

THE IMPACT OF COUNTER-TERRORISM MEASURES IN MYANMAR

Submission to the UN Special Rapporteur

Submitted on 15 April 2023 to the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin.

A. Introduction



Even prior to the coup in 2021, the Myanmar military has consistently viewed civil society as an adversary that must be kept in check through various forms of oppression and control. Civil society has been seen as a hindrance to successive military leaders, as it poses a distraction to their objective of maintaining state power, and is often perceived as being supported by foreign entities, particularly Western governments. The military has always taken advantage of any opportunity to subjugate civil society organizations (CSOs) by co-opting, restricting, or eliminating them altogether. This has been especially true since the military seized power in 1962 and subsequently cracked down on the popular uprising of 1988. Bureaucratic governing institutions of the junta, including the general administration and enforcement agencies, often led by ex-army officers, have regarded civil society as a nuisance and a source of disturbance.

Public officials have kept a close watch on CSOs but have been savvy enough to use CSOs and the illusion of an enabling governance regime, characterized by the voluntary registration of the 2014 Association Registration Law, to promote a positive collaborative image and use CSOs for their own ends – even while continuing to repress civil society.

B. Role of Civil Society Organizations Since the Coup



In Myanmar's Spring Revolution, civil society actors have played a significant role amidst different challenges and hardships. Community-based organizations (CBOs) and independent media outlets were highly active and supportive during the nationwide uprising against the military coup in February 2021. They often led the way in expressing their disapproval and rejection of the military's illegal takeover. The fact that the military cracked down on CBOs and independent media, along with political opposition, while leaving international non-governmental organizations (INGOs) and the United Nations relatively unscathed, is evidence of how seriously the military viewed CBOs as a threat.

CBOs, independent media, and individual activists played a vital role in drawing both local and global attention to the military's atrocities and the urgent need to remove them from power in Myanmar. Civil society groups from Myanmar and neighboring countries, especially Thailand, have been actively involved in addressing the ongoing humanitarian crisis.

Many democracy activists, political leaders, and other individuals have fled to the Thai border in search of a safer place to continue their work. However, as undocumented immigrants in Thailand, Myanmar civil society members are likely to face frequent harassment from Thai officials. Local Thai civil society organizations, such as the People's Empowerment Foundation, are collaborating with other Myanmar CSOs, ethnic groups, media outlets, foreign embassies, and governments to prevent violence and improve the well-being and human rights of the people of Myanmar.

As humanitarianism has no border limitations, civil society groups from Myanmar and neighboring countries, particularly Thailand, are actively involved in addressing the current humanitarian catastrophe.

C. Counter-Terrorism Act, Legal Framework Used to Repress Human Rights



The Myanmar military has systematically exploited counter-terrorism frameworks to oppress political opposition and dissidents. It has removed constitutional protections for human rights and enhanced penalties in counterterrorism regulations, all while labeling political opposition and entities as “terrorists” to conveniently legitimize atrocities committed by military forces. It has placed a moratorium over relevant sections of the constitution, removed the need for a warrant in police arrests and searches, and obtained forced confessions through torture, detention, and threats to life. As a result, civil society groups, networks, and individuals, as well as independent media deemed a disturbance to military rule, have been persecuted and crushed.



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In 2014, Myanmar’s quasi-civilian government led by President U Thein Sein enacted a national counter-terrorism law. Unfortunately, the law’s vague and over-broad stipulations have been regularly misused to suppress civil society organizations and human rights defenders. One particularly concerning instance of this has been the Rohingya genocide, during which Myanmar authorities used alleged “counter-terrorism measures” to conceal their ethnic cleansing military campaigns against Rohingya Muslims.

After the February coup, the State Administration Council (SAC) amended the counter-terrorism law on August 1, 2021, primarily with the intention of using it to repress the democratic opposition forces¹. The amended law increases the penalties for violating section 3(b)(xv), which includes “acts of exhortation, persuasion, propaganda, recruitment of any person to participate in any terrorist group or activities of terrorism.”² Harsher penalties include three to seven years in prison and fines for violating section 3(b)(xv), which is now being used to arrest and imprison pro-democratic forces, especially journalists. Recently, the State Administration Council added addendums to the counter-terrorism law with the aim of weaponizing it even further to crack down on democratic movements. The provisions, which consist of 20 chapters and 120 articles, were published in the Myanma Alinn publication of the SAC between March 10 to March 13, 2023³.

These amendments will allow the military junta to conduct surveillance, regulate and arbitrarily seize the property of suspects, and collaborate with other governments to arrest and deport suspects. For instance, chapter 4 of the new provisions emphasizes the confiscation and administration of assets belonging to terrorist organizations or individuals associated with them. Another chapter provides powers to authorities to locate and confiscate a suspect’s assets, including bank accounts, for the sake of an inquiry.⁴ Since the military junta considers the National Unity Government (NUG), pro-democratic groups and individuals to be “terrorists,” these amendments will permit the military to conveniently rob and control the assets, and freeze the bank accounts of democracy activists and human rights defenders, thereby weakening their movements.

1 Republic of the Union of Myanmar State Administration Council Law Amendment of Counter- Terrorism Law No 21/2021, 1 August 2021, https://myanmar-law-library.org/IMG/png/sac_law_no_21_2021_law_amendment_of_counter-terrorism_law.png?1628612176.

2 The Pyidaungsu Hluttaw Law No. 23, 4 June 2014, www.mlis.gov.mm/mLsView.do%3Bjsessionid%3D5B029BFB369BF0AA41D22495C5A69293?lawordSn=9

3 ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်အစိုးရပြည်ထဲရေးဝန်ကြီးဌာနအမိန့်ကဏ္ဍပြဌာနအမှတ် (၂၃၉/၂၀၂၃) အကျဉ်းဖက်မှုတိုက်ဖျက်ရေးနည်းဥပဒေများ
https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/mal_10.3.23.pdf
https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/mal_11.3.23.pdf
https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/mal_12.3.2023.pdf
https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/mal_13.3.23.pdf

4 Lipes, J. and Foster, M. (2023) Amendment grants Myanmar Junta sweeping new powers under Anti-Terrorism Law, Radio Free Asia. Available at: <https://www.rfa.org/english/news/myanmar/amendment-03152023170207.html> (Accessed: March 30, 2023).

The objective of Section 75(a) of Chapter 13 of the counter-terrorism addendums is to control and restrict the flow of funds from non-governmental and non-profit organizations to terrorist groups, persons, and associated organizations. As a result of continued surveillance and investigations by the SAC, this section will pose grave challenges to the function of civil society organizations. Additionally, under Chapter 14, with orders from the authorities, telecommunication operators must cut off, restrict, and intercept digital communications of the suspects and identify their locations to combat terrorism and terrorism financing.

The military junta passed these addendums mainly to suppress anti-coup pro-democracy movements by cutting off support from the general public to the National Unity Government (NUG), the Committee Representing Pyidaungsu Hluttaw (CRPH), and the People's Defense Forces (PDF) – all so-called “terrorist” groups, according to the SAC. As a result, the military has weaponized the counter-terrorism laws to shrink civic space inside Myanmar by restricting the ability of civil society organizations to work for democratic activism. The consequences of these new amendments pose significant challenges to the function of civil society organizations and threaten the human rights, and especially the digital rights, of Myanmar citizens.

D. Misuse of Technology



The Myanmar Spring Revolution is unique in the way technology and digital space are playing a crucial role in the country's democratic movement. Before the coup, social media was used by different groups for political purposes and to disseminate disinformation, misinformation, and hate speech by different groups. After the coup, the military junta or State Administration Council (SAC) began using social media for terrorism by transforming online hate speech and misinformation into violence against anti-junta groups or individuals. The SAC and its supporters have released propaganda and hate speech campaigns on Facebook and other social media platforms. They have tracked and exposed the identities and personal information of pro-democracy activists and anyone expressing support for the revolution.



After the coup, the military junta or State Administration Council (SAC) began using social media for terrorism by transforming online hate speech and misinformation into violence against anti-junta groups or individuals.

Additionally, they encourage the military to arrest, torture, and kill activists and ordinary democracy supporters after exposing their identities.

Recently, the SAC and its followers have been using a new platform called “Telegram” to initiate terrorism. Around 100 Telegram channels affiliated with the Myanmar military have been created where individuals share personal information about anti-junta individuals and urge authorities to detain them.⁵ Social media has also been used to terrorize the public into paying bribes, and into submission or fear, especially for those who involve themselves in any political activities against the military. Telegram channels such as “Han Nyein Oo” have been used effectively for this purpose. The channel named Han Nyein Oo is operated by former military intelligence officers; it regularly posts names, addresses, and fabricated stories about individuals, families, and organizations that the military wants to oppress, as a tip-off to police to arrest them. This has created immense terror for the public and led to many bribes being delivered to security forces to keep certain names off the channel.

Mobile devices of the youth or anyone can be checked at any time, and people can be arrested, tortured, murdered, or sentenced to jail terms for simply possessing photos of protests, media pieces, or social media posts endorsing the opposition and denouncing military rule.

Drones are being used in rural and some urban areas, while CCTV networks meant for traffic control, citizen IDs with biometrics, registered SIM cards, and bank accounts are being monitored under digital systems. These digital tools, like Financial Action Task Force (FATF) recommendations, could be useful and relevant in peaceful countries with a legitimate, democratic government. However, in Myanmar, since the junta unlawfully seized state power, these initiatives have been misused by the military to oppress the opposition and civil society. Financial institutions, including private banks, are under pressure to monitor, report to the military, freeze, confiscate, and hand over accounts of opposition and civil society members accused of involvement in activities labeled by the military as terrorism. In this chaotic

⁵ Soe, A.N. (2022) Myanmar, military and hate speech, Digital Rights Monitor. Available at: <https://digitalrightsmonitor.pk/myanmar-military-and-hatespeech/> (Accessed: March 31, 2023)



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environment with rampant opportunities for bribery of officials and institutions, keeping bank accounts or transferring funds face too many barriers.

In connection, there have been rushed attempts to digitize the databases and systems of national ID cards, registered mobile SIM cards, and linked bank accounts. These attempts aim to implement a digital dictatorship rather than improving identity systems, similar to those established in stable countries. Prominent members of civil society have been arrested after withdrawing cash from ATM machines, while others have had their bank accounts frozen, followed by serious actions ranging from abduction of themselves or family members, torture or even murder.

There have been cases of deliberate destruction of monitoring systems such as the CCTV network by security forces under the junta during the initial phase of crackdown on the street protests to prevent documentation of atrocities and brutal oppression. However, since then, the military has strengthened the system used for traffic control in major cities such as Yangon and Mandalay to monitor the activities of protests and opposition movements.

Passports for citizens have been digitized, so the military can revoke an e-Passport from a distance if the holder is speaking out about the military abroad, contacting the political opposition or participating in any activities against the junta.

E. Assessment of Individuals Affected by Military Oppression in Myanmar and Thailand



Since the coup, the People's Empowerment Foundation (PEF) has been actively working for undocumented Myanmar individuals in Thailand, including political leaders, human rights defenders, artists, civil servants, and soldiers who joined the Civil Disobedience Movement. While engaged in this work, PEF has witnessed cases of SAC's brutal abuses justified by reference to counterterrorism.

For instance, a family that crossed the border by walking in the jungle for a week shared that their hometown in Karenni State has turned into a war zone, in which the Myanmar military has been carrying out its "four-cuts" military campaign. This military campaign cut off food, funds, information, and recruitment to target the People's Defence Forces, which were named as "terrorists" by the SAC. The military also completely cut off internet and electricity, and restricted mobile telecommunication networks.

Myanmar's population of internally displaced persons (IDPs) is skyrocketing due to conflict; IDPs are relying on food aid and medical supplies from donors for their survival. However, the Myanmar military has blocked transportation routes, and arrested and killed aid workers and other individuals trying to bring food aid and medical supplies

for the IDPs. The military reasons that these food and medicine supplies for IDPs will reach the ‘terrorist’ PDF groups, hence it is necessary to cut off the flow of goods for counter-terrorism purposes.

In addition, the Myanmar military has confiscated the property of multiple democratic activists, protest leaders, CDM-ers, and opposition party members. The Myanmar military conducted raids, confiscated property and seized the houses of these activists and leaders. Opposition members’ movement is severely restricted within Myanmar, since they have to continuously hide to evade the military’s continuous searching. However, once they reach Thailand’s border cities, their freedom of movement does not significantly improve because Thai authorities try to detain them, demand bribes, and, in the worst circumstances, deport them back to Myanmar. In a case witnessed by PEF, the Myanmar military accused a clinic in Mae Sot of providing healthcare for terrorist PDF members and requested Thai authorities to investigate, search, and arrest these terrorists. In reality, the clinic was actively providing free healthcare for undocumented refugees, including pro-democracy activists, which seems to have upset the junta in Naypyitaw.

The military’s crackdown on dissent in Myanmar has led to the widespread violation of human rights. Those accused of supporting the political opposition or involved in street protests, including individuals, families, and organizations, have been forced to flee their homes once they are under surveillance or threatened by the military. Those not on a registered family list must register with local authorities. Guest-checks conducted by security forces at night pose a threat to everyone in the country, where misunderstandings can lead to arrests, physical harm, torture, or consequences requiring huge bribes to mitigate. The confiscation of homes, vehicles, belongings, assets, bank accounts, and other resources of those accused of supporting the CDM strikes and political opposition is common, as is the abduction of family members, including children and the elderly, as bargaining chips or for ransom.

Checkpoints, traffic barricades, and activities of the security forces restrict people’s movement around the country along major highways and roads. At international airports, people




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leaving the country are meticulously checked for their alleged support of the opposition, particularly civil society, independent media, journalists, and healthcare professionals, with some being barred from departure, pressured to give bribes, or subject to passport seizure and revocation.

People who are abroad and need to extend their passports are also harassed under the pretext of being screened for involvement in or supporting ‘terrorism’ (i.e., political opposition). Members of civil society have lost their passport validity and have been refused passport extensions by Myanmar embassies under the military, rendering them stateless.

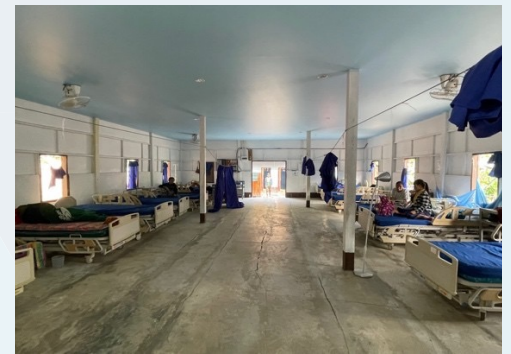
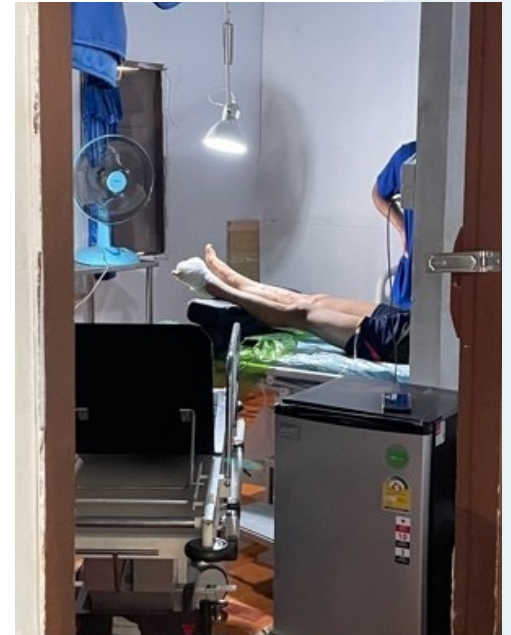
Musicians, painters, filmmakers and other artists who engaged in any political campaigning through arts are also being threatened, with many subject to arrest warrants. Many live as refugees on the Thai side along border areas seeking support from local and international NGOs and UNHCR.

F. Impacts on Humanitarian Assistance

 PEF has documented that several essential medicines are in short supply along the Thai-Myanmar border⁶. On 23 March 2023, PEF visited the emergency healthcare center “Miuta” in Myanmar and witnessed a surgery operation on a PDF soldier being conducted without any anesthetic to reduce pain. As reported by volunteer doctors, the purchasing and transporting of medicines is not allowed on the Myanmar side. Medical personnel must rely on the Thai side for access to medical supplies, but it is difficult to buy medicine without a license or special permission in Thailand. Sometimes, medical personnel have to pay a bribe to purchase and ship medicines to the Myanmar side of the border.

Humanitarian Assistance in Myanmar

Images of the Miuta Emergency Healthcare Center on the Myanmar side of the border, taken by PEF on 23 March 2023.



⁶ sw. แม่ดาว รักษาสุขภาพดีเกินเยียวยา เพิ่มขึ้นหลังรัฐประหาร | กับโลก กบ with media “ThaiPBS” on humanitarian issues. ๓๓ มี ๓ ThaiPBS | 30 March 2023 <https://www.youtube.com/watch?v=4gXDqYsfw> | PEF worked

G. Recommendations

It is evident that the coup and its aftermath have severely constricted civic space and the operational environment for CSOs in Myanmar. With the current restrictions on civil society, the humanitarian and socio-economic development work implemented by CSOs has been set back considerably.

Although the situation remains extremely challenging, CSOs have shown great resilience throughout this crisis, and continue to find ways to sustain operations and services despite daunting difficulties. The UN should align with CSOs, NGOs, and other international partners to ensure verified reports on violations of civic space by the regime are accepted across the various UN-system reporting structures. There is a possibility that some organizations that either are outright military-organized entities or are being coopted by the junta are used as civil society entities in the military's attempt to legitimize its actions, including those labelled as counter-terrorism.

UN and international partners should consider that systems like Financial Action Task Force (FATF) recommendations and digital surveillance may be useful and relevant for democratic countries, but can have perverse effects in countries like Myanmar, where the junta unlawfully seized state power and has used these tools to oppress the opposition and civil society.

The United Nations should highlight current laws, particularly the counter-terrorism law and its amendments, which are being weaponized by the SAC to arrest and imprison pro-democracy activists and human rights defenders. UN actors and other government should pressure the junta, either through sanctions or other measures, to stop them from further weaponizing these laws.

The international community, including the UN Security Council, should recognise that the Myanmar military and SAC have committed systematic, terrorist acts against their own people.



Summary of Recommendations

- The UN should align with CSOs, NGOs, and other international partners to ensure verified reports on violations of civic space by the regime are accepted across the various UN-system reporting structures.
- The UN and international partners should consider that systems like FATF recommendations and digital surveillance can have perverse effects in countries like Myanmar, where the junta unlawfully seized state power and has used these tools to oppress the opposition and civil society.
- The UN should highlight current laws, particularly the counter-terrorism law and its amendments, which are being weaponized to arrest and imprison pro-democracy activists and human rights defenders. UN actors and other government should pressure the junta to stop them from further weaponizing these laws.
- The international community, including the UN Security Council, should recognise that the Myanmar military and SAC have committed terrorist acts.