

Tom Lantos Human Rights Commission

Burma: Human Rights in the Aftermath of the Coup September 13, 2023

Statement by The Center for Justice and Accountability; Chin Human Rights Organization; Karen Human Rights Group Submitted for the Record

The Center for Justice and Accountability, the Chin Human Rights Organization, and the Karen Human Rights Group thank the Tom Lantos Human Rights Commission for convening this important hearing on the human rights situation in Burma in the aftermath of the February 2021 coup and for the opportunity to submit this statement for the Commission's consideration.

Since before the 2021 coup, our organizations have been working to advance human rights and accountability in Burma.

The Center for Justice and Accountability (CJA) is a nonprofit international human rights organization working globally with communities impacted by atrocity crimes, including genocide, crimes against humanity, and war crimes, to seek truth, justice, and redress through innovative litigation and transitional justice strategies. Since 2018, supported in-part by the U.S. Department of State, CJA has worked with organizations documenting human rights violations committed against Burma's religious and ethnic minority communities.

The Chin Human Rights Organization (CHRO) was founded in 1995 and is a non-governmental organization monitoring and documenting human rights violations committed in North-Western Burma – primarily in Chin State. Following the military coup, CHRO created a Humanitarian Division within the organization to respond to the growing humanitarian crisis in Chin State.

The Karen Human Rights Group (KHRG) is a Karen-led human rights organization, established in 1992, documenting and reporting on human rights violations committed across rural Southeast Burma. By amplifying the voices and experiences of local villagers, KHRG seeks to present a holistic view that understands how different factors and abuses combine to perpetuate the human rights violations the region faces today.

Both CHRO and KHRG have been documenting the Tatmadaw's – Burma's military's – human rights violations against ethnic minorities long before the February 2021 coup. These violations were predominantly the result of the military's four-cuts strategy and a Burmanization campaign that sought to eradicate the culture, language, history, and ethnic expression of the ethnic minority groups in Burma.¹

However, as documented by CHRO and KHRG, among others, the human rights situation of religious and ethnic minorities in Burma has deteriorated further at the hands of the current

¹ See, e.g., KHRG, WHY WOULD THEY TARGET US? 12-15 (June 16 2023) available at https://www.khrg.org/sites/khrg.org/files/report-docs/cmm_english.pdf; KHRG, UNDENIABLE: WAR CRIMES, CRIMES AGAINST HUMANITY AND 30 YEARS OF VILLAGER'S TESTIMONIES IN RURAL SOUTHEAST BURMA (Dec. 2022) available at <https://khrg.org/2022/12/undeniable-war-crimes-crimes-against-humanity-and-30-years-villagers%E2%80%99-testimonies-rural>.

military junta. As one of today's witnesses, UN Special Rapporteur Tom Andrews reported in May 2023, since the coup "the military has killed a minimum of 3,500 civilians, detained at least 22,000 political prisoners, and forcibly displaced over 1.5 million people."² In June 2023, the Independent Investigative Mechanism for Myanmar (IIMM) reported that "there is strong evidence that the Myanmar military and its affiliate militias have committed three types of combat-related war crimes with increasing frequency and brazenness: (a) indiscriminate or disproportionate targeting of civilians using bombs; (b) killings of civilians or combatants detained during operations; and (c) large-scale and intentional burning of civilian dwellings and other civilian buildings."³

The military junta's aerial bombardment campaigns are growing in intensity and have led to substantial loss of civilian life. Indeed, CHRO has documented that in the 185 separate airstrikes that have taken place in Chin State in 2023 alone, only civilians have been killed or injured. CHRO's documentation shows that the aerial bombing campaign in Chin State has targeted villages across multiple townships and destroyed civilian objects including homes, schools, churches, and medical facilities. In one recent attack on Khuafu in Thantlang Township on March 30, 2023, the junta used two Russian-made Yak-130 fighter jets to drop a total of nine bombs on the village.⁴ Nine villagers, including five minors, died in the attack, and eleven were injured. The airstrike destroyed eleven houses and two churches in this predominately Christian region.

Similarly, KHRG has documented that the military junta is deliberately targeting civilians in Southeast Burma through airstrikes, indiscriminate shelling, arbitrary arrests, extrajudicial killings, and destruction and looting of civilian property.⁵ Since the coup, over 300 Karen villagers have been killed and 600 more injured. Whether Karen civilians have fled their homes or stayed in their villages, they have faced overlapping insecurities: the military junta has made normal life nearly impossible. Attending school, seeking medical care, or travelling between villages to sell goods are all encumbered by the fear that the military junta will target and arrest them. Karen villagers are acutely aware of their risks and are forced to adapt by hiding in the forest or creating makeshift facilities in displacement camps. Often, even this is not enough. There are reports of similar abuses throughout the country. These attacks likely constitute war crimes and crimes against humanity.

The deteriorating human rights situation and resulting worsening humanitarian crisis requires immediate attention to protect the civilian population and stem further displacement and refugee influx into neighboring countries, including India, Thailand, and Bangladesh. We have two urgent recommendations in this regard: strengthening sanctions to cut off the junta's access to resources, arms, and aviation fuel; and ensuring US support for cross-border humanitarian aid.

² Tom Andrews (Special Rapporteur on the Situation 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 (May 17, 2023) available at <https://www.ohchr.org/sites/default/files/documents/countries/myanmar/crp-sr-myanmar-2023-05-17.pdf>.

³ Indep. Investigative Mechanism for Myanmar, *Report of the Independent Investigative Mechanism for Myanmar to 54th Session of the Human Rights Council* 8, UN Doc. A/HRC/54/19 (June 30, 2023) available at <https://iimm.un.org/wp-content/uploads/2023/08/G2312500-1.pdf>.

⁴ Khin Yi Yi Zaw, *A week after deadly airstrikes, Chin villagers still wonder why they were targeted*, MYANMAR NOW, (Apr. 6, 2023), <https://myanmar-now.org/en/news/a-week-after-deadly-airstrikes-chin-villagers-still-wonder-why-they-were-targeted/>.

⁵ KHRG, WHY WOULD THEY TARGET US?, *supra* note 1, at 6.

Making sanctions more strategic

Several jurisdictions including the United States, the European Union, and the UK have imposed targeted economic sanctions on entities and individuals related to the Tatmadaw to pressure the junta to stop its human rights violations and to stem the flow of arms. While these sanctions are welcome, to date they have had little impact, as the Tatmadaw's escalating atrocities show, and a more strategic approach to sanctions is needed. According to a study by Earth Rights International and Global Witness, only 13% of the 165 individuals and entities sanctioned by the US, UK and/or the EU have been sanctioned by all three sanctions regimes, leaving significant gaps and highlighting a lack of coordination.⁶ In addition, more sanctions on high-impact targets are needed. To date, only the European Union has sanctioned Myanma Oil and Gas Enterprise (MOGE), the state-owned enterprise overseeing Burma's offshore gas industry and the junta's largest source of foreign currency.⁷ Reports suggest that the Biden administration is weighing sanctions against MOGE,⁸ and we would urge the administration to implement them.

Taking humanitarian aid out of the hands of the junta

Humanitarian aid to civilians impacted by the ongoing conflict is also crucial. Reliance on UN mechanisms and aid distribution through the central junta-run channels has proven to be counterproductive, allowing the regime responsible for the growing humanitarian crisis to hold aid delivery hostage. An example of this was the junta's obstruction of humanitarian aid following Cyclone Mocha.⁹ The cyclone made landfall in Rakhine State on May 14, 2023 and tore across five northern states and regions – Rakhine, Chin, Sagaing, Magway, and Kachin – all already heavily impacted by the conflict. Estimates suggest that 7.9 million people were affected by the cyclone, with some 1.6 million in need of urgent aid.¹⁰ However, the junta issued a blanket suspension of travel authorizations for aid groups in Rakhine state and required that the UN and international organizations hand over all domestic distribution of relief supplies to the junta.¹¹ In light of this, we urge Congress to support cross-border delivery of humanitarian aid through local community-based and civil society organizations, like CHRO and KHRG. This will help to ensure that aid reaches the populations that are most in need by ensuring that local actors and communities are involved in decision-making regarding the humanitarian response. In addition, we recommend that the US work with India, Thailand, and Bangladesh to allow the safe passage of humanitarian aid into Burma through these organizations.

⁶ *Missed opportunities: Assessing the use of sanctions in response to Myanmar coup*, GLOBAL WITNESS, (Feb. 1, 2023), <https://www.globalwitness.org/en/campaigns/natural-resource-governance/missed-opportunities-assessing-use-sanctions-response-myanmar-coup/>.

⁷ *Id.*

⁸ See e.g., Chanyaporn Chanjoaroen and Philip Heijmans, *US Weighs Energy Sanctions on Myanmar Hurting Allies*, BLOOMBERG, (March 25, 2023, 12:54 AM GMT), <https://www.bloomberg.com/news/articles/2023-03-24/us-weighs-energy-sanctions-on-myanmar-that-risk-hurting-allies?leadSource=uverify%2owall>.

⁹ *Myanmar: Junta Blocks Lifesaving Cyclone Aid*, HUMAN RIGHTS WATCH (June 20, 2023, 7:00AM EDT) <https://www.hrw.org/news/2023/06/20/myanmar-junta-blocks-lifesaving-cyclone-aid>.

¹⁰ *Id.*

¹¹ Press Release, United Nations Office for the Coordination of Humanitarian Affairs, Humanitarian Access Suspended in Cyclone-Ravaged Rakhine State (June 12, 2023) *available at* <https://reliefweb.int/report/myanmar/humanitarian-access-suspended-cyclone-ravaged-rakhine-state-enmm>.

Supporting justice and accountability

While sanctions and aid are necessary in the short term, accountability for the junta's human rights violations is vital in the long term. For over sixty years, the Tatmadaw has engaged in forced displacement, sexual violence, torture, and extrajudicial killings against the country's ethnic and religious minorities. There has never been a proper accounting for any of the Tatmadaw's many crimes and impunity has only emboldened them: the architects of the Rohingya genocide are now the heads of the military junta that continues to terrorize the population it purports to govern. Impunity emboldens oppressors and accountability is necessary to break the cycle of ever-escalating violations.

The Center for Justice and Accountability has testified before this Commission on the critical need to support frontline human rights documentation groups, and we reiterate these points again. Documentation of human rights abuses serves as the basis of any accountability effort. In Burma, the first on the scene are local civil society documentation organizations like CHRO and KHRG. Immediate access can be difficult for professional investigators and international human rights organizations, particularly in situations where war crimes, crimes against humanity and other atrocity crimes are taking place. In those situations, civil society organizations, like CHRO and KHRG, who have found themselves having to learn how to capture, store, and transmit evidence of serious international crimes while operating under threat of ongoing instability and violence, are on the front lines. This necessary documentation is often conducted during internet shutdowns and communications blackouts, frequently at serious risk to the individuals carrying out the work.

Prosecutors, international criminal investigators, and others engaged in seeking legal accountability for serious international crimes rely on citizen evidence, particularly in situations where the crime sites are inaccessible to international actors. In the context of the Rohingya genocide and the decades of war crimes against ethnic and religious minorities in Burma, civil society organizations like CHRO and KHRG led the collection of evidence that ultimately fed into the United Nations' Independent International Fact-Finding Mission on Myanmar and now into the IIMM. International justice relies on the work of local civil society. To support legal accountability efforts, local actors must have funding to maintain operations and the technical assistance to carry out their documentation work safely, securely, and to a standard that can survive judicial scrutiny.

Long-term investment in local civil society – like the investments made by the U.S. Department of State – is particularly important to ensure we see legal accountability for atrocity crimes such as those taking place in Burma. Legal cases involving mass atrocities can take years to build. Generating the political will necessary to bring cases either at the international level or in a post-conflict society may take even longer. Sustained support for local civil society ensures that when legal accountability is finally possible, there are domestic actors able to advance an accountability agenda. If we want to see accountability for perpetrators of atrocity crimes, the United States and the international community must devote additional resources to support civil society with technical capacity on the frontlines.