myanmar,” UN Doc. A/HRC/56/CRP.8, 1 July 2024, <https://www.ohchr.org/en/documents/thematic-reports/ahrc56crp8-courage-amid-crisis-gendered-impacts-coup-and-pursuit-gender>.

³⁵ See, Guidance Note, “Transitional Justice,” p. 10-11; Report of the Special Rapporteur, UN Doc. A/71/567, para. 37-41; UN Women and UNDP, “Women’s meaningful participation in transitional justice: Advancing gender equality and building sustainable peace,” 2022, <https://www.unwomen.org/en/digital-library/publications/2022/03/research-paper-womens-meaningful-participation-in-transitional-justice>; Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, “The gender perspective in transitional justice processes,” UN Doc. A/75/174, 17 July 2020, <https://docs.un.org/en/A/75/174>. See also, International Commission of Jurists, “Towards Gender Inclusive Justice and Accountability for Serious Crimes under International Law Committed in Myanmar,” September 2024, <https://www.icj.org/wp-content/uploads/2024/10/Towards-Gender-Inclusive-Justice-and-Accountability-for-Serious-Crimes-under-International-Law.pdf>; Asia Justice and Rights (AJAR), “Gender and Reparations in South-East Asia: Lessons for Myanmar,” 21 November 2022, <https://asia-ajar.org/resources/policy-papers/gender-and-reparations-in-south-east-asia-lessons-for-myanmar/>.

³⁶ See, Women, Peace and Security resolutions by the UN Security Council. Security Council resolution 1325, UN Doc. S/RES/1325, 31 October 2000, [https://docs.un.org/en/S/RES/1325\(2000\)](https://docs.un.org/en/S/RES/1325(2000)); Security Council resolution 2467, UN Doc. S/RES/2467, 23 April 2019, [https://docs.un.org/en/s/res/2467\(2019\)](https://docs.un.org/en/s/res/2467(2019)), para. 16(d) (“Encourages concerned Member States to ensure the opportunity for the full and meaningful participation of survivors of sexual and gender-based violence at all stages of transitional justice processes, including in decision-making roles, recognizes that women’s leadership and participation will increase the likelihood that transitional justice outcomes will constitute effective redress as defined by victims and will respond to important contextual factors.”)

structural inequalities in areas such as livelihoods, housing, education and property and inheritance rights.³⁷

98. Women, girls and LGBT people often face unique risks associated with their participation in accountability processes. For example, in Myanmar, victims of gender-based violence are impacted by societal beliefs and stigmas that may discourage participation in truth-telling or justice mechanisms. These types of risks must be addressed in the design of accountability mechanisms through measures providing for confidentiality, protection, psychosocial support and the mitigation of stigma and other harms.

V. Pathways to accountability

99. Political leaders, human rights defenders, civil society representatives, lawyers, activists and others are currently working hard to ensure that the people of Myanmar can access justice even while war and political conflict divide and destabilize the country. At the same time, they are laying the foundation of a future Myanmar where victims of human rights violations can secure full and effective remedies and where perpetrators are held to account.

100. Sadly, the energy and commitment of the people of Myanmar have not been reciprocated by the international community. Atrocities in Myanmar are being considered at the International Criminal Court and International Court of Justice and in countries with universal jurisdiction laws, but UN bodies and member states have missed many opportunities to promote justice for the people of Myanmar.

101. This section describes available pathways to accountability—mechanisms or processes that can help victims in Myanmar secure remedies for human rights violations. The choice to consider international and foreign tribunals before domestic accountability mechanisms reflects the reality that international fora represent the most immediate opportunities to secure justice for the most serious international crimes in Myanmar. The Special Rapporteur emphasizes, however, that broad and robust accountability will only be achieved in Myanmar's courts and through processes led by the people of Myanmar.

1. International Criminal Court

102. The International Criminal Court (ICC) is the world's only permanent international criminal tribunal, with jurisdiction to prosecute four crimes: genocide, crimes against humanity, war crimes and the crime of aggression. The ICC is designed to complement, not replace, national courts, providing an avenue to accountability when states are unwilling or unable to investigate and prosecute these crimes.

103. The ICC was established by the Rome Statute, a treaty that entered into force in 2002. Myanmar is not a party to the Rome Statute, a major barrier to pursuing accountability at the ICC.

104. The Rome Statute offers three distinct mechanisms by which the ICC may exercise its jurisdiction over apparent crimes.³⁸ First, the Security Council may invoke its Chapter VII powers to refer a situation to the ICC Prosecutor. Second, the Prosecutor may, of his or her own initiative, launch an investigation into apparent crimes within the jurisdiction of the court. Third, a state party to the Rome Statute may refer a situation to the Prosecutor for investigation. Each of these pathways holds opportunities to advance accountability for crimes in Myanmar, even if significant hurdles and uncertainties remain.

³⁷ Asia Justice and Rights (AJAR), "Comparative Research on Gender & Reparations in South-East Asia: Myanmar," 21 November 2022, <https://asia-ajar.org/resources/policy-papers/gender-and-reparations-in-south-east-asia-lessons-for-myanmar/>.

³⁸ Rome Statute of the International Criminal Court, entered into force 1 July 2002, <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>, art. 13. The three mechanisms are presented in a different order than they appear in article 13.

Security Council referral

105. A Security Council referral is the most straightforward pathway for the ICC to consider a broad spectrum of crimes committed in Myanmar. Using its Chapter VII powers, the Security Council may refer a situation to the ICC regardless of where the alleged crimes were committed. Crucially, the Security Council can refer apparent crimes committed in the territory of a non-state party to the Rome Statute. A Security Council resolution could, therefore, provide the Court jurisdiction over crimes that have occurred in any part of Myanmar since 2002, allowing the ICC to investigate and prosecute any or all of the following: genocidal attacks against the Rohingya population; alleged war crimes and crimes against humanity against other ethnic minority populations, political prisoners and others prior to the coup; post-coup crimes by the military junta; and alleged crimes by non-state armed groups.

106. The Special Rapporteur has consistently called upon the Security Council to refer the situation in Myanmar to the ICC, including in his reports to the UN Human Rights Council and General Assembly. To date, not only has the Security Council not taken this action, but no Security Council member has even proposed a resolution that would give the Court jurisdiction over crimes in Myanmar. In its December 2022 resolution concerning Myanmar—the only Security Council resolution concerning Myanmar since its independence³⁹—the Security Council “stress[ed] the importance of accountability,” but did not invoke its Chapter VII powers.⁴⁰ The Council has not taken any actions to impose accountability despite the military’s blatant disregard for the calls included in the resolution, including to end all forms of violence, release arbitrarily detained prisoners, and provide unhindered humanitarian access.

Prosecutor’s investigation

107. Whereas the Security Council may refer a situation to the ICC regardless of where the alleged crimes were committed, a situation referred by a state party to the Rome Statute or an investigation initiated by the Prosecutor must concern crimes committed on the territory of, or by a national of, a state party (or by a state that accepts the Court’s jurisdiction, see sub-section that follows).⁴¹ This requirement, however, does not completely block ICC consideration of events in Myanmar, despite Myanmar not being a state party to the Rome Statute.

108. In April 2018, the ICC Prosecutor requested the ICC to decide whether the Court had jurisdiction over the alleged deportation of Rohingya people from Myanmar to Bangladesh, arguing that the crime of deportation had been committed in part on the territory of Bangladesh, a state party to the Rome Statute.⁴² In September of that year, the Pre-Trial Chamber ruled that the Court did, indeed, have jurisdiction in such a situation, so long as at least one element of the alleged crime had occurred on the territory of a state party.⁴³

109. The following year, the Prosecutor formally requested to launch a full investigation into crimes that were committed against Rohingya people during two waves of violence in 2016 and 2017.⁴⁴ In November 2019, the Court’s Pre-Trial Chamber III approved the

³⁹ In 1948, Security Council Resolution 45 recommended to the General Assembly that the Union of Burma be admitted as a member of the United Nations following its independence from British rule.

⁴⁰ UN Security Council Resolution 2669, 21 December 2022, [https://docs.un.org/en/s/res/2669\(2022\)](https://docs.un.org/en/s/res/2669(2022)).

⁴¹ Rome Statute, art. 12(2).

⁴² Office of the Prosecutor, International Criminal Court, Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute, 9 April 2018, <https://www.icc-cpi.int/court-record/icc-roc463-01/18-1>.

⁴³ Pre-Trial Chamber I, International Criminal Court, Decision on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute,” 6 September 2018, <https://www.icc-cpi.int/court-record/icc-roc463-01/18-37>.

⁴⁴ Office of the Prosecutor, International Criminal Court, Request for authorisation of an investigation pursuant to article 15, 4 July 2019, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_03510.PDF.

Prosecutor's request.⁴⁵ The ruling, while specifically referencing the crimes of deportation and persecution and the events of 2016 and 2017, nevertheless authorized the Prosecutor to investigate *any* alleged crimes "committed at least in part on the territory of" *any* state party at *any* time after the respective states' adoption of the statute—1 June 2010 for Bangladesh—so long as the alleged crimes are "sufficiently linked" to the 2016 and 2017 attacks. The Pre-Trial Chamber specifically referenced the Prosecutor's obligation under the Rome Statute to "extend the investigation to cover all facts and evidence ... in order to establish the truth."⁴⁶

110. Since 2019, the Prosecutor's office has carried out an investigation into the events of 2016 and 2017, including by interviewing large numbers of Rohingya witnesses and victims in refugee camps in Bangladesh. The Prosecutor's office has also collected insider testimony, documentary evidence, photographs and videos.

111. In November 2024, the Prosecutor announced that his office had requested an arrest warrant for Senior General Min Aung Hlaing, stating that there were reasonable grounds to believe that he was responsible for the crimes against humanity of deportation and persecution against the Rohingya committed in part in Myanmar and in part in Bangladesh.⁴⁷ To date, neither the Court nor the Prosecutor's office have announced any decisions or actions following from the Prosecutor's request. It is not known if the Court has issued a warrant for Min Aung Hlaing or if the Prosecutor has requested additional arrest warrants in the case. It is possible that warrants for Min Aung Hlaing or others have been issued under seal, but the Special Rapporteur has not received any indication whether this is the case. In December 2025, the Prosecutor's office noted that "the absence of publicly available information regarding the status of the arrest warrant requested by the ICC Prosecutor [in the Bangladesh/Myanmar case is] eroding survivors' trust and diminishing victims' confidence in the Court's ability to deliver justice."⁴⁸

112. The Prosecutor's request for a warrant for Min Aung Hlaing is an important first step towards accountability for crimes against the Rohingya. However, it is hardly sufficient given the gravity and scope of the crimes and the array of actors responsible. In light of Myanmar's status as a non-state party to the Rome Statute, it is essential that the Prosecutor make full use of the jurisdiction already established by the Pre-Trial Chamber's ruling. A robust investigation could cover crimes committed against the Rohingya before or after the 2016-2017 time period and perpetrators beyond Min Aung Hlaing. Credible reports of recent crimes committed by the Arakan Army and Rohingya armed groups are likely "sufficiently linked" to previous waves of violence to fall within the parameters of the investigation authorized by the Court.⁴⁹ Violent attacks against both Rohingya and Rakhine communities in 2012 also merit consideration.

State party referral under article 14 of the Rome Statute

113. In July 2021, the National Unity Government, purporting to represent Myanmar, lodged a declaration with the ICC under article 12(3) of the Rome Statute accepting the

⁴⁵ Pre-Trial Chamber III, International Criminal Court, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, 14 November 2019, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_06955.PDF.

⁴⁶ Ibid. para. 128.

⁴⁷ Statement of ICC Prosecutor Karim A.A. Khan KC, Application for an arrest warrant in the situation in Bangladesh/Myanmar, 27 November 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-application-arrest-warrant-situation-bangladesh>.

⁴⁸ Pre-Trial Chamber I, *Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar*, Public Redacted version of 'Twelfth Registry Report on Information and Outreach Activities,' 16 December 2025, <https://www.icc-cpi.int/court-record/icc-01/19-80-red>.

⁴⁹ See, Fortify Rights, "International Criminal Court: Investigate Arakan Army War Crimes Against Rohingya," 23 July 2025, <https://www.fortifyrights.org/mya-inv-2025-07-23/>; Fortify Rights, "Bangladesh: Coordinate with International Criminal Court to Ensure Accountability for Crimes by Rohingya Militant Commander," 20 March 2025, <https://www.fortifyrights.org/bgd-inv-2025-03-20/>.

Court's jurisdiction over crimes committed in Myanmar since July 2002.⁵⁰ The Prosecutor has confirmed receipt of the declaration but has not publicly commented on its validity nor taken any public actions—such as opening an investigation into events taking place entirely within Myanmar—indicating reliance on the declaration.

114. The Prosecutor's office has previously taken a conservative approach to article 12(3) declarations in the context of competing claims of representation.⁵¹ However, it is worth noting that the Prosecutor has not publicly rejected the National Unity Government's declaration—as it has done in other cases—and the UN system has not definitively resolved the matter of Myanmar's representation.⁵²

115. Under article 14 of the Rome Statute, state parties may refer a situation to the Prosecutor and request an investigation into apparent crimes within the jurisdiction of the court. If a state party referred the situation in Myanmar—described to include the junta's attacks on peaceful protesters, civilians and ethnic minority groups—the Prosecutor would be required to make a determination as to whether the National Unity Government's declaration provides jurisdiction over crimes committed entirely in Myanmar, a decision that could be reviewed by the Court's Pre-Trial Chamber.⁵³

116. Since March 2024, the Special Rapporteur has called on state parties to the Rome Statute to refer the situation in Myanmar to the Prosecutor under article 14.⁵⁴ The Special Rapporteur understands that some states may be reluctant to make an article 14 referral if they believe the Prosecutor is unlikely to recognize the National Unity Government's declaration accepting the Court's jurisdiction. However, state parties could make an article 14 referral in relation to apparent crimes already firmly within the jurisdiction of the court, including by “specify[ing] the relevant circumstances” for attention.⁵⁵

117. As described above, the Pre-Trial Chamber's 2019 decision recognized the Court's jurisdiction over crimes “sufficiently linked” to the 2016 and 2017 attacks on the Rohingya and committed at least in part on the territory of Bangladesh or another state party. To date, the Prosecutor's office has not indicated that its investigation has expanded beyond the 2016-2017 violence. Under article 14, a state party could therefore request that the Prosecutor investigate all apparent crimes within the jurisdiction already confirmed by the Pre-Trial Chamber. Such a referral could include documentation relating to the 2012 violence in Rakhine State and apparent crimes committed by the Myanmar military, Arakan Army and Rohingya armed groups in recent years.

118. State parties could also refer the broader situation in Myanmar—inclusive of events occurring entirely on Myanmar's territory—in order to get clarity on the status of the National Unity Government's article 12(3) declaration. Even in the event that the Prosecutor declined to open an investigation based on an article 14 referral, his explanation of the decision or a review of the decision by the Pre-Trial Chamber could illuminate the Prosecutor's or Court's

⁵⁰ National Unity Government, untitled statement, 20 August 2021, <https://wp.progressivevoicemyanmar.org/wp-content/uploads/2021/08/2021-08-20-The-NUG-of-the-Republic-of-the-Union-of-Myanmar-accepts-the-jurisdiction-of-the-ICC-top-en.pdf>.

⁵¹ For example, the Prosecutor's office determined that former Egyptian President Mohamed Morsi did not have the authority to lodge an article 12(3) declaration following his ouster in a military coup. International Criminal Court, The determination of the Office of the Prosecutor on the communication received in relation to Egypt, 8 May 2014, <https://www.icc-cpi.int/news/determination-office-prosecutor-communication-received-relation-egypt>.

⁵² To date, no international court or UN body has formally recognized the National Unity Government as representing Myanmar. The UN General Assembly's Credentials Committee has annually deferred a decision on whether to recognize a representative appointed by the junta, leaving in place the ambassador to the UN appointed by the previous civilian government. The UN's Protocol List names Win Myint and Aung San Suu Kyi of the previous civilian government as the Head of State and Minister of Foreign Affairs, respectively. The International Court of Justice, on the other hand, has accepted junta appointees to defend Myanmar against allegations that it has violated the Genocide Convention (see section that follows).

⁵³ Rome Statute, art. 53(1) and (3).

⁵⁴ Report of the Special Rapporteur on the situation of human rights in Myanmar, 14 March 2025, UN Doc. A/HRC/55/65, paras. 112 and 122(a).

⁵⁵ Rome Statute, art. 14(2).

view concerning the jurisdictional issues, allowing other actors seeking accountability to respond accordingly. When making an article 14 referral, states could also affirm their intention to refer the situation in Myanmar—inclusive of events taking place entirely on Myanmar’s territory—to the Prosecutor if and when the Court’s jurisdiction over those crimes is established or confirmed.

International cooperation and obstruction

119. States parties play an essential role in facilitating ICC investigations and prosecutions. The Prosecutor has said that Bangladesh’s support has been “essential” in advancing the Bangladesh/Myanmar investigation.⁵⁶ The Government of Bangladesh has helped facilitate regular long-term missions by members of the Prosecutor’s office to interview victims and collect evidence.

120. Cooperation is needed from governments beyond Bangladesh’s. Given the violence and tumult in Myanmar, Rohingya victims and witnesses, military defectors and other potential witnesses have sought safety and refuge in many countries around the world. Relocation, resettlement and witness protection programs for witnesses and their family members are also vital and could be provided by governments outside the region. In representations to the ICC, Rohingya victims have expressed their fear of retaliation and requested protective measures.

121. State parties to the Rome Statute are obligated to enforce arrest warrants issued by the ICC.⁵⁷ However, states have not always fulfilled this obligation. If and when the ICC requests assistance in enforcing arrest warrants against Min Aung Hlaing or others, it is imperative that governments take all reasonable actions to do so.

122. Geopolitical developments are also impacting the ICC’s consideration of Myanmar. In February 2025, United States President Donald Trump issued an executive order imposing sanctions on the ICC and the ICC Prosecutor, which were subsequently expanded to ICC deputy prosecutors and judges.⁵⁸ The order froze the US assets of the Prosecutor and other ICC officials, denied them entry to the United States, and prohibited others from providing “funds, goods, or services” to the Prosecutor and other targeted individuals. The threat of criminal or civil action against those engaging the Prosecutor has obstructed the flow of information to the Prosecutor’s office and impeded the work of human rights defenders and others promoting accountability for crimes in Myanmar. Human rights advocates told the Special Rapporteur that they have cut off engagement with the Prosecutor’s office based on the advice of legal counsel. Two human rights defenders who have done extensive work on accountability for grave human rights violations in Myanmar have sued the Trump administration, arguing that the sanctions infringe their First Amendment right to free speech.⁵⁹

123. Political, material and logistical support for the ICC’s work is of heightened importance given the United States’ current hostility to the Court. The European Union has a statutory “blocking mechanism” intended to protect EU entities from the impact of sanctions imposed by third countries by nullifying the effect of foreign court rulings and

⁵⁶ ICC Prosecutor Karim A.A. Khan KC, statement, “Application for an arrest warrant in the situation in Bangladesh/Myanmar,” 27 November 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-application-arrest-warrant-situation-bangladesh>.

⁵⁷ Rome Statute, art. 89(1).

⁵⁸ President Donald J. Trump, “Imposing Sanctions on the International Criminal Court,” 6 February 2025, <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-sanctions-on-the-international-criminal-court/>; US State Department, “Imposing Further Sanctions in Response to the ICC’s Ongoing Threat to Americans and Israelis,” 20 August 2025, <https://www.state.gov/releases/2025/08/imposing-further-sanctions-in-response-to-the-iccs-ongoing-threat-to-americans-and-israelis>.

⁵⁹ American Civil Liberties Union, “Court Agrees Trump Administration’s ICC Sanctions Likely Violate Advocates’ First Amendment Rights,” 18 July 2025, <https://www.aclu.org/press-releases/court-agrees-trump-administrations-icc-sanctions-likely-violate-advocates-first-amendment-rights>.

allowing EU entities to recover damages caused by foreign sanctions.⁶⁰ The mechanism has not been invoked in relation to the US sanctions on the ICC. Applying the blocking mechanism to the US sanctions on the ICC would help promote accountability in Myanmar and elsewhere.

Recommendations

124. To the UN Security Council:

(a) **Pass a resolution invoking Chapter VII powers to refer the situation in Myanmar to the International Criminal Court.**

125. To state parties to the Rome Statute:

(a) **Refer the situation in Myanmar and/or Bangladesh to the ICC Prosecutor under article 14 of the Rome Statute, requesting that the Prosecutor investigate:**

(i) **All apparent crimes within the jurisdiction already recognized by the Pre-Trial Chamber's ruling, including alleged crimes committed by the Arakan Army and Rohingya militant groups as well as apparent crimes committed before or after the 2016/2017 attacks; or**

(ii) **The situation in Myanmar inclusive of events occurring entirely on Myanmar's territory, compelling the Prosecutor and/or the Court to make a determination on the validity of the National Unity Government's article 12(3) declaration; and**

(b) **Declare an intention to refer the situation in Myanmar to the Prosecutor under article 14 if and when the Court's jurisdiction is established or confirmed.**

126. To all states:

(a) **Cooperate and proactively assist the ICC's investigation, including by:**

(i) **Facilitating access to victims, witnesses and evidence on their territories;**

(ii) **Supporting travel by victims and witnesses to the ICC, including by issuing visas and other travel documents; and**

(iii) **Providing or expanding opportunities for relocation, resettlement and witness protection to victims, witnesses and their family members; and**

(b) **Cooperate and proactively assist in the enforcement of any arrest warrants issued by the ICC in relation to crimes committed in Myanmar and/or Bangladesh.**

127. To the ICC Prosecutor:

(a) **Expand the Bangladesh/Myanmar investigation to the maximum extent allowed by the Pre-Trial Chamber's 2019 decision, including by investigating the crime of deportation and persecution by the Arakan Army and crimes by Rohingya armed groups on Bangladesh or Myanmar territory which are "sufficiently linked" to the 2016/2017 attacks on the Rohingya;**

(b) **Seek arrest warrants for individuals beyond Min Aung Hlaing responsible for crimes against the Rohingya within the scope of the Bangladesh/Myanmar investigation; and**

(c) **Consider providing public updates concerning the status of arrest warrants, to the extent possible, including updates on the status of the requested arrest**

⁶⁰ European Council, COUNCIL REGULATION (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31996R2271>.

warrant for Min Aung Hlaing and any other requests that have been filed with the Court.

128. To the United States:

(a) Remove all sanctions and restrictions targeting the ICC, the ICC Prosecutor and other ICC officials.

129. To the European Union:

(a) Apply the European Union's blocking mechanism to US sanctions against the ICC.

2. International Court of Justice

130. In November 2019, the Gambia, with the backing of the Organisation of Islamic Cooperation, instituted proceedings against Myanmar at the International Court of Justice alleging that Myanmar violated the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) in its treatment of Rohingya people.⁶¹ The Gambia's application focused on the Myanmar military's attacks on the Rohingya in 2016 and 2017, alleging that those attacks were "intended to destroy the Rohingya as a group, in whole or in part, by the use of mass murder, rape and other forms of sexual violence, as well as the systematic destruction by fire of their villages, often with inhabitants locked inside burning houses."

131. In December 2019, just a month after the case was filed, the ICJ held hearings in relation to the Gambia's request for provisional measures—temporary orders the Court can make to protect the rights of a party in the case. State Counsellor Aung San Suu Kyi represented Myanmar in the hearings, during which she dismissed the Gambia's allegations as "incomplete and misleading," refrained from using the name "Rohingya," and called on the ICJ to dismiss the case.⁶² In January 2020, the ICJ rejected Myanmar's arguments and issued provisional measures, ordering Myanmar to "take all measures within its power" to prevent acts of genocide, ensure its security forces do not commit or contribute to genocide, prevent the destruction of evidence of acts of genocide, and regularly report on its actions to implement the measures.⁶³ The provisional measures are legally binding on Myanmar.

132. In a July 2022 ruling, the ICJ rejected objections raised by Myanmar that challenged the ICJ's jurisdiction and Gambia's standing in the case.⁶⁴ The objections were filed by Myanmar's civilian government just prior to the February 2021 military coup but argued before the court in 2022 by the junta's representative.

133. Eleven states—Belgium, Canada, the Democratic Republic of Congo, Denmark, France, Germany, Ireland, the Maldives, the Netherlands, Slovenia and the United Kingdom—have intervened in the case in support of the Gambia. The ICJ Statute allows for states to intervene in a case when they believe they have an interest in the outcome of the case.⁶⁵ The ICJ has approved the interventions of the eleven states over Myanmar's objections. These interventions have signaled the importance of the case to the international community, both in terms of support for the Rohingya people and the precedent it will set on

⁶¹ International Court of Justice, *The Gambia v. Myanmar*, Application instituting proceedings and request for provisions measures, 11 November 2019, <https://www.icj-cij.org/sites/default/files/case-related/178/178-20191111-APP-01-00-EN.pdf>. Both Myanmar and the Gambia are parties to the Genocide Convention.

⁶² International Court of Justice, *The Gambia v. Myanmar*, verbatim record, 11 December 2019, 10am, <https://www.icj-cij.org/sites/default/files/case-related/178/178-20191211-ORA-01-00-BI.pdf>.

⁶³ International Court of Justice, *The Gambia v. Myanmar*, Summary: Request for the indication of provisional measures, 23 January 2020, <https://www.icj-cij.org/sites/default/files/case-related/178/178-20200123-SUM-01-00-EN.pdf>.

⁶⁴ International Court of Justice, *The Gambia v. Myanmar*, Summary of the Judgment of 22 July 2022, 22 July 2022, <https://www.icj-cij.org/sites/default/files/case-related/178/178-20220722-SUM-01-00-EN.pdf>.

⁶⁵ Statute of the International Court of Justice, adopted 26 June 1945, <https://www.icj-cij.org/statute>, art. 62 and 63.

state obligations to prevent and punish genocide. Notably, no states have intervened in the case in support of Myanmar.

134. In January 2026, the ICJ held public hearings on the merits of the case. During the hearings, the Gambia argued that Myanmar security forces committed genocidal acts against the Rohingya, including killings, rape, gang rape, torture, beatings, stabbings, forced displacement, the burning of homes and villages and confiscation of property.⁶⁶ The Gambia's lawyers referenced witness statements, military insider testimony, photographic and video evidence, satellite imagery and detailed reports from the UN Fact-Finding Mission on Myanmar, the Independent Investigative Mechanism for Myanmar, human rights organizations and the Special Rapporteur's predecessor, among other sources of evidence.⁶⁷

135. During the hearings, Rohingya survivors gave eyewitness testimony in closed sessions, providing shocking firsthand accounts of mass executions, the murder of family members and gang rape, among other crimes.⁶⁸ Those in the courtroom described the emotional resonance of the sessions, which provided Rohingya victims a rare opportunity to describe the horrific human rights violations they have suffered in their own words. One of the witnesses reportedly told the Court about the murder of her husband, father-in-law and child, who was taken from her, stabbed and thrown into a fire. She described her experience before the Court:

Myanmar has been rejecting what they did to the Rohingya. They have been saying that they didn't persecute us. I was very happy that I could speak in front of Myanmar, and tell what they did to us, in front of them. If I need to go (testify) ten more times, I am ready to go. Also, I will recommend other victims to share what they faced or suffered, so that their hearts become calm.⁶⁹

136. The Gambia argued that these attacks on the Rohingya were committed with genocidal intent, meaning the intent to destroy the Rohingya group in whole or in part.⁷⁰ To support this argument, the Gambia's lawyers cited the organized and brutal nature of the attacks, the failure to investigate these attacks or prosecute those responsible, discriminatory laws and policies targeting the Rohingya, state-sponsored hate speech against the Rohingya, and other "indicators" of genocidal intent.⁷¹

137. In its filings with the ICJ and during the merits hearings, the Gambia requested remedies including ICJ orders that Myanmar cease wrongful acts, prosecute and punish perpetrators, and offer guarantees of non-repetition. The Gambia also requested reparations for victims, including the Rohingya's safe return to their homeland, return of their property, restoration of citizenship, guarantees of rights, and compensation for harms suffered.⁷² The Gambia requested additional remedies for Myanmar's breach of the provisional measures ordered by the Court.

⁶⁶ See, International Court of Justice, *The Gambia v. Myanmar*, Verbatim Record, 12 January 2026, <https://icj-web.lemman.un-icc.cloud/sites/default/files/case-related/178/178-20260112-ora-01-00-bi.pdf>, para. 14-22. See also, International Court of Justice, *The Gambia v. Myanmar*, Memorial of the Gambia, 23 October 2020, <https://www.icj-cij.org/sites/default/files/case-related/178/178-20201023-wri-01-00-en.pdf>, para. 1.2.

⁶⁷ Memorial of the Gambia, para. 1.44

⁶⁸ Legal Action Worldwide, "Rohingya genocide: witnesses offer harrowing accounts at the World Court," 29 January 2026, <https://legalactionworldwide.org/accountability-rule-of-law/rohingya-genocide-witnesses-offer-harrowing-accounts-at-the-world-court/>.

⁶⁹ Ibid.

⁷⁰ Article II of the Genocide Convention describes genocide as the commission of prohibited acts "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The Gambia's lawyers argued specifically that Myanmar military targeted "the part of the Rohingya group who lived in northern Rakhine State." International Court of Justice, *The Gambia v. Myanmar*, Verbatim Record, 27 January 2026, <https://www.icj-cij.org/sites/default/files/case-related/178/178-20260127-ora-01-00-bic.pdf>, para. 6.

⁷¹ The Gambia cited seven "indicators" of genocidal attack identified by the UN Fact-Finding Mission on Myanmar.

⁷² Memorial of The Gambia, p. 505-510; Verbatim Record, 27 January 2026, para. 8.

138. Myanmar countered the Gambia's arguments primarily by characterizing its attacks as lawful "counterterrorism operations" targeting Rohingya militants and claiming that the evidence presented by the Gambia was unreliable or not relevant. Tellingly, Myanmar's lawyers refused to use the name "Rohingya," referring to the Rohingya instead as "Bengali," a longstanding practice of military and government officials in Myanmar to deny the existence of the Rohingya as a distinct ethnic group in violation of their right to self-determination.

139. The ICJ's ruling is expected sometime in the second half of 2026 or early 2027.

140. The case against Myanmar could be precedent-setting in several ways. First, the case is the first instance of a state initiating a case under the Genocide Convention concerning alleged genocidal acts to which it does not have a material or territorial connection. Second, the Rohingya survivors' appearance as witnesses is a rare instance of victims providing testimony in cases between two states at the ICJ and one of the few opportunities for the Rohingya to present their own story on the world stage. Third, the case could be the first time the Court finds a state directly responsible for committing genocide. Finally, the ICJ could for the first time issue a judgment holding a state responsible for sexual violence as an underlying act of genocide.

141. While the world awaits the Court's judgment, states can prepare to respond to a potential ruling against Myanmar, which could include orders that Myanmar provide some or all of the remedies requested by the Gambia.

142. The ICJ does not have a mechanism to directly enforce its orders. According to the UN Charter, the Security Council may act to enforce an ICJ ruling.⁷³ While it is theoretically possible that a ruling against Myanmar would spur the Security Council to action, it is highly unlikely given the political deadlock at the Council.

143. Coordinated action by states to hold Myanmar accountable and pressure Myanmar to comply with the Court's orders, if any, will therefore be essential. Diplomatic pressure and sanctions are among the tools that states have at their disposal. States could coordinate actions to isolate the military-backed government, including by denying it legitimacy and access to weapons and the international finance system.

144. The United Kingdom, as penholder on Myanmar at the Security Council, could play a key leadership role in shaping the international community's response to a potential ruling against Myanmar. For example, the United Kingdom could push for public meetings to review the Court's ruling and Myanmar's compliance with Court orders, if any, ensuring that a finding of genocide has the full attention of the Council and the international community.

145. ASEAN and its members can also play a pivotal role in responding to a potential ICJ judgment against Myanmar. ASEAN can take an unequivocal stand that genocidal acts by any state, including its members, will be met with immediate and serious consequences.

146. Although a military-controlled government is almost certain to ignore ICJ orders to provide reparations to the Rohingya, the Court's judgment should spur international action in support of reparations. Specifically, the United Nations and UN member states could build on an ICJ order concerning reparations for the Rohingya by establishing a reparations fund for Rohingya survivors and other victims of grave human rights violations in Myanmar. (See discussion concerning reparations in sub-section 8, below.)

147. A ruling against Myanmar would be a monumental moment for the Rohingya, for Myanmar and for human rights. For Rohingya survivors of genocide, it would represent a clear recognition of the atrocities they have suffered and an affirmation of their human rights at a time when they continue to face persecution, marginalization and deprivation in Myanmar and elsewhere. This recognition would carry an expectation of consequences for those responsible for genocide and reparations for victims. A Rohingya man displaced by the 2017 attacks told the Special Rapporteur, "We are really hopeful that the ICJ will serve justice to the Rohingya people. ... The ICJ has given hope to our people."

⁷³ Charter of the United Nations, article 94(2).

Recommendations

148. To the Security Council:

(a) In the event of a judgment against Myanmar in *The Gambia vs. Myanmar*:

(i) Take appropriate action under Article 94(2) of the UN Charter, including, where necessary, measures under Chapter VII, to give effect to the judgment, including any orders concerning reparations or other remedial measures; and

(ii) Immediately convene a public meeting to review the Court's ruling and its implications and convene subsequent meetings to assess Myanmar's compliance with any orders made by the Court.

149. To the United Kingdom, as the penholder on Myanmar at the Security Council:

(a) In the event of a judgment against Myanmar, table a resolution to address the ICJ's judgment and any orders issued by the Court and move for the immediate convening of a Security Council session to review the Court's ruling and assess Myanmar's compliance with any orders made by the Court.

150. To the Human Rights Council and General Assembly:

(a) In the event of a judgment against Myanmar, include language in all subsequent resolutions on Myanmar calling on the Security Council and UN Member States to act to enforce any orders issued by the ICJ.

151. To states:

(a) Take all available measures to give meaning to ICJ orders in *The Gambia vs. Myanmar*, if any, including by applying diplomatic pressure, sanctions and lawful retaliation to ensure Myanmar's compliance with such orders and by repurposing seized Myanmar state assets to give meaning to a potential order concerning reparations for Rohingya victims.

152. To ASEAN:

(a) In the event of a judgment against Myanmar, adopt measures to give meaning to the ICJ's ruling and make clear ASEAN's unequivocal stance against genocide by its members, including by isolating the military-controlled government by extending its restrictions on political representatives to all ASEAN meetings and functions.

3. Universal jurisdiction and other proceedings in national court systems

Universal jurisdiction

153. Universal jurisdiction is a legal principle that allows courts to prosecute individuals for certain serious crimes under international law regardless of where crimes occurred, the nationality of the perpetrators or victims, or the lack of any other link to the territorial jurisdiction of the court.⁷⁴ Universal jurisdiction is based on the idea that certain crimes are so horrific that they affect the international community as a whole and are therefore a global concern. As such, universal jurisdiction is meant to combat impunity for serious crimes and ensure that perpetrators cannot find safe haven in a third country.

⁷⁴ See, The Princeton Principles on Universal Jurisdiction, 2001, <https://www.icj.org/wp-content/uploads/2001/01/Princeton-Principles-Universal-Jurisdiction-report-2001-eng.pdf>; International Law Commission, 2018 Yearbook of International Law Commission, Annex I, Charles Chernor Jalloh, "Universal Criminal Jurisdiction," https://legal.un.org/ilc/reports/2018/english/annex_A.pdf; International Committee of the Red Cross, Advisory Service on International Humanitarian Law, "Universal jurisdiction over war crimes," 2014, https://www.icrc.org/sites/default/files/document/file_list/universal-jurisdiction-icrc-eng.pdf; The Institut de Droit International (IDI), Resolution on Universal Criminal Jurisdiction, 2005, https://www.idi-iil.org/app/uploads/2017/06/2005_kra_03_en.pdf.

154. States generally need to pass legislation to enable their courts to exercise universal jurisdiction. States have enshrined universal jurisdiction in standalone legislation, penal codes, military codes, civil codes and their constitutions. Many UN member states provide for the exercise of universal jurisdiction by their courts in some capacity. Many universal jurisdiction laws, however, are narrowly focused on one category of crime and might not comprehensively cover war crimes, crimes against humanity, genocide and other serious international crimes.⁷⁵

155. Given the limits to the jurisdiction of international tribunals and the incapacity of Myanmar's courts to prosecute serious international crimes, universal jurisdiction provides a critical opportunity to advance accountability for grave human rights violations in Myanmar. Courts in countries with universal jurisdiction laws could pursue cases that no international tribunal or court in Myanmar can currently take up. Such cases could address, for example, historical crimes against ethnic minorities, genocidal attacks on the Rohingya, or the junta's post-coup crimes.

156. In submissions to the UN General Assembly's Sixth Committee, ASEAN member states have by and large recognized universal jurisdiction as an established principle of international law and acknowledged its importance in combatting impunity.⁷⁶ For example, Indonesia described universal jurisdiction as "a vital tool for promoting accountability and ending impunity for the most serious crimes against the international community as a whole,"⁷⁷ and the Philippines recognized universal jurisdiction as "a generally accepted principle of international law ... grounded on the imperative need to preserve international order."⁷⁸ In October 2025, Myanmar's Permanent Representative to the United Nations, who was appointed by the previous civilian government, told the Sixth Committee that universal jurisdiction "contributes to the broader fight against impunity and strengthens international justice," "complements national efforts," and "reflects the shared responsibility of States to ensure that [the most serious crimes] do not go unpunished."⁷⁹

157. In November 2019, the Burmese Rohingya Organisation UK (BROUK) filed a petition with a federal court in Argentina requesting an investigation into alleged acts of genocide and crimes against humanity committed against the Rohingya people between 2012 and 2018.⁸⁰ Universal jurisdiction over international crimes is established in Argentina's Constitution and a law implementing the Rome Statute.⁸¹

158. In November 2021, an appeals court overturned a lower court ruling throwing out the case and ordered judicial officials to open an investigation. In the years that followed, the Independent Investigative Mechanism for Myanmar (IIMM) (see subsection 9 below) provided extensive evidence in support of the investigation. In June 2023, seven Rohingya survivors travelled to Buenos Aires to provide testimony concerning mass killings, sexual violence, torture and other grave human rights violations they and their community

⁷⁵ See, Amnesty International, "Universal Jurisdiction: A Preliminary Survey of Legislation around the World," October 2011, <https://www.amnesty.org/fr/wp-content/uploads/2021/06/ior530042011en.pdf>. In 2024, courts in at least 16 countries investigated or prosecuted serious international crimes under universal jurisdiction or the related principles of active or passive personality. TRIAL International, "Universal Jurisdiction Annual Review," 2025, https://redress.org/storage/2025/04/03_TRIAL_UJAR_2025_FINAL_DIGITAL.pdf.

⁷⁶ See, Wui Ling Cheah, "Universal Jurisdiction through the Eyes of ASEAN States: Rule of Law Concerns and the Need for Inclusive and Engaged Discussions," *TOAEP*, Policy Brief Series No. 141, 2022, file:///Users/matthewbugher/Downloads/2022_CHEAH-Universal-Jurisdiction-ASEAN-221118-PBS-141.pdf.

⁷⁷ Indonesia, Statement to the UN General Assembly's Sixth Committee, 16 October 2024, https://www.un.org/en/ga/sixth/79/pdfs/statements/universal_jurisdiction/15mtg_indonesia.pdf.

⁷⁸ Philippines, Statement to the UN General Assembly's Sixth Committee, 13 October 2023, https://www.un.org/en/ga/sixth/78/pdfs/statements/universal_jurisdiction/13mtg_philippines.pdf.

⁷⁹ Myanmar, Statement to the UN General Assembly's Sixth Committee, 21 October 2025, https://www.un.org/en/ga/sixth/80/pdfs/statements/universal_jurisdiction/23mtg_myanmar.pdf.

⁸⁰ Burmese Rohingya Organization UK (BROUK), Criminal Complaint, 11 November 2019, official English translation, <https://www.legal-tools.org/doc/pnxcv8xs/>.

⁸¹ Constitution of the Argentine Nation, 1994, article 118; Law No. 26.200 on Implementation of the Rome Statute of the International Criminal Court.

experienced. These hearings were the first time that Rohingya people were able to access a court credibly addressing the crimes they suffered.

159. In February 2025, a judge granted the request of a federal prosecutor to issue arrest warrants for 25 military and government officials, including junta-leader Min Aung Hlaing, former President Htin Kyaw and former State Counsellor Aung San Suu Kyi. The court has reportedly asked that INTERPOL issue a red notice, which would request law enforcement officers worldwide to arrest the individuals subject to the warrants. Interpol has not yet issued a red notice. States need not wait for an INTERPOL notice to act on the Argentinian arrest warrants but could do so under their own national law and extradition agreements with Argentina. To date, no known action has been taken by a government to enforce the arrest warrants. Min Aung Hlaing has travelled to Belarus, China, Kazakhstan, Thailand and Russia since the arrest warrants were issued, but little is known about the travel of other accused individuals.

160. Human rights lawyers and advocates have filed universal jurisdiction cases with authorities in other countries, although none have advanced as far as the case in Argentina. Authorities in Germany, Indonesia and the Philippines have declined requests to take up cases concerning crimes in Myanmar, in each case citing the lack of connection to their countries.⁸² In the case of Germany, prosecutorial authorities explicitly referenced their discretion over whether to prosecute offenses when the accused is not present in Germany. Authorities in Turkey have not publicly responded to petitions filed by human rights advocates.⁸³

161. In a letter to the Special Rapporteur, Australia indicated that the Australian Federal Police (AFP) are currently considering a petition submitted by Legal Action Worldwide concerning crimes against humanity and war crimes committed by security forces since the 2021 military coup. Australia, which has legislation establishing universal jurisdiction, emphasized its commitment to accountability and the responsibility of all states “to help ensure that serious international crimes do not go unpunished,” and noted AFP policies concerning the investigation of international crimes.⁸⁴

162. In January 2026, the Chin Human Rights Organisation filed a criminal complaint concerning post-coup crimes with the Public Prosecutor’s Office in Timor-Leste.⁸⁵ The President of Timor-Leste, José Ramos-Horta, subsequently met with members of the Chin Human Rights Organisation and issued a statement committing to allowing judicial processes to proceed “free from any political interference” and “underscoring the deep bonds of solidarity between Timor-Leste and Myanmar in the defense of democracy, freedom, and human dignity.”⁸⁶ In February 2026, judicial authorities assigned a senior prosecutor to

⁸² Fortify Rights, “German Federal Prosecutor Declines to Investigate Myanmar Atrocities, Fortify Rights Committed to Ending Impunity,” 30 November 2023, <https://www.fortifyrights.org/mya-inv-2023-11-30/>; Constitutional Court of the Republic of Indonesia, “Court Rejects Petition on Human Rights Court,” 14 April 2023, https://en.mkri.id/news/details/2023-04-14/Court_Rejects_Petition_on_Human_Rights_Court. Human rights advocates have filed a second petition in the Philippines asking that the Department of Justice reconsider its decision. Saadet Gokce, “Refugees file motion against Myanmar junta chief, military officials for crimes against humanity,” 2 April 2025, <https://www.aa.com.tr/en/asia-pacific/refugees-file-motion-against-myanmar-junta-chief-military-officials-for-crimes-against-humanity/3526663>.

⁸³ Myanmar Accountability Project, “Unprecedented Criminal Procedure Against Myanmar Junta Launched in Turkey Criminal Complaint for Torture and Crimes Against Humanity Filed in Istanbul,” 29 March 2022, <https://the-world-is-watching.org/2022/03/29/unprecedented-criminal-procedure-against-myanmar-junta-launched-in-turkey/>.

⁸⁴ Australian Permanent Mission to the United Nations, letter to Special Rapporteur, 16 April 2026.

⁸⁵ Myanmar Accountability Project and Chin Human Rights Organization, “Survivors of War Crimes and Crimes Against Humanity Bring a Case Against the Myanmar Junta in Timor-Leste,” 13 January 2026, <https://the-world-is-watching.org/2026/01/13/survivors-of-war-crimes-and-crimes-against-humanity-bring-a-case-against-the-myanmar-junta-in-timor-leste/>.

⁸⁶ President of the Democratic Republic of Timor-Leste, “President Ramos-Horta Receives Myanmar Human Rights Delegation to Discuss Regional Justice and Accountability,” 14 January 2026, <https://presidenciarepublica.tl/president-ramos-horta-receives-myanmar-human-rights-delegation-to-discuss-regional-justice-and-accountability/>.

examine the complaint.⁸⁷ The junta retaliated by expelling Timor-Leste's Chargé d'Affaires.⁸⁸

163. In April 2026, as this paper was being finalized, a Rohingya woman filed a new criminal complaint concerning genocide with prosecutorial authorities in Indonesia.⁸⁹

164. In light of the significant potential of universal jurisdiction to advance accountability for grave human rights violations in Myanmar, it is disappointing how few cases have progressed beyond the filing of a petition. In some cases, it appears that prosecutorial authorities have declined to use authority granted to them by law to prosecute crimes, often citing a lack of connection to their home jurisdiction, even when such connection is not strictly required. It therefore falls to political and government leaders to articulate clear policies supporting accountability for crimes in Myanmar, including by ensuring the effective use of universal jurisdiction.

165. Many of those who have been involved in filing universal jurisdiction cases feel that these efforts have value even if they do not result in the conviction or imprisonment of perpetrators. A human rights defender from Myanmar who helped bring a case told the Special Rapporteur:

Getting those [survivors to court] to talk about their loved ones and how they have suffered, having found a platform to do that, was satisfying. That has not happened before. Ultimately, people want the perpetrators put in jail. We might not live long enough to see that. But seeing that something is moving and the wheel of justice is turning is encouraging. It provides a sense of purpose for survivors. ... For those of us who are trying to do those things that are in our capacity, it's quite daunting. What would actually allow us to achieve justice? We have no idea. But people need to see at least that we are trying and the wheel is spinning.

Corporate accountability

166. Foreign corporations and individuals have contributed to human rights violations in Myanmar in a number of ways. As described in the Special Rapporteur's previous reports, businesses, arms dealers and arms dealing networks have supplied the Myanmar military with weapons, weapons materials, military supplies and aviation fuel despite abundant evidence that these materials have contributed to attacks on civilians and other grave human rights violations.⁹⁰ Companies have also sold the military tools for online surveillance and censorship. Foreign corporations have partnered with military-controlled conglomerates providing the military with the funds it uses to sustain its attacks and oppression. Payments to Myanma Oil and Gas Enterprise represent the military's largest single source of foreign

⁸⁷ Myanmar Accountability Project and Chin Human Rights Organization, "Timor Leste Opens Unprecedented Legal Proceedings Against Myanmar Junta," 2 February 2026, <https://the-world-is-watching.org/2026/02/02/timor-leste-opens-unprecedented-legal-proceedings-against-myanmar-junta/>.

⁸⁸ Global New Light of Myanmar, "Chargé d'Affaires ai of Timor-Leste instructed to leave Myanmar within 7 Days," 16 February 2026, <https://www.gnln.com.mm/charge-daffaires-ai-of-timor-leste-instructed-to-leave-myanmar-within-7-days/>.

⁸⁹ Myanmar Accountability Project, "Unprecedented Genocide Case Against Burmese Dictator, Min Aung Hlaing, Initiated in Indonesia," 6 April 2026, <https://the-world-is-watching.org/2026/04/14/unprecedented-genocide-case-against-burmese-dictator-min-aung-hlaing-initiated-in-indonesia/>.

⁹⁰ Special Rapporteur on the situation of human rights in Myanmar, "The Billion Dollar Death Trade: The International Arms Networks that Enable Human Rights Violations in Myanmar," UN Doc. A/HRC/53/CRP.2, 17 May 2023, <https://www.ohchr.org/sites/default/files/documents/countries/myanmar/crp-sr-myanmar-2023-05-17.pdf>.

currency income.⁹¹ Foreign financial institutions have facilitated weapons purchases and the repatriation of foreign revenues.⁹²

167. It is beyond the scope of this paper to examine the human rights obligations of corporations or the obligations of states in relation to businesses headquartered in or operating out of their territories. However, the UN Guiding Principles on Business and Human Rights, which describe such obligations, emphasize that states may impose civil, criminal or administrative liability on businesses that contribute to human rights violations in order to fulfil their own obligation to protect and promote respect for human rights.⁹³

168. To date, there have been relatively few civil cases against corporations or corporate executives linked to human rights violations in Myanmar. In 2005, Unocal, an energy company, settled a case brought by villagers from southeastern Myanmar in US courts under the Alien Tort Statute, alleging human rights violations linked to the construction of the Yadana gas pipeline.⁹⁴ In 2024, a US federal court dismissed a class action lawsuit by Rohingya refugees against Meta, finding that the statute of limitations had expired. The plaintiffs alleged that the company's algorithms promoted hate speech against the Rohingya and have appealed the ruling.⁹⁵ In April 2026, human rights advocates filed a lawsuit in Norway against Telenor, a Norwegian telecommunications company, concerning its disclosure of customer data leading to the arrest, torture and, in at least one case, execution of activists and others.⁹⁶

169. Although transnational civil litigation concerning human rights violations in countries like Myanmar remains limited, civil cases concerning other contexts and countries demonstrate what might be possible. In 2024, a US jury ordered Chiquita Brands International to pay \$38 million in damages in relation to the death of eight Colombian nationals killed by a paramilitary group to which Chiquita was making payments. The case rests on the application of Colombian law via the transitory tort doctrine, which could potentially be applied in a similar way in relation to crimes in Myanmar.⁹⁷ Chiquita is appealing.

170. Civil litigation concerning human rights violations in Myanmar is also possible in the courts of neighboring countries. In 2025, a class action lawsuit in Thai courts led to a settlement between a Thai sugar company and Cambodians who accused the company of

⁹¹ US Treasury Department, "Treasury Prohibits Financial Services with Myanmar Oil and Gas Enterprise and Imposes Additional Sanctions on Burma Military Regime Officials and Supporters," 31 October 2023, <https://home.treasury.gov/news/press-releases/jy1856>.

⁹² Special Rapporteur on the situation of human rights in Myanmar, "Banking on the Death Trade: How Banks and Governments Enable the Military Junta in Myanmar," UN Doc. A/HRC/56/CRP.7, 26 June 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-7.pdf>.

⁹³ UN Guiding Principles on Business and Human Rights, 2011, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf, principles 7, 17 and 23 and corresponding commentary. See also, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, 8 June 2023, https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html.

⁹⁴ EarthRights International, Case: Doe v. Unocal, <https://earthrights.org/case/doe-v-unocal/> (accessed 27 March 2026).

⁹⁵ Fields Han Cunniff, "Meta Genocide Defense Spurs 'Yeah Right' from 9th Cir.," 4 December 2024, <https://www.fhcfirm.com/newsroom/meta-genocide-defense-spurs-yeah-right-from-9th-circ>.

⁹⁶ Open Society Justice Initiative, "Myanmar Customers Sue Telecoms Giant Telenor for Sharing Private Data of Dissidents with Military Rulers," 8 April 2026, <https://www.justiceinitiative.org/newsroom/myanmar-customers-sue-telecoms-giant-telenor-for-sharing-private-data-of-dissidents-with-military-rulers>; Open Society Justice Initiative, "Telenor Faces Legal Action Over Human Rights Abuses in Myanmar," 7 October 2025, <https://www.justiceinitiative.org/newsroom/telenor-faces-legal-action-over-human-rights-abuses-in-myanmar>.

⁹⁷ Jason P. Hipp, Alyssa Bernstein and Aimee Grainer, "The *Chiquita* Verdict Expands International Human Rights Liability for Corporate Conduct Abroad," *Just Security*, 26 July 2024, <https://www.justsecurity.org/98093/chiquita-verdict-human-rights/>.

involvement in forced displacement and land grabbing in Cambodia.⁹⁸ Common law actions concerning events in Myanmar may also be possible in national courts in the region, such as those in Singapore and South Korea.⁹⁹

171. The application of criminal law in national courts outside Myanmar may also present opportunities to hold corporations and their executives accountable for contributing to human rights violations in Myanmar. The UN Fact-Finding Mission on Myanmar found that the actions of private companies contributed to crimes under international law and warrant criminal investigation.¹⁰⁰ In 2005, the French oil company Total settled a criminal case brought in French courts that was a companion to the US civil litigation involving Unocal.¹⁰¹ In April 2026, a French court ruled that Lafarge, a French multinational corporation, and four of its former executives were guilty of financing terrorism in relation to payments made to Islamic State to facilitate the operation of a cement plant in Syria.¹⁰² A separate case against Lafarge concerning alleged crimes against humanity is ongoing. The precedent set by these cases, given their focus on financial transfers, could be highly relevant to the situation in Myanmar.

172. Corporations linked to human rights violations in Myanmar have also been examined through non-judicial mechanisms such as the OECD National Contact Point (NCP) system.¹⁰³ Such mechanisms cannot make binding orders imposing accountability on corporations. However, their investigations, recommendations and efforts to mediate disputes can nonetheless contribute to accountability in some cases. Since the coup, complaints concerning Myanmar have been filed with NCPs in Australia, Canada, Denmark, Germany, the Netherlands, North Korea, Norway, Poland, the United Kingdom and the United States.¹⁰⁴ Prior to pursuing civil litigation against Telenor, Myanmar human rights advocates filed a complaint with Norway's NCP, which in December 2025 found that Telenor had not fulfilled its human rights obligations in relation to the sale of its Myanmar subsidiary.¹⁰⁵

⁹⁸ Inclusive Development International, "Displaced Cambodian Families Reach Long-Awaited Settlement with Thai Sugar Giant," 25 June 2025, <https://www.inclusivedevelopment.net/sugar/displaced-cambodian-families-reach-long-awaited-settlement-with-thai-sugar-giant/>; International Commission of Jurists, "Thailand: First-Ever Class Action on Overseas Harm," 7 November 2023, <https://www.icj.org/resource/thailand-icj-and-amnesty-international-ask-the-court-to-apply-international-standards-in-the-first-ever-class-action-of-people-seeking-redress-for-harm-caused-by-activities-of-thai-companies-abroad/>.

⁹⁹ See, Asia Justice Coalition, "Jurisdictional Briefs for International Justice in Asia: Singapore," April 2024, https://www.asiajusticecoalition.org/_files/ugd/811bc6_3a0d046593894f3680822616b768c59b.pdf; Asia Justice Coalition, "Jurisdictional Briefs for International Justice in Asia: Republic of Korea," March 2024, https://www.asiajusticecoalition.org/_files/ugd/811bc6_ffbf74dc5e4042c1ba726fc96bcc8d4c.pdf.

¹⁰⁰ Independent International Fact-Finding Mission on Myanmar, "The economic interests of the Myanmar military," UN Doc. A/HRC/42/CRP.3, 5 August 2019, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/EconomicInterestsMyanmarMilitary/A_HRC_42_CRP_3.pdf.

¹⁰¹ "Total settles rights case," *New York Times*, 29 November 2005, <https://www.nytimes.com/2005/11/29/business/worldbusiness/total-settles-rights-case.html>.

¹⁰² *Sherpa, "Lafarge convicted of financing terrorism in Syria," 13 April 2026, <https://www.asso-sherpa.org/lafarge-convicted-financing-terrorism>.

¹⁰³ See also state-based complaints procedures and mechanisms such as Canada's Ombudsperson for Responsible Enterprise (<https://core-ombuds.canada.ca/>), the complaint mechanism under Germany's Supply Chain Due Diligence Act (https://www.bafa.de/EN/Supply_Chain_Act/Submit_Complaint/submit_complaint_node.html), Norway's Consumer Authority under The Transparency Act (<https://www.forbrukertilsynet.no/vi-jobber-med/apenhetsloven/the-transparency-act>), and various mechanisms linked to development finance institutions.

¹⁰⁴ See, OECD Watch, Complaints database, https://www.oecdwatch.org/complaints-database/?fwp_oecd_complaint_country=myanmar (accessed 26 March 2026).

¹⁰⁵ Norway National Contact Point for Responsible Business, "Final Statement: Centre for Research on Multinational Corporations (SOMO) on behalf of 474 Myanmar-based civil society organisations vs. Telenor ASA," 11 December 2025,

Recommendations

173. To States:

(a) **Prioritize accountability for international crimes in Myanmar as a matter of government policy, including by instructing law enforcement and judicial authorities to utilize universal jurisdiction to the extent allowed by domestic law;**

(b) **In line with domestic law and treaty obligations, take all available opportunities to enforce arrest warrants issued against 25 individuals by the Argentinian court in its case concerning crimes against humanity and genocide against the Rohingya;**

(c) **Consider legislation enabling courts to exercise universal jurisdiction over a broad range of serious crimes including war crimes, crimes against humanity and genocide; and**

(d) **Investigate corporate entities and executives linked to serious human rights violations and initiate criminal, civil or administrative proceedings as appropriate.**

174. To INTERPOL:

(a) **Cooperate with Argentinian authorities to move as expeditiously as possible on the issuance of a red notice concerning the arrest warrants issued for 25 individuals in the case concerning crimes against humanity and genocide against the Rohingya.**

175. To donors:

(a) **Fund organizations, legal professionals and victims' groups to develop and file cases concerning human rights violations in Myanmar with law enforcement and judicial authorities in other countries.**

4. A Special Court for Myanmar

176. International tribunals and foreign courts can play an important role in advancing accountability for crimes committed in Myanmar, but they are inherently constrained by their jurisdiction, mandates and capacity and the political context in which they operate. These limitations prevent international and foreign courts from responding to the full scale and complexity of human rights violations in Myanmar. Even under the most favorable conditions, international and foreign proceedings are likely to hold accountable only a limited number of high-level perpetrators. In addition, such processes may appear remote to people in Myanmar—physically distant, difficult to understand, and driven by foreign actors. Ultimately, broad, robust accountability will require courts with an exclusive jurisdictional and operational focus on Myanmar.

177. The section that follows this one describes the role of Myanmar's own justice system in responding to grave human rights violations. In principle, domestic courts are best positioned to deliver accountability that is durable and rooted in Myanmar law. In practice, however, Myanmar's courts currently lack the independence, resources and institutional capacity needed to protect human rights and prosecute complex atrocity crimes. Addressing these weaknesses will take years or decades.

178. A possible solution to these challenges lies in the establishment of a purpose-built tribunal or "Special Court" to try perpetrators of the most serious crimes in Myanmar. Within Myanmar, discussions are ongoing regarding the establishment of such a tribunal, either before or after a transition to democratic governance. The National Unity Government's Ministry of Justice, which has set up courts and a prosecutorial service in opposition-

https://files.nettsteder.regjeringen.no/wpuploads01/sites/597/2025/12/Final-Statement_SOMO-on-behalf-of-474-CSOs-vs.-Telenor-ASA-1.pdf; SOMO, "Telenor failed to respect human rights in Myanmar sale," 11 December 2025, <https://www.somo.nl/telenor-failed-to-respect-human-rights-in-myanmar-sale/>.

controlled areas, has considered proposals for a Special Court and studied comparative models from other countries.

179. By concentrating existing expertise and resources into a single tribunal, the court could both expedite the prosecution of those responsible for grave human rights violations and play an important role in increasing the capacity of Myanmar's judicial sector as longer-term reforms are ongoing. In this way, a Special Court would be an important transitional mechanism, advancing justice and accountability while broader domestic reforms continue.

180. Whether established by the National Unity Government prior to the fall of the military-backed regime or by a future democratic government, a Special Court would face extraordinary challenges, including securing funding, identifying qualified lawyers and judges, building the capacity of justice sector actors, and ensuring the safety and security of judges, witnesses and defendants. A Special Court operating in opposition-controlled territory, whether in a fixed location or as a mobile operation, would inevitably be targeted by airstrikes or drone attacks, as other resistance-administered courts have been (see subsection that follows). While the National Unity Government and its allies have captured and prosecuted some prisoners of war, the senior commanders most responsible for human rights violations remain outside of their custody and are unlikely to be apprehended before the fall of the military-backed order. Financial and technical support from the international community could help address some of these challenges. However, stronger international involvement will be necessary to maximize the potential and impact of such a court.

181. The establishment of a hybrid tribunal could help address these challenges. In a hybrid tribunal, Myanmar judicial and law enforcement officers could work alongside international judges, prosecutors and investigators, applying both Myanmar and international law. By involving judicial officials from Myanmar, this approach would underscore domestic leadership on issues relating to justice and accountability, bolster the court's legitimacy, and build trust among Myanmar's population. A hybrid court could also play an important role in building the capacity of the justice sector in Myanmar, as Myanmar lawyers and judges work alongside experienced counterparts from other countries. A hybrid tribunal backed by an agreement with the UN or UN member states would presumably benefit from international funding. The court could also be based outside Myanmar, helping to ensure the safety of witnesses, defendants, lawyers, judicial officers and the court itself.

182. Human rights advocates have proposed various avenues to establish a hybrid or international tribunal for Myanmar.¹⁰⁶ These deserve full consideration by the UN and the international community. Prior to a transition to democratic governance in Myanmar, however, any efforts to establish a hybrid or international tribunal face steep legal and political challenges. A tribunal established by an international treaty or agreement—either with the United Nations, a regional body, or other states—would require recognition of the National Unity Government's ability to represent the state of Myanmar, a step that no UN body, official or member state has yet taken. Even if a hybrid tribunal were established, presumably outside Myanmar's territory, it would struggle to secure evidence and arrest senior perpetrators and would face challenges to its legitimacy.

183. Prior to a political transition, the international community, National Unity Government and other stakeholders in Myanmar should work together to lay the groundwork for the future prosecution of high-level perpetrators for serious crimes under international law. This work would include broad consultations with justice sector actors, civil society and the public to collect their views on criminal accountability, the role of the international community, and the objectives, composition and jurisdiction of a potential future tribunal (see section IV.2. Victim-centered approaches to accountability).

¹⁰⁶ See, Special Advisory Council for Myanmar, "Briefing Paper: Establishing an International Criminal Tribunal for Myanmar," 8 December 2023, <https://specialadvisorycouncil.org/wp-content/uploads/2023/12/SAC-M-Tribunal-for-Myanmar-ENGLISH.pdf>.

184. Discussions concerning a Special Court or hybrid tribunal should be informed by experiences in other countries.¹⁰⁷ The most prominent example from the region, the Extraordinary Chambers in the Courts of Cambodia (ECCC), underscores the need to safeguard the independence of a tribunal to protect it from political interference. The Special Court for Sierra Leone successfully prosecuted a former head of state and high-level perpetrators and could provide many lessons for Myanmar. The experience of the Special Panels for Serious Crimes in Timor-Leste urges caution in establishing a court with jurisdiction over serious international crimes without being able to secure the surrender of high-level perpetrators. When thinking about security issues and witness protection, leaders in Myanmar should consider the example of the Kosovo Specialist Chambers, which are established by Kosovo law but based in the Hague. The Extraordinary African Chambers in Senegal, established by agreement between the African Union and Senegal, offer an example of a regional approach to the establishment of a hybrid tribunal.

185. The establishment of a Special Court or hybrid tribunal would also require long-term programs to build the capacity of Myanmar judges, lawyers and investigators who could staff the tribunal and establish evidentiary archives. Some of these efforts have already begun, but they are being operated on shoestring budgets that severely constrain their impact. Much stronger support, including both funding and technical assistance, is required and should be prioritized for rapid deployment.

186. The National Unity Government's Minister of Justice told the Special Rapporteur that international support is needed in pursuing accountability for the most serious crimes committed by the Myanmar military. However, he questioned how long Myanmar would need to wait for a case at the International Criminal Court or collaboration on setting up a hybrid tribunal. In the meantime, he said, "We should prepare for homegrown access to justice."

Recommendations

187. **To the UN Secretary-General and UN agencies:**

(a) **Immediately engage the National Unity Government, ethnic resistance organizations and other emerging governance institutions to develop a framework for the future prosecution of high-level perpetrators for serious crimes under international law, including potentially through the establishment of a hybrid tribunal; and**

(b) **After a political transition in Myanmar, provide material, political and technical support for the prosecution of high-level perpetrators for serious crimes under international law, including by concluding an agreement with a future democratic government of Myanmar to establish a hybrid tribunal, if so requested.**

188. **To the General Assembly and Human Rights Council:**

(a) **In resolutions on Myanmar:**

(i) **Prior to a political transition in Myanmar, call on the UN Secretary-General to engage the National Unity Government and other actors in Myanmar in developing a framework for the future prosecution of high-level perpetrators for serious crimes under international law;**

(ii) **After a political transition, call on the UN Secretary-General to provide material, political and technical support for the prosecution of high-level perpetrators for serious crimes under international law, including by concluding an agreement with the government of Myanmar to establish a hybrid tribunal, if so requested; and**

¹⁰⁷ See, OHCHR, Rule-of-Law Tools for Post-Conflict States: Maximizing the legacy of hybrid courts," 2008, <https://www.ohchr.org/sites/default/files/Documents/Publications/HybridCourts.pdf>; Elena Naughton, International Center for Transitional Justice, "Committing to Justice for Serious Human Rights Violations: Lessons from Hybrid Tribunals," 2018, https://www.ictj.org/sites/default/files/ICTJ_Report_Hybrid_Tribunals.pdf.

(iii) **Call on member states to provide financial and technical support toward the prosecution of high-level perpetrators for serious crimes under international law.**

189. **To States, donors and international legal experts:**

(a) **Provide financial and technical support toward the prosecution of high-level perpetrators for serious crimes under international law.**

5. Justice in Myanmar's courts

190. International tribunals, foreign courts, and—potentially—a Special Court could all play an important role in ensuring accountability for grave human rights violations in Myanmar, especially in the short term. However, the scale of human rights violations in Myanmar—both historic and ongoing—surpasses the capacity of any single court to address. To break the cycle of violence, oppression and impunity that has shaped Myanmar for decades, the country will need a reliable and effective justice system capable of investigating and prosecuting those responsible for grave human rights violations.

191. The undeniable reality is that Myanmar's justice system is not currently equipped to deliver accountability. Decades of military oppression and neglect have hollowed out Myanmar's courts, undermined the legal profession, and eroded public trust. Rebuilding the justice sector so it can guarantee accountability for grave human rights violations in Myanmar will be a long-term project requiring political will, resources and international support. However, the people of Myanmar—including lawyers, judges, human rights defenders and officials in emerging governance institutions—are deeply committed to this project and view it as one of their top priorities. An official in a resistance justice system said:

We are very eager and enthusiastic to ensure accountability for military atrocities. We have a lot of challenges and few human resources. We can't focus on everything in detail right now, but we have all of the details of the military's atrocities and crimes against humanity. We have documented everything that has happened in [our area]. We will try to take action against the military council in the future after we build a federal democratic government.

Entrenched impunity

192. For decades, Myanmar's military has enjoyed near complete impunity. Despite overwhelming evidence of serious human rights violations spanning decades, no senior military official has ever been held accountable in Myanmar's courts. Lower-level officers have occasionally faced military courts-martial or other forms of disciplinary action when public reporting of their crimes made them difficult to ignore.¹⁰⁸ However, the proceedings have lacked transparency, and the details of punishments are rarely known.

193. A former political prisoner and human rights defender told the Special Rapporteur:

There is a belief in the military: If you are a high-ranking official, even if you commit a human rights violation, you cannot be held accountable. ... The military talks about punishing perpetrators at the military court, but we don't know anything about what happens, and then it is the end of the story. There is no transparency. The victims don't have any knowledge whether the perpetrators are serving their sentence in prison or not. They fear that the perpetrators are still free. Even though we fight for justice, we have never received justice because of a lack of transparency.

194. In December 2015, following the National League for Democracy's landslide victory in general elections, party leader Aung San Suu Kyi appeared to urge the Myanmar public to prioritize reconciliation over accountability, saying, "Whatever mistakes [military officers] have made in the past, we need to give them the chance to change, instead of seeking revenge.

¹⁰⁸ For example, seven soldiers were court martialled, convicted and sentenced to 10 years' imprisonment for their role in a 2017 massacre of Rohingya civilians in Inn Dinn village, Rakhine State. They were reportedly freed after serving less than one year of their sentence.

If they are doing nothing wrong at the present time, they can join hands with us.”¹⁰⁹ Her words set the tone for the next five years, during which the government made no significant efforts to establish transitional justice processes or otherwise promote accountability for past human rights violations.

195. While rejecting efforts to promote accountability for past human rights violations, Aung San Suu Kyi’s government made some efforts—often supported by international organizations and experts—to reform the justice system. However, the courts never gained the capacity or independence necessary to effectively uphold the rights of Myanmar citizens. Courts remained plagued by corruption and susceptible to political and military pressure. Journalists, artists, human rights defenders, interfaith activists and others continued to face politically motivated prosecutions because of their work or the exercise of fundamental freedoms. Many were convicted even though no evidence of their supposed crimes was presented at trial. Few judges and law enforcement officers were willing to act against military interests that intersected with cases on their dockets.

196. After the 2021 military coup, the court system was completely subjugated by the junta, undoing the previous decade’s progress. The State Administration Council purged the judiciary of independent-minded judges and installed loyalists to oversee courts, collapsing the rule of law and transforming the judiciary into a blunt instrument of repression. In townships under martial law, military tribunals tried and convicted civilians, who were denied the right to legal counsel. Many others were tried in civilian courts set up inside prisons, where fair trial rights were also denied. Lawyers faced grave risks when opposing military interests. Dozens of lawyers have been arrested since the coup—some while in the courtroom representing political prisoners—and many others have gone into hiding.

197. Decades of neglect, chronic under-resourcing and deliberate military interference have hollowed out Myanmar’s justice sector and left it with severe structural deficits. Judicial appointments and disciplinary actions are opaque and politicized. Judges are often deeply unqualified for their posts, with military officers at times placed in judicial roles. The principle of judicial independence has been systematically dismantled. Corruption, patronage and military influence infect policing, prosecution and adjudication, eroding public confidence. Weak legal education and limited professional training mean that basic fair-trial guarantees are often poorly understood and rarely applied in practice. The legal profession lacks a genuinely independent body able to protect lawyers’ rights and enforce standards.

198. Rebuilding a judiciary capable of credibly adjudicating grave human rights violations and a prosecution service capable of investigating and prosecuting them will require a long-term reform program that restores independence and builds capacity.¹¹⁰ At the outset, a new democratic government must remove the military’s levers of control over courts and prosecutors by establishing transparent, merit-based judicial appointments and discipline, guaranteeing security of tenure, and providing adequate remuneration. A rigorous, evidence-based and transparent vetting process for judges, prosecutors and senior justice-sector officials will be essential to remove those implicated in serious corruption or abuses as well as those unable or unwilling to independently apply the law. Simultaneously, a new cadre of judicial officers grounded in fair-trial standards and rule of law will need to be recruited and trained. Over the medium term, Myanmar will need to rebuild legal education from the ground up, strengthen the rights of the accused and legal aid, and create an independent, self-governing bar council capable of safeguarding lawyers and enforcing ethics. Anti-corruption reforms must be backed by ample political will to overcome entrenched interests. Given the immensity of these challenges, the reform process will require sustained international

¹⁰⁹ Zarni Mann, “Forgive Those Who Wronged Us, Suu Kyi Tells NLD,” *Irrawaddy*, 7 December 2015, <https://www.irrawaddy.com/news/burma/forgive-those-who-wronged-us-suu-kyi-tells-nld.html>.

¹¹⁰ See relevant international standards and resources. Basic Principles on the Independence of the Judiciary, 6 September 1985, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary>; The Bangalore Principles of Judicial Conduct, 2006, https://www.unodc.org/ji/resdb/data/2006/_220_/the_bangalore_principles_of_judicial_conduct_ecosoc_resolution_200623.html; OHCHR, “Rule-of-Law Tools for Post-Conflict States: Vetting: an operational framework,” 1 January 2006, <https://www.ohchr.org/en/publications/policy-and-methodological-publications/rule-law-tools-post-conflict-states-vetting>.

support, including funding, technical assistance and capacity-building for judges, prosecutors and investigators.

A legal framework that impedes accountability

199. It is not only Myanmar's compromised court system that stands in the way of accountability. Myanmar's legal framework is wildly inconsistent with international human rights law, entrenching impunity for military officers and failing to provide a cause of action for many serious human rights violations.

200. Challenges relating to Myanmar's legal framework start with its constitution, which was promulgated by a previous military junta in 2008. The constitution was designed specifically to protect military interests and prerogatives and is an insurmountable barrier to accountability and rule of law in Myanmar. Any reform efforts by a future democratic government of Myanmar—and especially reforms to promote accountability—must begin with replacing the 2008 constitution with a charter that protects and promotes human rights rather than undermining them.¹¹¹

201. The 2008 constitution inverts the principle of civilian control, giving the military exclusive powers and substantial influence over civilian authorities. Crucially, civilian courts cannot review decisions of military justice, in which the commander-in-chief's determinations are “final and conclusive.”¹¹² In practice, this provision has allowed the military to conduct military justice—to the extent justice is pursued at all—behind closed doors and, ultimately, to shield soldiers from accountability.

202. The 2008 constitution also grants immunity to government officials for “any act done in the execution of their respective duties.”¹¹³ The applicability of this provision to current military officers is unclear.¹¹⁴ It explicitly protects members of previous military juntas, however, foreclosing the possibility of prosecutions for decades of crimes against the people of Myanmar.

203. Myanmar's legal framework is largely comprised of laws that are incompatible with international human rights standards. Some of these laws were passed down from the British colonial period, while others have been imposed by various military juntas—British colonial rulers and military juntas having in common the prioritization of their own interests over those of their subjects. The Penal Code, Unlawful Associations Act, and Official Secrets Act—all dating to the colonial era—have been among the laws most used by successive military regimes to convict and sentence political prisoners. The 1982 Citizenship Law—passed by an earlier military regime—has been the primary vehicle by which the government has denied citizenship and rights to the Rohingya, among others.

204. Laws passed during the decade of quasi-civilian rule prior to the 2021 coup have a mixed record. Some, such as the so-called “Race and Religion” laws, are instruments of repression that serve only to deny rights to certain sectors of Myanmar's population.¹¹⁵ Other laws—for example, the Peaceful Assembly and Peaceful Procession Law, the Telecommunications Act, and the Law Protecting the Privacy and Security of Citizens—purport to protect the rights of citizens but, in practice, have been used to restrict those rights

¹¹¹ In March 2021, the Committee Representing Pyidaungsu Hluttaw, a body of deposed lawmakers, “revoked” the 2008 constitution. Committee Representing Pyidaungsu Hluttaw, “What we have done so far,” <https://crphmyanmar.org/functions/> (accessed 15 April 2026).

¹¹² Myanmar Constitution, 2008, article 343(b).

¹¹³ Myanmar Constitution, 2008, article 445.

¹¹⁴ The placement of article 445 in the “Transitory Provisions” section of the constitutions could also be interpreted to apply the article only to the government in place at the time the constitution comes into effect. International Center for Transitional Justice, “Impunity Prolonged: Burma and its 2008 Constitution,” September 2009, <https://www.ictj.org/sites/default/files/ICTJ-Myanmar-Impunity-Constitution-2009-English.pdf>.

¹¹⁵ Amnesty International and the International Commission of Jurists, “Myanmar: Parliament must reject discriminatory ‘race and religion’ laws,” 2 March 2015, <https://www.icj.org/wp-content/uploads/2015/03/Myanmar-Reject-discriminatory-race-and-religion-draft-laws-Advocacy-2015-ENG.pdf>.

and imprison hundreds of people.¹¹⁶ Laws such as the Law on the Rights of Persons with Disabilities¹¹⁷ and Child Rights Law¹¹⁸ were a step forward, but fall short of international human rights standards. A common feature of many Myanmar laws that ostensibly protect the rights of citizens is the lack of effective remedies when rights are violated.¹¹⁹

205. Consistent with its flawed domestic legal framework, Myanmar has not ratified many core international human rights treaties, including the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the Convention for the Protection of All Persons from Enforced Disappearance, and the Convention on the Elimination of All Forms of Racial Discrimination. Each of these treaties—which concern categories of serious human rights violations that are prevalent in Myanmar—obligate state parties to provide remedies to those whose rights have been violated.

206. Even in cases where Myanmar has ratified human rights treaties—such as the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities—Myanmar has not accepted individual complaints procedures that would allow those whose rights have been violated to submit complaints to a treaty body.

207. A new democratic government in Myanmar could jumpstart legal reforms to promote accountability by ratifying key human rights treaties and optional protocols, passing implementing legislation for those treaties, and working with Myanmar civil society, international partners, and treaty bodies to roll out new policies and monitor treaty compliance.

Resistance justice systems

208. Since independence, Myanmar has been divided by armed conflict and competing claims of sovereignty. This history is reflected in sub-national governance structures and institutions administered by resistance forces in many parts of the country. Throughout Myanmar, courts, law enforcement structures and other justice institutions operate entirely outside of the influence and control of Myanmar's central authorities. Myanmar's patchwork of overlapping institutions and jurisdictions raises human rights concerns, but it also presents opportunities. At present, subnational courts often offer better opportunities for accountability than Myanmar's state court system. They therefore play an important role in delivering accountability in the current context. These institutions could also be components of a national court system in a future federal, democratic Myanmar.

209. Many ethnic resistance organizations maintain formal justice systems with courts, prosecutors, prisons and law enforcement bodies. Some of these systems have existed for decades. The Karen National Union (KNU), which controls a broad swath of territory in eastern Myanmar, has a Justice Department, Supreme Court, district and township courts and

¹¹⁶ See, ARTICLE 19, "Myanmar: Amended Right to Peaceful Assembly and Peaceful Procession Law," August 2014, <https://www.article19.org/data/files/medialibrary/37666/14-08-01-LA-myanmar-assembly.pdf>; Amnesty International, "Myanmar: Stop Using Repressive Law against Peaceful Protesters," 2014, <https://www.amnesty.org/es/wp-content/uploads/2021/07/asa160252014en.pdf>; ARTICLE 19, "Myanmar: Telecommunications Law," 8 March 2017, <https://www.article19.org/resources/myanmar-telecommunications-law/>; Athan, "Law Protecting the Privacy and Security of Citizens," 27 September 2018, <https://athanmyanmar.org/law-protecting-the-privacy-and-security-of-citizens/>.

¹¹⁷ Special Rapporteur on the situation of human rights in Myanmar, "The hidden crisis: disability rights in post-coup Myanmar," UN Doc. A/HRC/61/CRP.1, <https://www.ohchr.org/sites/default/files/documents/countries/myanmar/A-HRC-61-CRP-1-en.pdf>.

¹¹⁸ UNICEF, "The enactment of the new Child Rights Law by the Government of Myanmar a landmark step," 24 July 2019, <https://www.unicef.org/myanmar/press-releases/enactment-new-child-rights-law-government-myanmar-landmark-step-unicef>.

¹¹⁹ See International Commission of Jurists, "Achieving Justice for Gross Human Rights Violations in Myanmar Baseline Study," January 2018, <https://www.icj.org/wp-content/uploads/2018/01/Myanmar-GRA-Baseline-Study-Publications-Reports-Thematic-reports-2018-ENG.pdf>.

police force, which operate under authority granted by a written constitution.¹²⁰ Courts in this system apply their own legal codes, including a penal code and code of legal procedure. The KNU's Justice Department is working on laws on child protection and the protection of women.

210. New resistance court systems have also emerged since the coup, further signaling novel institutions' potential to address accountability. The Federal Democracy Charter mandated the National Unity Government to set up an interim judiciary to administer justice in areas under the control of opposition groups.¹²¹ The National Unity Government itself has a Ministry of Justice tasked with overseeing the court system and justice processes. The National Unity Government's Minister of Justice told the Special Rapporteur that his Ministry has established 33 courts and four prisons and has over 50 prosecutors.

211. In Kayah State, the Karenni Interim Executive Council (KIEC) has emerged as one of the most successful examples of post-coup institution building. The KIEC has a Department of Justice that administers courts and two prisons in Kayah State. The court system includes township and district courts and a Supreme Court, allowing for appeals of judgments. The KIEC also maintains a Karenni State Police Force. Many of the judges, lawyers and police officers working in KIEC institutions left roles in central government institutions after the coup as part of the Civil Disobedience Movement.

212. Ethnic organizations and emerging governance institutions face immense challenges running justice systems that are not sanctioned—or tolerated—by the central government and military. These challenges have been particularly pronounced since the coup, with armed conflict, displacement and political upheaval raising new risks and obstacles to justice. In practice, justice systems run by the National Unity Government and ethnic resistance organizations have often struggled to exert authority over armed actors on the ground, even those formally falling within their chain of command. The threat of attack by junta forces impedes travel and makes it difficult to ensure the safety of courts, prisons, judicial officials, witnesses, defendants and others. Resistance groups struggle with the practicalities of detaining accused persons and convicted prisoners securely and humanely for extended periods of time.

213. In March 2026, an official from the KIEC's Department of Justice said that airstrikes had targeted Karenni police stations ten times in the previous three months. A recent airstrike on a detention center had killed five and injured 20. The head of the KNU's Department of Justice described how administering justice in Karen State has become much more difficult since the 2021 military coup:

Before 2021, the situation was a bit better. The trial process was smoother. After 2021 the security situation got worse. There are more checkpoints and we have to be really sensitive about drone attacks and airstrikes. When we hear about fighting in nearby places, we have to suspend our court processes. ... It is very difficult for us to ensure the safety of prisoners. We are always attacked by the military. They use drones, airstrikes and artillery shelling. We often have to transport the prisoners to safer areas. That is difficult for us. We have to worry about prisoners escaping or trying to attack our security personnel. ... We sometimes have to divide prisoners into smaller groups and keep them in different places.

214. Emerging governance institutions must contend with contested, uncertain or underdeveloped legal frameworks. Officials often selectively apply some parts of Myanmar's legal code that they deem compatible with their own standards and vision while also developing new laws to be applied by their courts and law enforcement authorities. For example, the KIEC's Interim Arrangement, a constitutional document, allows authorities to

¹²⁰ See, Brian McCartan and Kim Jolliffe, Asia Foundation, "Ethnic Armed Actors and Justice Provision in Myanmar," Policy Dialogue Brief Series No. 17, October 2016, https://asiafoundation.org/wp-content/uploads/2017/03/Policy-Brief_Ethnic-Armed-Actors-and-Justice-Provision-in-Myanmar_EN.pdf.

¹²¹ Federal Democracy Charter, Part II, Chapter 7, <https://mofua.nugmyanmar.org/uploads/publications/iP6SYLk3ghdelFsitPS3yIqb8T4CJc0jHf5pypja.pdf>.

apply existing Myanmar laws that do not conflict with international law or human rights standards.¹²² An official in the KIEC's Department of Justice described their reform efforts:

We had to newly establish everything: justice department, police, prisons, administration. It is impossible to amend all of the laws within three years. ... There are [hundreds of laws], so we can't amend everything. We use some that are not against human rights. We also review and amend some that are against human rights. We are still reviewing.

215. The operation of resistance justice systems also raises some serious human rights concerns. Many courts do not apply fair trial standards or guarantee the right to legal counsel. Trials can be cursory, with little time given to the accused to prepare a defense. Resistance groups have been accused of torture and other human rights violations in places of detention. Courts have imposed death sentences and carried out executions.

216. Despite these challenges and concerns, resistance justice systems are helping to address the accountability gap created by the breakdown of Myanmar's formal justice system. In many areas, ethnic-based justice systems provide the only courts available to victims of human rights violations. Many people in Myanmar have a greater level of trust in courts administered by ethnic resistance organizations than the national justice system.¹²³ If they have access to both, they often choose to engage with the ethnic administration's court system, finding it to be less corrupt, more efficient and fairer. The National Unity Government and some ethnic resistance organizations have demonstrated a genuine commitment to human rights obligations, including in the administration of justice.

217. A woman human rights defender told the Special Rapporteur about the opportunities to advance women's rights and gender equality in courts established by resistance groups:

This work [of building courts] shows that promising changes, strategic openings, and meaningful entry points are emerging alongside the broader effort to build a new federal democratic Myanmar. Like me, many women's groups have been waiting for this opportunity to integrate gender perspectives into governance systems that were previously inaccessible to us. Local governance bodies are now actively attempting to address longstanding legal challenges.

218. There is broad consensus among resistance forces that Myanmar should adopt a federal form of government in Myanmar. Against this backdrop—and given the role that parallel justice systems are already playing in providing accountability—resistance courts will inevitably form part of the justice sector in a future, democratic Myanmar. In fact, the Federal Democracy Charter explicitly recognizes the jurisdiction of these courts and provides for a committee to resolve disputes between court systems.¹²⁴

219. The integration of parallel and overlapping justice systems will be a substantial undertaking. Leaders of a future democratic Myanmar will need to work with the leaders of ethnic resistance organizations to ensure that their courts adhere to fair trial standards and fulfill Myanmar's human rights obligations. These efforts will require the support of the international community, including training, technical support and funding.

220. Speaking about the effort to build courts by resistance groups, a woman human rights defender said:

We cannot yet build a comprehensive justice mechanism capable of fully holding perpetrators accountable. This remains a critical work in progress. We cannot do it alone. Local-led efforts must be supported by international partners who can provide technical expertise to help resolve legal gaps, identify and avoid loopholes, and

¹²² Interim Arrangements for Karenni State, 26 October 2024, <https://ieckarenni.org/interim-arrangements-for-karenni-state/>.

¹²³ See, Helene Maria Kyed, "Justice Provision in Southeast Myanmar: Experiences from conflict-affected areas with multiple governing authorities," Saferworld and Danish Institute for International Studies, 2018, https://pure.dii.dk/ws/files/2706338/justice_provision_in_south_east_myanmar_feb_2019.pdf.

¹²⁴ Federal Democracy Charter, Part II, art. 28.

strengthen our capacity. We also need sustained funding, confidence and trust in our leadership. But above all, the process must remain locally led and locally owned.

Recommendations

221. To the National Unity Government, National Unity Consultative Council, ethnic resistance organizations and other revolutionary institutions in Myanmar:

- (a) Establish a new federal, democratic constitutional framework that:**
 - (i) Enshrines the principle of the independence of the judiciary, including by providing for transparent, merit-based judicial appointments;**
 - (ii) Includes strong protections for individual rights and freedoms, including fair trial standards;**
 - (iii) Guarantees civilian oversight over the military, including by ensuring that matters of military justice and decisions of military tribunals are subject to judicial review by independent civilian courts; and**
 - (iv) Does not replicate the 2008 constitution's guarantee of immunity from prosecution for acts done in one's official capacity.**
- (b) Commit to ensuring that resistance justice systems uphold Myanmar's human rights obligations, including by applying fair trial standards and promoting full enjoyment of the right to a remedy; and**
- (c) End the use of the death penalty in resistance justice systems.**

222. To a future democratic government of Myanmar:

- (a) Initiate a process of lustration to remove judicial officers who are implicated in serious corruption or human rights violations or who are unable or unwilling to independently apply the law;**
- (b) Reform Myanmar's legal system in line with international human rights standards and best practices; and**
- (c) Ratify the Rome Statute and all core international human rights treaties and pass legislation implementing the treaties, including by providing remedies for human rights violations.**

223. To the United Nations, humanitarian agencies, governments, donors and international organizations:

- (a) Support court systems run by the National Unity Government, ethnic resistance organizations and other resistance groups with capacity-building, technical assistance and funding; and**
- (b) Support a future democratic government of Myanmar in its efforts to reform Myanmar's justice sector and legal framework, including by integrating resistance courts into Myanmar's justice system.**

6. Customary and informal justice

224. Customary and informal justice systems are those that operate outside of formal, state-based legal institutions. These systems rely heavily on local power structures and are often implemented by village heads, respected elders, religious leaders or other prominent members of local communities. While customary and informal justice systems raise serious human rights concerns, they often expand access to justice and enjoy comparatively high levels of trust among local communities. In many parts of Myanmar, these systems are the

primary—and sometimes only—route to redress when community members experience wrongdoing.¹²⁵

225. The importance of informal and customary justice systems in Myanmar is heightened by the systematic and longstanding failure of the state justice system to effectively and reliably deliver remedies for human rights violations. In many areas, the state legal system is entirely absent. Many people are mistrustful of state-run institutions and view the formal court system as actively hostile to their rights and interests.

226. In much of Myanmar, village heads, elders and other community leaders are responsible for adjudicating local disputes, applying customary rules and handing out punishments to offending parties. However, the identity of justice providers and the role they play differs across regions and populations. In central Myanmar, ward and village tract administrators and other local authorities often play a key role in resolving minor civil or criminal disputes that is distinct from their official duties. In Christian communities, pastors and other church elders are often the primary adjudicators of local disputes. Buddhist monks, although barred from involvement in secular matters, often mediate disputes, framing decisions as “advice” rather than judgments. The exclusion of Rohingya people from the formal justice system elevates the role of Muslim religious leaders in resolving disputes. Animist leaders, astrologers and spirit mediums also play a role in informal justice systems.

227. These systems adjudicate a wide range of disputes and offenses, including violence, theft and other property crimes, drug offenses, land disputes, marital disputes and divorce, domestic violence and sexual violence. In most cases, adjudicators in informal systems apply unwritten community rules or norms that are orally transmitted and well-understood within the community. Some ethnic groups have developed written codes of customary law.

228. Remedies and penalties handed down by leaders in customary systems can include restitution payments, ritual acts of contrition, fines, community service and ostracism, such as being banned from cultural or religious ceremonies. In some cases, guilty parties are required to promise—sometimes in writing—to not repeat their offense, with the understanding that they will be referred to formal authorities if they do. Enforcement of agreements relies heavily on social pressure and the reputation and status of the adjudicator.

229. In Myanmar, customary practices greatly expand access to justice. In customary systems, disputes tend to be resolved quickly and locally, essential in conflict settings where travel can be difficult or dangerous. Whereas formal justice processes often involve heavy costs for the parties involved—payments to lawyers, court fees, bribes, etc.—customary practices are usually free or involve nominal “donations.” Informal proceedings are conducted in local languages or dialects, apply familiar traditions or norms, and involve known and trusted decision-makers.

230. A woman human rights defender who helps survivors of gender-based violence seeking accountability acknowledged some of the human rights concerns associated with customary justice systems, but described how they can provide a pathway to justice for women:

I see [customary justice mechanisms] as an opportunity. They use local context and norms. The people are operating in their own ways. ... It gives women the space to open up and seek help in a place where they have some type of community support.

231. Customary systems in Myanmar tend to prioritize social harmony and cohesion over punitive justice. A central goal is the de-escalation of conflict, as reflected in a common

¹²⁵ Scholars and researchers have published many illuminating studies on customary and informal justice systems in Myanmar. See, “MyJustice, “Searching for justice in the law: Understanding access to justice in Myanmar: Findings from the Myanmar Justice Survey 2017,” 2018, https://www.myjusticemyanmar.org/sites/default/files/MJS%20Report_FINAL_online.pdf; Helene Maria Kyed, “Legal Pluralism in Myanmar,” *Oxford Research Encyclopedia of Asian History*, 28 February 2024, <https://oxfordre.com/asianhistory/display/10.1093/acrefore/9780190277727.001.0001/acrefore-9780190277727-e-830>; Lisa Denney, William Bennett & Khin Thet San, MyJustice, “Making Big Cases Small & Small Cases Disappear: Experiences of Local Justice in Myanmar,” November 2016, https://www.myjusticemyanmar.org/sites/default/files/My-Justice_16th-Dec-2016.pdf.

Burmese proverb: “Make big cases small and make small cases disappear.” Customary proceedings and remedies are often aimed at preventing a cycle of retribution. For this reason, customary proceedings may provide a foundation for restorative forms of justice.

232. A human rights defender said:

We could consider amnesty for the perpetrators that committed violations at the community level. We cannot bring all the perpetrators to the courts. For the small cases, we should think about community-led initiatives for reconciliation between the perpetrators and the victims.

233. A human rights defender working in central Myanmar told the Special Rapporteur about the need to reconcile communities that have been divided by the conflict:

There is a dilemma in balancing criminal accountability and peace or transition. We think that prosecution and criminal accountability are not the only answer. We need to have a transition and reconstruct society as well. The community in central Burma, relatives and neighbors, has been divided. Two neighboring villages take different positions. Some of them became Pyu Saw Htwi [pro-military militias]. Some became resistance fighters. We think differently, but we can't be like that forever. That's why we are pushing transitional justice.

234. A woman human rights defender said:

There is punitive justice, but at another level is how we can live together as a society. When we come back together in our own villages and places, how can we build a community? ... The village head may have done something wrong and face punitive justice, but his family members still need to get some kind of justice, which is restorative justice. The perpetrator is like a family member. They are seen as perpetrators. They are supporting the perpetrators. There has to be a community dialog with the perpetrators and victims. It is a conflict transformation approach. This is the way that the community can build up again. ... As a society we may have to wait for the punitive justice mechanisms, but restorative justice is something we can do.

235. Despite the opportunities provided by customary and informal justice systems in Myanmar, they also raise serious human rights concerns. The focus on social cohesion and de-escalation often comes at the expense of individual rights and substantive justice. Penalties handed out in customary settings are often woefully inadequate, depriving victims of the right to a remedy. Victims may be pressured to avoid reporting crimes, to abandon legal rights, or to accept settlements that are not commensurate with the harm they have suffered.

236. Customary proceedings may also be subject to arbitrary decision-making, corruption, bias and conflicts of interest. In many cases, customary justice systems handle serious criminal cases, such as murder or drug trafficking, that rightly belong in formal courts.

237. Across communities in Myanmar, a major human rights challenge associated with customary accountability systems is that they tend to be male-led and reflect patriarchal values and customs.¹²⁶ Arbiters are often drawn from local elites, who at times abuse their powers or protect powerful interests. Minorities within communities may be excluded or feel less comfortable with the traditional cultural norms that are enforced and reflected in proceedings.

238. Many of these challenges are evidenced in the settlement of cases of sexual violence and domestic abuse in customary justice systems. These cases are often adjudicated by men. A woman human rights defender said, “Even though we encourage support for the local justice system, the people who decide justice or what kind of punishment to hand out are all men. They are gender-blind and conservative.” Sexual violence and domestic abuse are often treated as “private” matters or family affairs rather than crimes. Victims are sometimes

¹²⁶ See, Mercy Corps, “In their own voices: Women’s experiences, roles and influence in Community Based Dispute Resolution and Mediation in Myanmar,” October 2019, https://themimu.info/sites/themimu.info/files/documents/Report_Women_and_Community_Based_Dispute_Resolution_in_Myanmar_MERCY_CORPS_Oct2019.pdf.

implicitly blamed for the acts of perpetrators. Mediators often pressure women to reconcile with abusive husbands. In many cases, the only remedy is a requirement that guilty parties promise not to re-offend. In some rape cases, the proposed remedy is the marriage of the victim to the perpetrator.

239. Women human rights defenders raised concerns that customary and informal justice systems are often used in cases that demand the application of criminal law. A woman human rights defender said:

We have been calling for justice for survivors of gender-based violence and conflict-related sexual violence for many decades, but there has never been accountability. Different cases require a different response. Myanmar has diverse communities, and we have customary law and practices. Maybe some cases can be handled by these systems. But for CRSV, there has never been accountability. We need to have criminal accountability. We need to ensure that there is no license to do this kind of criminal conduct with impunity.

Recommendations

240. **To the National Unity Government, ethnic resistance organizations and a future democratic government of Myanmar:**

(a) **Develop clear policies distinguishing cases that are appropriate for customary or informal justice systems from cases that require formal criminal investigation and prosecution, including rape and sexual violence;**

(b) **Establish standards for customary and informal justice systems concerning informed consent, confidentiality, conflicts of interest, gender-responsiveness and the safety of participants, and train adjudicators and others on these standards;**

(c) **Promote gender equality and sensitivity in customary and informal justice systems, including by increasing the participation of women paralegals, advisors and adjudicators;**

(d) **Put in place appropriate oversight mechanisms and processes for customary and informal justice systems; and**

(e) **Consider the role that existing customary and informal justice systems in Myanmar can play in restorative processes as part of a comprehensive transitional justice plan.**

241. **To the United Nations, humanitarian agencies, governments, donors and international organizations:**

(a) **Provide long-term financial and technical support for customary and informal justice systems aimed at ensuring those systems comply with human rights standards;**

(b) **Support research and mapping of customary and informal justice systems to identify challenges and opportunities and assist in reform processes; and**

(c) **Support women's organizations to build the capacity of women to make informed decisions about whether and how to engage customary and informal justice systems.**

7. Truth mechanisms and processes

242. As described above, everyone has a right to know the truth about situations involving grave human rights violations. Victims and their family members have a right to information about the specific events that have affected their lives. States have an obligation to give effect to these rights, including by preserving evidence and taking steps to make the truth known.

243. In Myanmar, survivors have a deep desire for the truth to be known about the human rights violations that have affected their lives. They repeatedly told the Special Rapporteur

that they want the world to know about the crimes committed by the military, the identity of those responsible, and the ways in which they have suffered. Many family members of victims are themselves still searching for the truth about what happened to their loved ones.

244. Truth mechanisms and processes come in a variety of forms. They may include national truth commissions, forensic investigations, public apologies, civil society-led and community-based truth-telling initiatives, the development of archives and museums, and other memorialization projects.¹²⁷ These mechanisms do more than just document violations. They recognize victims' experiences, establish an authoritative record of atrocities, support criminal accountability and reparations, and help identify institutional failures that made violations possible.

245. It is imperative that victims be involved in the design and implementation of any truth mechanisms or processes and that such participation be genuine and ongoing, not tokenistic. To be effective, truth mechanisms must ensure safe, meaningful and inclusive participation by victims. To this end, mechanisms must incorporate confidentiality measures, protect against stigma, retaliation and retraumatization, and address other barriers to participation. Mechanisms must also be designed to address the experiences, priorities, rights and requirements of women, children, LGBT people and persons with disabilities.

246. Myanmar opposition actors have already begun to articulate how these principles might be translated into a future national transitional justice process. The National Unity Consultative Council's (NUCC) Transitional Justice Policy provides for the establishment of a Truth and Reconciliation Commission after a transition to federal democratic governance.¹²⁸ The commission would be tasked with examining past human rights violations, ongoing monitoring and documentation of human rights violations, and vetting for government institutions. The NUCC envisions public hearings, identification of perpetrators, and the establishment of an archive of evidence and documents concerning past human rights violations.

247. Those designing a truth commission for Myanmar would need to make choices regarding the temporal and geographic scope of inquiry, the types of crimes or human rights violations to be examined, thematic priorities, whether to name perpetrators, and institutional powers, such as subpoena, search and seizure, or witness protection powers.¹²⁹

248. Leaders in Myanmar could draw lessons from the experiences of other countries that have established truth commissions. Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR) may be especially instructive for Myanmar given the regional connections and Timor-Leste's history of military occupation, internal conflict and community-level violence. In particular, CAVR's Community Reconciliation Process provides a model for grassroots truth-telling aimed at reintegration of lower-level perpetrators.

249. Other truth commissions also provide lessons for Myanmar. For example, South Africa's Truth and Reconciliation Commission demonstrates the opportunities and challenges associated with a truth-for-amnesty bargain. Colombia's Commission for Clarification of Truth has been hailed for its inclusive approach to truth-seeking, which centered the experience of women, children, LGBT persons and ethnic groups. Sierra Leone's Truth and Reconciliation Commission played a complementary role to criminal justice and the country's Special Court.

250. Armed conflict, security risks and the military's continued grip over many parts of Myanmar mean that establishing a national truth commission is not realistic in the present moment. However, other truth-telling initiatives may be possible in the current context. These

¹²⁷ See, Guidance Note of the Secretary-General, "Transitional Justice: A Strategic Tool for People, Prevention and Peace," 2023,

https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

¹²⁸ National Unity Consultative Council, Transitional Justice Policy, adopted December 2024.

¹²⁹ See, OHCHR, "Rule-of-Law Tools for Post-Conflict States: Truth commissions," 2006, <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawTruthCommissionsen.pdf>.

could include community-based programs such as local hearings, evidence collection and memorialization projects. Ethnic resistance organizations and emerging governance institutions could also proceed with truth mechanisms or processes in the areas that they control. Civil society and opposition groups can begin the process of building evidentiary archives that will be vital to future truth and accountability processes.¹³⁰ As described below (subsection 9. Evidence collection and preservation), human rights research and documentation is an urgent imperative, plays a key role in truth-seeking, and must be funded and supported by the international community.

251. It is essential that any truth mechanisms or processes examine human rights violations committed by all parties to present and historic conflicts in Myanmar. In 2015, the All Burma Students' Democratic Front (ABSDF) published "Dignity," a report summarizing the findings of an internal investigation of human rights abuses committed by the armed group decades earlier, including the torture and killing of ABSDF members accused of being spies.¹³¹ While the report did not resolve all controversies relating to the reported abuses, it was a positive and precedent-setting example of a non-state armed group proactively examining its own conduct.

252. In some countries, truth mechanisms have been linked to conditional amnesty or leniency in exchange for full disclosure. As described earlier in this paper, many in Myanmar express deep skepticism about the possibility of any mass amnesty in Myanmar, citing a lack of trust in promises made by the military and a decades-long cycle of impunity and oppression. Indeed, amnesties for genocide, war crimes and crimes against humanity are inconsistent with states' human rights obligations and violate victims' right to a remedy.¹³²

253. The NUCC's Transitional Justice Policy calls for the establishment of policies and processes for granting amnesty to perpetrators who defect from the military and military-controlled institutions. However, the policy also makes clear that amnesty will not be available to those responsible for genocide, crimes against humanity and war crimes.

Recommendations

254. To states and donors:

(a) **Provide multi-year, flexible funding and technical support to civil society organizations and emerging governance institutions for human rights documentation, the development of historical archives, memorialization initiatives and consultations on the development of truth mechanisms and processes; and**

(b) **Refrain from supporting any political settlement that includes a blanket amnesty that applies to genocide, war crimes or crimes against humanity.**

255. To the National Unity Government, ethnic resistance organizations and emerging governance institutions:

(a) **Begin consultation with survivors, civil society organizations, human rights organizations, Rohingya representatives, women's groups and other organizations and communities on the objectives and design of a national truth commission and other truth mechanisms and processes;**

(b) **Facilitate community-based truth-telling and truth-seeking initiatives to the extent possible in the current security and political context;**

(c) **Ensure that any truth mechanisms or processes address the experiences, priorities, rights and requirements of women, children, LGBT people and persons with disabilities;**

¹³⁰ See, OHCHR, "Rule-of-Law Tools for Post-Conflict States: Archives," 2015, https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_14_4_Archives_en.pdf.

¹³¹ All Burma Students' Democratic Front, "Dignity: The Report of the Truth and Justice Committee," March 2015, <https://thedignityreport.blogspot.com/2015/07/chapter-1-overview-of-work-of-truth-and.html>.

¹³² See, OHCHR, "Rule-of-Law Tools for Post-Conflict States: Amnesties," 2009, https://www.ohchr.org/sites/default/files/Documents/Publications/Amnesties_en.pdf.

(d) **Reject any political settlement that includes a blanket amnesty that applies to genocide, war crimes or crimes against humanity; and**

(e) **Promote internal accountability by applying truth-seeking and truth-telling initiatives to abuses committed by persons within their own ranks.**

256. **To a future democratic government of Myanmar:**

(a) **Establish a truth commission that is adequately resourced; has subpoena, search, seizure and witness protection powers; provides confidentiality safeguards for victims and witnesses; and is linked to reparations processes and mechanisms (see subsection that follows); and**

(b) **Establish a national archive to preserve evidence and documents for truth processes and mechanisms.**

8. Reparations

257. As described above (section III. The right to a remedy), full and effective reparations may take the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

258. When the Special Rapporteur asked victims of human rights violations and their family members about their priorities concerning accountability, many mentioned measures that fall within one of these categories, often without explicitly referencing “reparations.” A former political prisoner told the Special Rapporteur, “We understand it is difficult to take action against perpetrators. We’d like to focus more on remedies for our suffering. And we’d like to receive a promise that they will not commit these violations or abuses in the future.” Indeed, for many in Myanmar—especially those facing extreme hardship, continuing human rights violations, and threats to their lives—tangible measures to improve their current situation are often a more immediate priority than access to justice or criminal punishment for perpetrators.

259. Surveys of refugees in Bangladesh and India—the results of which were shared with the Special Rapporteur—indicate that the return of land and property, access to citizenship, education, medical care, and monetary compensation are among the top priorities of those communities. Women’s rights organizations report similar priorities among the communities they serve. In Myanmar, many survivors experience lasting harms or trauma from the human rights violations they have suffered, underscoring the importance of rehabilitation measures. There is a particular need for health and psychosocial services for survivors of conflict-related sexual violence.¹³³

260. Many people in Myanmar also emphasize the importance of institutional reform and guarantees of non-recurrence. A woman human rights defender and interfaith activist said, “Justice should be more than putting people in jail. It should transform the law and social structures that allow the violations to happen.”

261. In recent resolutions, the UN General Assembly and Human Rights Council have called for Myanmar, the Myanmar military and all parties to the conflict in Myanmar to provide reparations for victims of human rights violations, including reparations for appropriated land.¹³⁴

¹³³ Global Survivors Fund and REDRESS, “Myanmar Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence: Beyond Survival,” March 2023, https://www.globalsurvivorsfund.org/wp-content/uploads/2025/09/GSF_Report_MYANMAR_EN_March2023_WEB-1.pdf.

¹³⁴ Human Rights Council Resolution 59/2, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc. A/HRC/RES/59/2, 4 July 2025, <https://docs.un.org/en/A/HRC/RES/59/2>, paras. 5, 14 and 24; General Assembly Resolution 80/221, “Situation of human rights of Rohingya Muslims and other minorities in Myanmar,” UN Doc. A/RES/80/221, 22 December 2025, <https://docs.un.org/en/A/RES/80/221>, para. 13.

262. Reparations are often linked to judicial proceedings, with courts ordering reparative measures as part of their rulings. Both domestic and international courts may order perpetrators to provide reparations to victims. As described above, in its pleadings before the ICJ, the Gambia requested remedies for Rohingya survivors that included, among other reparative measures, full and equal access to citizenship, the restoration of rights, compensation for harms, the return of land and property, rehabilitation for survivors, the restoration of rights, and guarantees of non-repetition.

263. Beyond judicial proceedings, reparations may also be provided through administrative processes, which can reach larger numbers of victims and avoid the long timeframes associated with judicial processes.

Funding reparations for human rights violations in Myanmar

264. Under international law, the primary obligation to provide reparations lies with the state responsible for such violations. However, the people of Myanmar and the international community must face a hard truth: over the short- and medium-term, the state of Myanmar—divided and devastated by military oppression—will be unable to fulfil this obligation. So long as the Myanmar military remains in control of state institutions and continues to dominate Myanmar’s political sphere, an effective state-led reparations program will not be possible. Emerging governance institutions and ethnic resistance organizations, meanwhile, lack the resources and capacity to effectively administer reparations at scale.

265. The intransigence and incapacity of authorities in Myanmar, however, do not extinguish the rights of victims. Indeed, the need for reparations is dire and immediate. Victims face life-threatening risks and hardship that could be effectively addressed through restitution, compensation and rehabilitation programs. The failure to provide reparations addressing these needs exacerbates trauma and harms.

266. A human rights defender emphasized the need to begin providing reparations even before a transition to democratic governance:

The expectations [of victims] are really high. They want to get back their land. They want to see the perpetrators punished. They want to at least have some kind of reparations. ... In the short term, we need to do some sort of reparations, even if it's not that much. It could be returning land, some small reparations for artillery attacks, supporting humanitarian aid for [internally displaced persons], or rebuilding communities. Focusing on the short term requires some financial resources and technical support. Many communities think justice is taking too long. It takes a long time to get acknowledgment of the violations they have suffered. We don't want them to feel like that.

267. Domestic and international actors should therefore consider all possible measures to fulfil victims’ right to reparations in the years and decades that it will take to establish democratic governance, rebuild state institutions, and entrench respect for human rights in Myanmar.¹³⁵

268. To this end, states and other international donors should, as a matter of priority, fund reparative programs in the short term. Such programs, sometimes described as “interim reparative measures,”¹³⁶ would not absolve Myanmar of its state responsibility to provide

¹³⁵ See, Global Survivors Fund, “Reparations are Affordable: Pathways to financing reparations owed to survivors of conflict-related sexual violence,” September 2025, https://www.globalsurvivorsfund.org/wp-content/uploads/2025/09/Reparations_are_affordable_brief_UNGA_WEB__1_-2.pdf.

¹³⁶ See, for example, Independent international fact-finding mission for the Sudan, “Paths to justice: accountability for atrocities in the Sudan,” UN Doc. A/HRC/60/CRP.7, 24 October 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffm-sudan/a-hrc-60-crp.7-en.pdf>; Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, “Reparation for child victims and survivors of sale and sexual exploitation,” UN Doc. A/HRC/52/31, 26 January 2023, <https://docs.un.org/en/A/HRC/52/31>; UN Secretary-General, Women and peace and security, UN

reparations but rather help fulfil the rights of victims in the short run and lay the groundwork for future state-based reparations programs.

269. Indeed, many civil society organizations are already providing support to survivors and the families of victims, often without explicitly defining the services and goods they provide as “reparations.” As described in the Special Rapporteur’s reports, funding shortfalls are the primary constraint on the scope of civil-society led projects.¹³⁷ Donors could scale contributions to these organizations and provide technical support to implement such programs in a way that centers survivors as rights-holders and provides recognition of the harms they have suffered. Unfortunately, with many governments slashing foreign aid budgets, voluntary contributions to reparation programs for Myanmar are unlikely to be sufficient.

270. In 2023, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence published a report on the financing of reparations.¹³⁸ He highlighted the role that international institutions and donors can play, not only by directly funding reparations but also by employing innovative methods to finance such programs. One such method is the repurposing of the assets of states involved in human rights violations. States could support reparations in Myanmar by repurposing assets and profits linked to the Myanmar military and other perpetrators of human rights violations in Myanmar.¹³⁹

271. In response to the 2021 military coup, the United States froze approximately US\$1 billion of assets belonging to the state of Myanmar.¹⁴⁰ There is precedent for repurposing these types of assets. In 2024, the US Congress passed the Rebuilding Economic Prosperity and Opportunity for Ukrainians (REPO) Act, allowing the use of frozen Russian sovereign assets for Ukraine’s recovery and reconstruction.¹⁴¹ The European Union has also authorized the use of interest from frozen Russian assets to aid Ukraine.¹⁴² Similar steps could be taken in relation to Myanmar.

272. States could also use fines and confiscated assets from sanctions enforcement actions to fund reparative measures. New European Union directives require EU member states to criminalize sanctions violations and allow for property confiscated in sanctions proceedings to be repurposed for public interest uses, potentially including reparations for victims of human rights violations.¹⁴³

Doc. S/2025/556, 5 September 2025, <https://docs.un.org/en/S/2025/556>; Global Survivors Fund, “How We Work: Act,” <https://www.globalsurvivorsfund.org/how-we-work/act-in-the-interim/> (accessed 14 April 2026).

¹³⁷ Special Rapporteur on the situation of human rights in Myanmar, Situation of human rights in Myanmar, report to the UN General Assembly, UN Doc. A/77/494, 3 October 2022, <https://docs.un.org/en/A/77/494>.

¹³⁸ Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, “Financing of reparation for victims of serious violations of human rights and humanitarian law,” UN Doc. A/78/181, 14 July 2023, <https://docs.un.org/en/A/78/181>.

¹³⁹ See, Global Survivors Fund, “Repurposing assets to finance reparations for Myanmar’s survivors of conflict-related sexual violence and other gross human rights violations,” December 2025, https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Policy_Briefs/Policy%20paper%20on%20reparations%20for%20Myanmar%20CRSV%20survivors_Dec2025_EN_Web.pdf; Global Survivors Fund and REDRESS, “Myanmar Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence: Beyond Survival,” March 2023, https://www.globalsurvivorsfund.org/wp-content/uploads/2025/09/GSF_Report_MYANMAR_EN_March2023_WEB-1.pdf.

¹⁴⁰ White House, “FACT SHEET: Biden-Harris Administration Actions in Response to the Coup in Burma,” 11 February 2021.

¹⁴¹ Rebuilding Economic Prosperity and Opportunity for Ukrainians (REPO) Act, passed 24 April 2024.

¹⁴² Council of the European Union, Council Decision (CFSP) 2024/1470 of 21 May 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, 21 May 2024, <https://eur-lex.europa.eu/eli/dec/2024/1470/oj/eng>.

¹⁴³ Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and

273. Judicial proceedings and non-judicial processes involving corporations that contribute to human rights violations in Myanmar could also be used to fund reparations measures. For example, OECD state-based grievance mechanisms can lead to non-binding recommendations for corporations to provide a remedy to victims.¹⁴⁴

274. The repurposing of assets linked to human rights violations could convey a sense of accountability and offer recognition to victims for the harms they have suffered while also addressing the urgent needs of survivors.

A reparations fund for Myanmar

275. While governments and other donors could unilaterally support reparations programs for victims of human rights violations, the establishment of a reparations fund or victim's trust fund could encourage contributions from donors, improve coordination, and expand reach.¹⁴⁵ A reparations fund for victims of human rights violations in Myanmar could be established in a number of ways. Victims' trust funds or other similar funds have been established by the UN Secretary-General, by resolutions of the UN Security Council and General Assembly, by treaty, by regional intergovernmental organizations, by humanitarian or development agencies, and by non-governmental organizations with the support of international donors.

276. A General Assembly resolution could help to overcome political and institutional obstacles standing in the way of the formation of a reparations fund. It could also help to consolidate financial support in a challenging environment for humanitarian funding. A General Assembly resolution establishing a reparations fund would be a logical next step following previous General Assembly and Human Rights Council resolutions emphasizing the importance of reparations for victims in Myanmar. It could also help complement a possible ICJ ruling affirming Gambia's request for reparations for Rohingya victims.

277. Regardless of how a fund is established, it is imperative that victims meaningfully participate in the design and administration of any reparations program.¹⁴⁶ Victim participation helps to increase trust in reparations programs and prevent such programs from being captured by elite interests or being directed to certain victim groups at the expense of others. A reparations fund, once established, must be administered in a transparent and accountable manner.

amending Directive (EU) 2018/1673, <https://eur-lex.europa.eu/eli/dir/2024/1226/oj/eng>; Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation, 24 April 2024, <https://eur-lex.europa.eu/eli/dir/2024/1260/oj/eng>.

¹⁴⁴ See, OECD Guidelines for Multinational Enterprises, 2011 Edition, 29 September 2011, https://www.oecd.org/en/publications/2011/09/oecd-guidelines-for-multinational-enterprises-2011-edition_g1g13daf.html.

¹⁴⁵ See, Legal Action Worldwide, "Roundtable Summary: Paving the way for accountability, truth, and reconciliation: a trust fund for victims of atrocity crimes in Myanmar," 21 October 2024, <https://legalactionworldwide.org/accountability-rule-of-law/paving-the-way-for-accountability-truth-and-reconciliation-a-trust-fund-for-victims-of-atrocity-crimes-in-myanmar/>; Legal Action Worldwide, "'They Wanted to Erase Us': Myanmar's 2017 'Clearance Operations' through the Eyes of Rohingya Children and Genocide," December 2025, https://legalactionworldwide.org/wp-content/uploads/LAW-ChildrensReport_FINAL_91225.pdf. In its 2018 report, the Independent International Fact-Finding Mission on Myanmar called for the United Nations to "establish a trust fund for victim support ... designed in consultation with victims," although the recommendation was not explicitly framed as a reparations measure. Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, UN Doc. A/HRC/39/CRP.2, 17 September 2018, <https://docs.un.org/en/A/HRC/39/CRP.2>, para. 1712.

¹⁴⁶ See, Kinshasa Declaration on the Rights to Reparation and Co-creation of Survivors and Victims of Conflict-Related Sexual and Gender-Based Violence, November 2022, https://www.globalsurvivorsfund.org/wp-content/uploads/2025/09/GSF_Kinshasa_Declaration_EN_Nov2022_WEB__1_.pdf.

Recommendations

278. To the UN General Assembly:

(a) Pass a resolution establishing a reparations fund for victims of grave human rights violations in Myanmar.

279. To the UN General Assembly and Human Rights Council:

(a) In all resolutions concerning Myanmar, recognize the primary responsibility of the state of Myanmar to provide reparations for victims of human rights violations by state forces and call for UN member states to explore all pathways for funding reparations measures.

280. To states:

(a) Urgently provide financial and technical support for programs providing reparations to victims of grave human rights violations in Myanmar;

(b) Provide political and financial support for the establishment of a reparations fund or mechanism for Myanmar; and

(c) Use assets linked to the Myanmar military or other perpetrators of grave human rights violations in Myanmar to fund reparations for victims of grave human rights violations in Myanmar, either through a dedicated reparations fund or in cooperation with partners in Myanmar.

281. To the United States:

(a) Pass legislation modelled on the REPO Act authorizing the confiscation and repurposing of frozen Myanmar sovereign assets to fund reparations for victims of human rights violations in Myanmar.

282. To the European Union:

(a) Enforce EU Directives 2024/1226 and 2024/1260 by confiscating assets linked to violations of Myanmar-related sanctions and repurposing those assets to fund reparations for victims of human rights violations in Myanmar.

283. To the OECD and National Contact Points:

(a) Prioritize reparations for victims of human rights violations in Myanmar in the implementation of the OECD grievance mechanism.

9. Evidence collection and preservation

284. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has called documentation of human rights violations the “backbone” of transitional justice, including truth-seeking, accountability, reparations and institutional reform processes.¹⁴⁷ Beyond merely preserving evidence for use by mechanisms that will be established in the future, documentation programs can help create political will for accountability processes, preserve memories of violations, and promote peace and reconciliation.¹⁴⁸ To achieve these objectives, noted the Special Rapporteur, documentation efforts must be “prompt, comprehensive, inclusive, participatory, context-specific, victim-centred and gender sensitive.”¹⁴⁹

¹⁴⁷ Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Bernard Duhaime, “Documentation of gross violations of human rights and serious violations of international humanitarian law,” UN Doc. A/HRC/60/32, 11 July 2025, <https://docs.un.org/en/A/HRC/60/32>, para. 15.

¹⁴⁸ Special Rapporteur, “Documentation of gross violations,” para. 14; Louis Bickford, Patricia Karam, Hassan Mneimneh and Patrick Pierce, International Commission of Jurists, “Documenting Truth,” 2009, <https://www.ictj.org/sites/default/files/ICTJ-DAG-Global-Documenting-Truth-2009-English.pdf>, p. 4.

¹⁴⁹ Special Rapporteur, “Documentation of gross violations,” paras. 18-24.

285. Archives are essential to all types of accountability processes and help victims and broader populations alike enjoy their right to know the truth about situations of grave human rights violations.¹⁵⁰ In the context of armed conflict and state-sponsored violations, government records often contain evidence of serious crimes and may be a key form of evidence informing future accountability mechanisms and processes. Records are often destroyed, removed or abandoned during periods of political transition. If the military-backed government in Myanmar were to fall, revolutionary authorities would therefore need to act quickly and purposefully to secure government documents and develop archives to collect and preserve evidence for future use.

National archives and evidence collection

286. The National Unity Consultative Council's Transitional Justice Policy envisions the establishment of "an accurate and robust data collection archive covering the entire country." It also states that an archive will be created from the evidence collected by the planned Truth and Reconciliation Commission.¹⁵¹ After decades of military dominance over state institutions, a future democratic government must quickly secure and preserve official records following a political transition for use in future accountability processes.

287. The National Unity Government's Ministry of Human Rights has played a key role in collecting information concerning grave human rights violations by the military and others in the five years since the military coup.¹⁵² The National Unity Government is currently conducting consultations on a proposed National Human Rights Law that would establish an independent national human rights commission to monitor human rights violations, among other functions to protect and promote human rights. The draft law indicates that the commission would be established in accordance with the Paris Principles and would have the power to receive complaints and conduct investigations.

288. These are important and encouraging steps that suggest pro-democracy actors in Myanmar recognize the importance of evidence collection and preservation. However, the current proposals are light on details. Much more needs to be done prior to and during a political transition in Myanmar to build the structures and processes that will be needed to collect, analyze and preserve evidence after decades of widespread grave human rights violations.

Civil society documentation

289. While governments have an obligation to collect and preserve evidence of human rights violations, civil society documentation efforts are also essential to accountability processes. This is especially true in situations of conflict and ongoing oppression, when, as in Myanmar, state authorities are not actively collecting or preserving evidence of grave human rights violations. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has stated that in situations of conflict and authoritarianism, "civil society is often best positioned to gather evidence of violations, given its presence on the ground at the time of events, in-depth knowledge of the specific local context and proximity to victims and witnesses."¹⁵³ Civil society documentation efforts also often benefit from greater trust from local communities than state-led initiatives.

290. These comparative advantages of civil society human rights documentation are particularly significant in Myanmar. International investigators and organizations either lack access to Myanmar entirely or can only access certain parts of the country, leaving civil society organizations as the only groups able to document conditions on the ground in many places. Many victims, witnesses and communities are distrustful of UN agencies and

¹⁵⁰ Orentlicher Principles, principle 14; OHCHR, "Rule-of-Law Tools for Post-Conflict States: Archives," 2015,

https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_14_4_Archives_en.pdf.

¹⁵¹ See, OHCHR, "Archives."

¹⁵² NUCC, Transitional Justice Policy, article 33.

¹⁵³ See, National Unity Government, Ministry of Human Rights, Data Dashboards, News Letters and Reports, <https://mohr.nugmyanmar.org/> (accessed 10 April 2026).

¹⁵³ Special Rapporteur, "Documentation of gross violations," para. 41.

international organizations, perceiving that they have aligned with the military in order to administer state-centric humanitarian programs. Civil society organizations often enjoy much greater levels of trust from communities.

291. Civil society documentation can contribute to all forms of accountability processes, including criminal prosecutions in domestic and international courts. For example, evidence collected and preserved by the Documentation Center of Cambodia (DC-Cam), a civil society-led documentation project with strong international support, was essential to the prosecution of Khmer Rouge leaders before the Extraordinary Chambers in the Courts of Cambodia, a hybrid tribunal.¹⁵⁴

292. For decades, Myanmar civil society and human rights organizations have been on the frontlines of conflict and oppression in Myanmar, documenting grave human rights violations by the military and others. Women's organizations and ethnic-based human rights organizations, in particular, have developed strong track records and robust methodologies for documenting and reporting such violations, reflecting the military's longstanding pattern of abuses against women and ethnic communities. Since the coup, many new organizations and networks have also emerged to gather information on conflict-related violations. The Special Rapporteur has relied heavily on newly formed groups to understand the human rights situation in central Myanmar, which has experienced intense conflict and human rights violations, and which cannot be accessed by international organizations. Knowledge sharing between established and new organizations is ongoing and could support the development of nationwide networks and documentation initiatives.

293. Human rights defenders emphasized to the Special Rapporteur that affected communities derive meaning from giving testimony and sharing evidence relating to the violations they have suffered. One human rights defender said, "Documentation is the first step towards justice. It tells victims they are not invisible. Documenting human rights abuses is very important in order to continue to support their hope."

294. Insufficient funding is a major constraint for many local human rights organizations in Myanmar. This challenge has only grown since the coup. Many civil society organizations involved in the documentation of human rights violations have been severely impacted by funding cuts by governments and other donors.

295. Women's rights groups emphasized that their work with victims of gender-based violence requires a more holistic approach to documentation that addresses the immediate needs of victims but lamented that many donors do not support this type of approach. A woman human rights defender explained:

Women's organizations are taking a survivor-centered approach, so providing emergency assistance is the first priority. Some donors only want to fund the documentation work and say they don't want to provide humanitarian assistance. But we can't take this approach. For example, we may need to send a minor survivor of rape to the hospital. She won't survive another day because of the injuries she suffered from the rape. We don't have any more funding for this type of work. When we receive the case, we cannot say no, even though we don't have the funding. We women's groups are cooperating to try to find funding for these cases, but it is very hard. This is only the case of sexual violence. We have so many cases with [internally displaced persons]. They also require assistance. We can't only give support on one issue. We have to be prepared for every situation that is raised in our documentation work.

International investigations and mechanisms

296. International mechanisms can also play an important role in collecting and preserving evidence, especially when a state is unable or unwilling to do so.¹⁵⁵ They often benefit from advanced investigative methodologies, considerable financial, human and technological resources, and evidentiary standards that facilitate contributions to judicial processes. Over several decades, multiple international mechanisms have been established to investigate

¹⁵⁴ ICTJ, "Documenting Truth," p. 5.

¹⁵⁵ Special Rapporteur, "Documentation of gross violations," para. 39.

human rights violations in Myanmar, leaving a strong and extensive record of military atrocities and oppression.

297. The International Labour Organization has twice established commissions of inquiry concerning Myanmar—in 1997 and 2022—which found serious violations of ILO conventions.¹⁵⁶ The UN has established a Country Task Force on Monitoring and Reporting in Myanmar that collects and verifies reports of grave violations against children for the reports of the Special Representative of the Secretary-General for Children and Armed Conflict.¹⁵⁷ The Special Rapporteur's own mandate was established in 1992 and involves monitoring and reporting on human rights violations in Myanmar. The Advisory Commission on Rakhine State, also known as the Kofi Annan Commission after its Chair, was a domestic body established by State Counsellor Aung San Suu Kyi which enjoyed strong backing from the UN and international community.¹⁵⁸ Its report on the situation in Rakhine State was published just one day before the military launched its genocidal attacks on the Rohingya in August 2017.

298. The Office of the High Commissioner for Human Rights (OHCHR) plays a key role in ongoing monitoring and reporting on human rights violations in Myanmar. OHCHR has extensively documented military atrocities since the coup and has helped ensure that human rights are prioritized in the UN's response to the crisis. OHCHR conducted high-profile missions to rapidly investigate attacks on the Rohingya in 2016 and 2017.¹⁵⁹

299. In March 2017, the UN Human Rights Council established the Independent International Fact-Finding Mission on Myanmar to “establish the facts and circumstances” of the military's human rights violations in Rakhine State and elsewhere.¹⁶⁰ After conducting 875 in-depth interviews, the Fact-Finding Mission published a massive report describing widespread and systematic violations, many of which amounted to crimes under international law.¹⁶¹ In September 2019, the Fact-Finding Mission handed over the evidence it had collected to the Independent Investigative Mechanism for Myanmar (IIMM), which was also established by the Human Rights Council.

300. The IIMM is mandated by the Human Rights Council to “collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of

¹⁵⁶ International Labour Organization, Forced labor in Myanmar (Burma): Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29); 2 July 1998, [https://webapps.ilo.org/public/libdoc/ilo/P/09604/09604\(1998-81-serie-B-special-suppl\).pdf](https://webapps.ilo.org/public/libdoc/ilo/P/09604/09604(1998-81-serie-B-special-suppl).pdf); International Labour Organization, Towards Freedom and Dignity in Myanmar: Report of the Commission of Inquiry established in accordance with article 26 of the ILO Constitution concerning the non-observance by Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Forced Labour Convention, 1930 (No. 29), 4 August 2023, <https://www.ilo.org/publications/towards-freedom-and-dignity-myanmar>.

¹⁵⁷ See, UNICEF, “CTFMR expresses grave concern over circumstances of two children killed in fighting between the Tatmadaw and Arakan Army in Buthidaung, Rakhine State,” 14 October 2020, <https://www.unicef.org/press-releases/ctfmr-expresses-grave-concern-over-circumstances-two-children-killed-fighting>.

¹⁵⁸ Advisory Commission on Rakhine State, “Toward a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report of the Advisory Commission on Rakhine State,” August 2017, https://www.kofiannanfoundation.org/wp-content/uploads/2017/08/FinalReport_Eng.pdf.

¹⁵⁹ OHCHR, Flash Report, “Report of OHCHR mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since 9 October 2016,” 3 February 2017, <https://www.ohchr.org/sites/default/files/Documents/Countries/MM/FlashReport3Feb2017.pdf>; OHCHR, “Mission report of OHCHR rapid response mission to Cox's Bazar, Bangladesh,” 13-24 September 2017, <https://www.ohchr.org/sites/default/files/Documents/Countries/MM/CXBMissionSummaryFindingsOctober2017.pdf>.

¹⁶⁰ Human Rights Council Resolution 34/22, Situation of human rights in Myanmar, UN Doc. A/HRC/RES/34/22, 3 April 2017, <https://docs.un.org/en/A/HRC/RES/34/22>.

¹⁶¹ Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, UN Doc. A/HRC/39/CRP.2, 17 September 2018, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf.

international law committed in Myanmar since 2011, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals.”¹⁶² The IIMM’s investigations have focused largely on crimes against the Rohingya and post-coup crimes by the military and other actors. It has collected millions of items including statements from victims, witnesses and others, documents, photographs, video and audio materials, geospatial imagery, social media posts and forensic evidence.¹⁶³ It has shared evidence and analysis to support proceedings concerning the Rohingya at the International Criminal Court and International Court of Justice and in Argentina’s universal jurisdiction case. It has also shared information with authorities in the United Kingdom and other countries.

301. Some human rights defenders and victims believe that the IIMM, given its resources and mandate, could do more to expose the junta’s crimes and advocate for the people of Myanmar on the international stage. While the IIMM has published a number of analytical reports, its focus remains on sharing evidence with prosecutorial authorities. Some individuals who have engaged with the IIMM have expressed frustration at not knowing whether, or how, their information has been used. A woman human rights defender told the Special Rapporteur:

Survivors told us that ... after being interviewed by the IIMM, they have been left in the dark and are not being updated on any progress. While we understand that they are doing what they can within their mandate, from our standpoint the mechanism is not fit for purpose to deliver the justice and accountability that our communities in Myanmar have in mind. We would like the Mechanism to explore more innovative ways to discharge its duties.

302. These tensions flow, in part, from the IIMM’s mandate, which is focused specifically on criminal accountability for serious violations of international law. The IIMM is not currently mandated or structured to contribute to other remedies and forms of accountability desired by victims and the people of Myanmar, including truth-telling, reparations and guarantees of non-recurrence.

303. Compounding these challenges are reductions in the IIMM’s resources in 2026. Budgetary shortfalls necessitate a reduction of over a quarter of the IIMM’s positions. This has resulted in the loss of valuable expertise, including in sexual and gender-based crimes and crimes against children, as well as capacity in various Myanmar languages.

Victims, witnesses and defectors

304. Securing the testimony of victims and witnesses is essential for the success of accountability mechanisms and processes.¹⁶⁴ This is true not only for criminal prosecution, but for truth, reparation, vetting and other accountability processes.

305. Accessing victims and witnesses of human rights violations in Myanmar is not easy, a challenge experienced directly by the Special Rapporteur. International investigators and organizations often have little or no direct access to victims and witnesses inside the country. The ubiquity of mobile phones and data, satellite internet connections, and video call technology has opened new channels for collecting the testimony of victims and witnesses, but the lack of direct physical access to the locations where these people reside still limits documentation processes.

306. The government of Bangladesh has provided the International Criminal Court, the IIMM, OHCHR and the Special Rapporteur access to Rohingya victims and witnesses in Bangladesh. The IIMM has concluded numerous cooperation agreements with governments to facilitate information sharing and investigative activities. However, many countries,

¹⁶² Human Rights Council Resolution 39/2, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, 27 September 2018, <https://docs.un.org/en/A/HRC/RES/39/2>.

¹⁶³ See Independent Investigative Mechanism for Myanmar, <https://iimm.un.org/>.

¹⁶⁴ Report of the United Nations High Commissioner for Human Rights on the Right to the truth, UN Doc. A/HRC/15/33, 28 July 2010, <https://docs.un.org/en/A/HRC/15/33>, para. 3.

including some of Myanmar's neighbors, have not provided international investigators access to victims and witnesses.

307. While victims and witnesses often face extreme hardship because of the human rights violations they have suffered or the environments in which they live, participation in accountability processes entails additional safety and psychosocial risks. It is therefore imperative that all efforts be made to ensure the safety and wellbeing of victims and witnesses and maintain their trust in the institutions and processes that will benefit from their testimony.

308. Various authoritative documents describe standards and best practices in relation to the protection of victims and witnesses.¹⁶⁵ Central to these frameworks are the concepts of confidentiality and informed consent. While it is beyond the scope of this paper to explore how these concepts are applied in various contexts, it is essential that all actors involved in accountability processes develop strong policies and methodologies offering confidentiality to, and ensuring the informed consent of, the victims and witnesses with whom they interact.

309. The number of different organizations and institutions involved in documentation activities heightens the risk that victims and witnesses are interviewed multiple times and unnecessarily retraumatized. Greater coordination is needed to mitigate this risk and ensure that victims and witnesses are empowered rather than instrumentalized as part of documentation and accountability efforts.

310. Military defectors will play a central role in many future accountability processes for Myanmar, which will draw on their firsthand knowledge of specific events, military policies and the orders given by commanders.¹⁶⁶ Defector testimony will also be essential in establishing the chain of command linking high-ranking officers to atrocities. The National Unity Government, ethnic resistance organizations and activist groups have made significant efforts to protect defectors and facilitate their participation in documentation and accountability processes. Many defectors are willing and eager to provide testimony and support accountability for human rights violations by the military. The time and resources invested by opposition actors in securing the cooperation of military defectors has not been matched by the international community.

311. Armed conflict and pervasive surveillance have made life in Myanmar untenable for many victims, witnesses and defectors, forcing them to flee the country. Yet conditions abroad often remain precarious. Many lack legal status in their host countries, leaving them vulnerable to exploitation, arrest and deportation to Myanmar. For many victims, witnesses and defectors, deportation to Myanmar could be a death sentence.

312. The IIMM has developed witness support and protection programs but emphasizes its dependence on the collaboration of states, including to facilitate the relocation of witnesses. The full extent of states' contribution to the protection of victims, witnesses and defectors from Myanmar is not publicized and not known to the Special Rapporteur. However, it is clear that many victims, witnesses and defectors remain in dangerous and desperate conditions both inside and outside Myanmar and have received little or no assistance from governments, UN bodies or other international actors.

¹⁶⁵ See, for example, Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 29 June 2022, <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0>; The Minnesota Protocol on the Investigation of Potentially Unlawful Death, 2017, <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>; Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence (the "Murad Code"), 13 April 2022, <https://www.muradcode.com/murad-code>; Berkeley Protocol on Digital Open Source Investigations: A Practical Guide on the Effective Use of Digital Open Source Information in Investigating Violations of International Criminal, Human Rights and Humanitarian Law, 3 January 2022, <https://www.ohchr.org/en/publications/policy-and-methodological-publications/berkeley-protocol-digital-open-source>; Report of the United Nations High Commissioner for Human Rights on the Right to the truth, UN Doc. A/HRC/15/33, 28 July 2010, <https://docs.un.org/en/A/HRC/15/33>.

¹⁶⁶ See, for example, Fortify Rights, "ICC Member States: Coordinate to Protect Witnesses with Evidence of Atrocities, Refer Myanmar to Chief Prosecutor," 11 July 2024, <https://www.fortifyrights.org/mya-inv-2024-07-11/>.

Recommendations

313. To the National Unity Government, National Unity Consultative Council, ethnic resistance organizations, civil society organizations and others collecting and preserving evidence of grave human rights violations:

(a) Develop and implement rigorous policies concerning the consent, confidentiality and protection of victims, witnesses, perpetrators and others who provide testimony and other evidence concerning grave human rights violations;

(b) Building on the NUCC's Transitional Justice Policy, develop a detailed framework for a national archive concerning grave human rights violations, with consideration of work that can be done both before and after a political transition;

(c) Develop a plan for evidence collection and preservation during a transitional period that provides for the rapid securing of state records, chain-of-custody standards, and the transfer of records to archives; and

(d) Ensure that a national human rights commission, whether established under the proposed National Human Rights Law or by other means, fully aligns with the Paris Principles.

314. To a future democratic government of Myanmar:

(a) Establish a national archive system to preserve evidence of grave human rights violations, including records created by the military junta and state institutions it controlled.

315. To states:

(a) Provide flexible, multi-year funding to opposition institutions and civil society organizations involved in the collection, analysis and preservation of evidence of grave human rights violations;

(b) Fully fund the IIMM and OHCHR to avert staffing cuts and the elimination of vital units and programs; and

(c) Fully cooperate with the IIMM, International Criminal Court, OHCHR and other competent investigative bodies, including by facilitating access to evidence, victims and witnesses on their territories and providing pathways for relocation for high-risk victims and witnesses.

316. To OHCHR, other UN agencies, and international organizations and experts:

(a) Expand technical assistance concerning human rights documentation, the establishment of archives, data protection, emergency record preservation during transition, and other relevant topics.

317. To the Independent Investigative Mechanism for Myanmar:

(a) Strengthen communication with victims, witnesses and partner organizations concerning its mandate, evidentiary standards and the types of feedback it can and cannot provide; and

(b) Consider opportunities, within the mandate provided by the Human Rights Council, to contribute to forms of accountability beyond criminal prosecution, including truth processes, reparations and guarantees of non-recurrence.

VI. Conclusion

318. A working partnership between the people of Myanmar and the international community will be critical in breaking the cycle of violence, oppression and impunity that has gripped the country for so long. Tragically, this imperative is colliding with the harsh reality of today's global environment. The United Nations and the principles on which it was founded are under severe strain. Isolationism, transactional relationships and might-equals-

right approaches to global affairs are undermining respect for international law and human rights. Myanmar remains out of sight, out of mind, for much of the world.

319. The crisis in Myanmar is a sobering reminder of the devastating consequences of impunity, lawlessness and the abandonment of human rights. The daily horrors faced by the people of Myanmar underscore the importance of international law, accountability and respect for the principles and values embedded in the Universal Declaration of Human Rights.

320. UN bodies, states and world leaders have an opportunity to demonstrate to the people of Myanmar, and the world, that their affirmations on human rights in New York, Geneva and capitals around the world are more than lofty rhetoric or empty words. They can show the meaning of those words by providing material support to those who are building the foundation for justice and accountability in Myanmar. They can translate rhetoric into action by holding those who are responsible for horrific atrocity crimes fully accountable. The purpose of this paper is to provide concrete recommendations for how this can be done. The Special Rapporteur's hope is that they will be considered and acted upon.

321. This paper, as well as all previous reports by the Special Rapporteur, has been made possible by the brave men and women who have shared their stories, insights and perspectives. The Special Rapporteur is deeply grateful for the support that survivors, family members of victims, human rights defenders, women's rights advocates, researchers, humanitarian workers, medical professionals and many others have provided to his mandate over the past six years. Their courage, tenacity and commitment to human rights continue to be a source of inspiration and hope. They carry the promise of a new Myanmar. They deserve no less than the full support of the international community.

Annex 1. Compiled Recommendations

1. International Criminal Court

1. To the UN Security Council:
 - (a) Pass a resolution invoking Chapter VII powers to refer the situation in Myanmar to the International Criminal Court.
2. To state parties to the Rome Statute:
 - (a) Refer the situation in Myanmar and/or Bangladesh to the ICC Prosecutor under article 14 of the Rome Statute, requesting that the Prosecutor investigate:
 - (i) All apparent crimes within the jurisdiction already recognized by the Pre-Trial Chamber's ruling, including alleged crimes committed by the Arakan Army and Rohingya militant groups as well as apparent crimes committed before or after the 2016/2017 attacks; or
 - (ii) The situation in Myanmar inclusive of events occurring entirely on Myanmar's territory, compelling the Prosecutor and/or the Court to make a determination on the validity of the National Unity Government's article 12(3) declaration; and
 - (b) Declare an intention to refer the situation in Myanmar to the Prosecutor under article 14 if and when the Court's jurisdiction is established.
3. To all states:
 - (a) Cooperate and proactively assist the ICC's investigation, including by:
 - (i) Facilitating access to victims, witnesses and evidence on their territories;
 - (ii) Supporting travel by victims and witnesses to the ICC, including by issuing visas and other travel documents; and
 - (iii) Providing or expanding opportunities for relocation, resettlement and witness protection to victims, witnesses and their family members; and
 - (b) Cooperate and proactively assist in the enforcement of any arrest warrants issued by the ICC in relation to crimes committed in Myanmar and/or Bangladesh.
4. To the ICC Prosecutor:
 - (a) Expand the Bangladesh/Myanmar investigation to the maximum extent allowed by the Pre-Trial Chamber's 2019 decision, including by investigating the crime of deportation and persecution by the Arakan Army and crimes by Rohingya armed groups on Bangladesh or Myanmar territory which are "sufficiently linked" to the 2016/2017 attacks on the Rohingya;
 - (b) Seek arrest warrants for individuals beyond Min Aung Hlaing responsible for crimes against the Rohingya within the scope of the Bangladesh/Myanmar investigation; and
 - (c) Consider providing public updates concerning the status of arrest warrants, to the extent possible, including updates on the status of the requested arrest warrant for Min Aung Hlaing and any other requests that have been filed with the Court.
5. To the United States:
 - (a) Remove all sanctions and restrictions targeting the ICC, the ICC Prosecutor and other ICC officials.
6. To the European Union:
 - (a) Apply the European Union's blocking mechanism to US sanctions against the ICC.

2. International Court of Justice

7. To the Security Council:

(a) In the event of a judgment against Myanmar in *The Gambia vs. Myanmar*:

(i) Take appropriate action under Article 94(2) of the UN Charter, including, where necessary, measures under Chapter VII, to give effect to the judgment, including any orders concerning reparations or other remedial measures; and

(ii) Immediately convene a public meeting to review the Court's ruling and its implications and convene subsequent meetings to assess Myanmar's compliance with any orders made by the Court.

8. To the United Kingdom, as the penholder on Myanmar at the Security Council:

(a) In the event of a judgment against Myanmar, table a resolution to address the ICJ's judgment and any orders issued by the Court and move for the immediate convening of a Security Council session to review the Court's ruling and assess Myanmar's compliance with any orders made by the Court.

9. To the Human Rights Council and General Assembly:

(a) In the event of a judgment against Myanmar, include language in all subsequent resolutions on Myanmar calling on the Security Council and UN Member States to act to enforce any orders issued by the ICJ.

10. To states:

(a) Take all available measures to give meaning to ICJ orders in *The Gambia vs. Myanmar*, if any, including by applying diplomatic pressure, sanctions and lawful retaliation to ensure Myanmar's compliance with such orders and by repurposing seized Myanmar state assets to give meaning to a potential order concerning reparations for Rohingya victims.

11. To ASEAN:

(a) In the event of a judgment against Myanmar, adopt measures to give meaning to the ICJ's ruling and make clear ASEAN's unequivocal stance against genocide by its members, including by isolating the military-controlled government by extending its restrictions on political representatives to all ASEAN meetings and functions.

3. Universal jurisdiction and other proceedings in national court systems

12. To States:

(a) Prioritize accountability for international crimes in Myanmar as a matter of government policy, including by instructing law enforcement and judicial authorities to utilize universal jurisdiction to the extent allowed by domestic law;

(b) In line with domestic law and treaty obligations, take all available opportunities to enforce arrest warrants issued against 25 individuals by the Argentinian court in its case concerning crimes against humanity and genocide against the Rohingya;

(c) Consider legislation enabling courts to exercise universal jurisdiction over a broad range of serious crimes including war crimes, crimes against humanity and genocide; and

(d) Investigate corporate entities and executives linked to serious human rights violations and initiate criminal, civil or administrative proceedings as appropriate.

13. To INTERPOL:

(a) Cooperate with Argentinian authorities to move as expeditiously as possible on the issuance of a red notice concerning the arrest warrants issued for 25 individuals in the case concerning crimes against humanity and genocide against the Rohingya.

14. To donors:

(a) Fund organizations, legal professionals and victims' groups to develop and file cases concerning human rights violations in Myanmar with law enforcement and judicial authorities in other countries.

4. A Special Court for Myanmar

15. To the UN Secretary-General and UN agencies:

(a) Immediately engage the National Unity Government, ethnic resistance organizations and other emerging governance institutions to develop a framework for the future prosecution of high-level perpetrators for serious crimes under international law, including potentially through the establishment of a hybrid tribunal; and

(b) After a political transition in Myanmar, provide material, political and technical support for the prosecution of high-level perpetrators for serious crimes under international law, including by concluding an agreement with a future democratic government of Myanmar to establish a hybrid tribunal, if so requested.

16. To the General Assembly and Human Rights Council:

(a) In resolutions on Myanmar:

(i) Prior to a political transition in Myanmar, call on the UN Secretary-General to engage the National Unity Government and other actors in Myanmar in developing a framework for the future prosecution of high-level perpetrators for serious crimes under international law;

(ii) After a political transition, call on the UN Secretary-General to provide material, political and technical support for the prosecution of high-level perpetrators for serious crimes under international law, including by concluding an agreement with the government of Myanmar to establish a hybrid tribunal, if so requested; and

(iii) Call on member states to provide financial and technical support toward the prosecution of high-level perpetrators for serious crimes under international law.

17. To States, donors and international legal experts:

(a) Provide financial and technical support toward the prosecution of high-level perpetrators for serious crimes under international law.

5. Justice in Myanmar's courts

18. To the National Unity Government, National Unity Consultative Council, ethnic resistance organizations and other revolutionary institutions in Myanmar:

(a) Establish a new federal, democratic constitutional framework that:

(i) Enshrines the principle of the independence of the judiciary, including by providing for transparent, merit-based judicial appointments;

(ii) Includes strong protections for individual rights and freedoms, including fair trial standards;

(iii) Guarantees civilian oversight over the military, including by ensuring that matters of military justice and decisions of military tribunals are subject to judicial review by independent civilian courts; and

(iv) Does not replicate the 2008 constitution's guarantee of immunity from prosecution for acts done in one's official capacity.

(b) Commit to ensuring that resistance justice systems uphold Myanmar's human rights obligations, including by applying fair trial standards and promoting full enjoyment of the right to a remedy; and

(c) End the use of the death penalty in resistance justice systems.

19. To a future democratic government of Myanmar:

(a) Initiate a process of lustration to remove judicial officers who are implicated in serious corruption or human rights violations or who are unable or unwilling to independently apply the law;

(b) Reform Myanmar's legal system in line with international human rights standards and best practices; and

(c) Ratify the Rome Statute and all core international human rights treaties and pass legislation implementing the treaties, including by providing remedies for human rights violations.

20. To the United Nations, humanitarian agencies, governments, donors and international organizations:

(a) Support court systems run by the National Unity Government, ethnic resistance organizations and other resistance groups with capacity-building, technical assistance and funding; and

(b) Support a future democratic government of Myanmar in its efforts to reform Myanmar's justice sector and legal framework, including by integrating resistance courts into Myanmar's justice system.

6. Customary and informal justice

21. To the National Unity Government, ethnic resistance organizations and a future democratic government of Myanmar:

(a) Develop clear policies distinguishing cases that are appropriate for customary or informal justice systems from cases that require formal criminal investigation and prosecution, including rape and sexual violence;

(b) Establish standards for customary and informal justice systems concerning informed consent, confidentiality, conflicts of interest, gender-responsiveness and the safety of participants, and train adjudicators and others on these standards;

(c) Promote gender equality and sensitivity in customary and informal justice systems, including by increasing the participation of women paralegals, advisors and adjudicators;

(d) Put in place appropriate oversight mechanisms and processes for customary and informal justice systems; and

(e) Consider the role that existing customary and informal justice systems in Myanmar can play in restorative processes as part of a comprehensive transitional justice plan.

22. To the United Nations, humanitarian agencies, governments, donors and international organizations:

(a) Provide long-term financial and technical support for customary and informal justice systems aimed at ensuring those systems comply with human rights standards;

(b) Support research and mapping of customary and informal justice systems to identify challenges and opportunities and assist in reform processes; and

(c) Support women's organizations to build the capacity of women to make informed decisions about whether and how to engage customary and informal justice systems.

7. Truth mechanisms and processes

23. To states and donors:

(a) Provide multi-year, flexible funding and technical support to civil society organizations and emerging governance institutions for human rights documentation, the development of historical archives, memorialization initiatives and consultations on the development of truth mechanisms and processes; and

(b) Refrain from supporting any political settlement that includes a blanket amnesty that applies to genocide, war crimes or crimes against humanity.

24. To the National Unity Government, ethnic resistance organizations and emerging governance institutions:

(a) Begin consultation with survivors, civil society organizations, human rights organizations, Rohingya representatives, women's groups and other organizations and communities on the objectives and design of a national truth commission and other truth mechanisms and processes;

(b) Facilitate community-based truth-telling and truth-seeking initiatives to the extent possible in the current security and political context;

(c) Ensure that any truth mechanisms or processes address the experiences, priorities, rights and requirements of women, children, LGBT people and persons with disabilities;

(d) Reject any political settlement that includes a blanket amnesty that applies to genocide, war crimes or crimes against humanity; and

(e) Promote internal accountability by applying truth-seeking and truth-telling initiatives to abuses committed by persons within their own ranks.

25. To a future democratic government of Myanmar:

(a) Establish a truth commission that is adequately resourced; has subpoena, search, seizure and witness protection powers; provides confidentiality safeguards for victims and witnesses; and is linked to reparations processes and mechanisms (see subsection that follows); and

(b) Establish a national archive to preserve evidence and documents for truth processes and mechanisms.

8. Reparations

26. To the UN General Assembly:

(a) Pass a resolution establishing a reparations fund for victims of grave human rights violations in Myanmar.

27. To the UN General Assembly and Human Rights Council:

(a) In all resolutions concerning Myanmar, recognize the primary responsibility of the state of Myanmar to provide reparations for victims of human rights violations by state forces and call for UN member states to explore all pathways for funding reparations measures.

28. To states:

(a) Urgently provide financial and technical support for programs providing reparations to victims of grave human rights violations in Myanmar;

(b) Provide political and financial support for the establishment of a reparations fund or mechanism for Myanmar; and

(c) Use assets linked to the Myanmar military or other perpetrators of grave human rights violations in Myanmar to fund reparations for victims of grave human rights violations in Myanmar, either through a dedicated reparations fund or in cooperation with partners in Myanmar.

29. To the United States:

(a) Pass legislation modelled on the REPO Act authorizing the confiscation and repurposing of frozen Myanmar sovereign assets to fund reparations for victims of human rights violations in Myanmar.

30. To the European Union:

(a) Enforce EU Directives 2024/1226 and 2024/1260 by confiscating assets linked to violations of Myanmar-related sanctions and repurposing those assets to fund reparations for victims of human rights violations in Myanmar.

31. To the OECD and National Contact Points:

(a) Prioritize reparations for victims of human rights violations in Myanmar in the implementation of the OECD grievance mechanism.

9. Evidence collection and preservation

32. To the National Unity Government, National Unity Consultative Council, ethnic resistance organizations, civil society organizations and others collecting and preserving evidence of grave human rights violations:

(a) Develop and implement rigorous policies concerning the consent, confidentiality and protection of victims, witnesses, perpetrators and others who provide testimony and other evidence concerning grave human rights violations;

(b) Building on the NUCC's Transitional Justice Policy, develop a detailed framework for a national archive concerning grave human rights violations, with consideration of work that can be done both before and after a political transition;

(c) Develop a plan for evidence collection and preservation during a transitional period that provides for the rapid securing of state records, chain-of-custody standards, and the transfer of records to archives; and

(d) Ensure that a national human rights commission, whether established under the proposed National Human Rights Law or by other means, fully aligns with the Paris Principles.

33. To a future democratic government of Myanmar:

(a) Establish a national archive system to preserve evidence of grave human rights violations, including records created by the military junta and state institutions it controlled.

34. To states:

(a) Provide flexible, multi-year funding to opposition institutions and civil society organizations involved in the collection, analysis and preservation of evidence of grave human rights violations;

(b) Fully fund the IIMM and OHCHR to avert staffing cuts and the elimination of vital units and programs; and

(c) Fully cooperate with the IIMM, International Criminal Court, OHCHR and other competent investigative bodies, including by facilitating access to evidence, victims and witnesses on their territories and providing pathways for relocation for high-risk victims and witnesses.

35. To OHCHR, other UN agencies, and international organizations and experts:

(a) Expand technical assistance concerning human rights documentation, the establishment of archives, data protection, emergency record preservation during transition, and other relevant topics.

36. To the Independent Investigative Mechanism for Myanmar:

(a) Strengthen communication with victims, witnesses and partner organizations concerning its mandate, evidentiary standards and the types of feedback it can and cannot provide; and

(b) Consider opportunities, within the mandate provided by the Human Rights Council, to contribute to forms of accountability beyond criminal prosecution, including truth processes, reparations and guarantees of non-recurrence.