

Myanmar State Administration Council Organization Registration Law 2022:

Legal Briefing

November 2022

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Punished For Protest: Myanmar State Administration Council Organization Registration Law 2022 :
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I. Introduction

A new law, the Organization Registration Law (ORL),¹ that regulates not-for-profit organizations, both domestic and international, was passed by the State Administrative Council (SAC) of Myanmar and published on 28 October 2022. It imposes sweeping controls over civil society and humanitarian actors, restricting freedom of association among other human rights in the country, and is likely to carry further detrimental effects on a population already facing dire humanitarian and human rights circumstances. In particular, the Law inappropriately defines rights and places duties, obligations, and prohibitions on individuals who seek to establish, join, or interact with a non-governmental organization with operations in Myanmar. Further, the Law requires that any organization that seeks to implement activities in Myanmar register in accordance with the law and comply with certain directives to avoid penalties.

While organizations had been required to register under the prior legal framework of 2014, the current framework is more demanding of both individuals and organizations in terms of behavior as well as penalties. Penalties for not complying with the law range from significant fines that few would be able to afford, to prison time, to the confiscation of organizational assets. The penalties are particularly concerning since key provisions that dictate the behavior of individuals and organizations are overbroad and can be interpreted in a sweeping and arbitrary manner. Prohibited behaviors include anything that is potentially critical of the military junta or its point of view on national unity, sovereignty, or security. The provisions are in clear conflict with several key tenants of international human rights law and standards, and as a result, non-compliant with Myanmar's international obligations.

This briefing paper provides an overview of the ORL and an analysis of how the new law measures according to international human rights law and standards. It is concluded that the law on its face is incompatible with the international obligations of Myanmar. In addition, the SAC itself is an illegitimate body that has unlawfully arrogated to itself a legislative function in contravention of the Myanmar Constitution, international law, and rule of law principles.² Accordingly, the new Organization Registration law must be repealed immediately and any penalization of individuals or organizations under this framework must cease.

II. Overview of the ORL

The ORL applies to 1. "internal" organizations, also referred to as "domestic organizations," that employ five or more Myanmar citizens and which are formed to carry out "social tasks without taking any benefit" according to entitlements specified in the Constitution;³ and 2. "international" organizations which were formed under the laws of a foreign country and have

¹ Reprinted in Annex

² International Commission of Jurists, "Myanmar: Military Coup d'état violates principles of rule of law, international law and Myanmar's Constitution," (08 February 2021), available at: <https://www.icj.org/myanmar-military-coup-detat-violates-principles-of-rule-of-law-international-law-and-myanmars-constitution/> (accessed 18 November 2022)

³ Section 2(c), ORL (2022)

branches inside Myanmar with the purpose to carry out any social task without taking any benefit in the country.⁴ International organizations are required to have at least 40% of Myanmar citizens on the executive committee.⁵

Under the ORL, a “social task” is any activity that “does not take any benefit with the purpose of the interests of the majority which is not directly or indirectly related to the political, economic and religious sectors.” This includes, but is not limited to, “development tasks concerning the welfare tasks for the common interests of the society.”⁶ This definition would include all not-for-profit non-governmental organizations, either domestic or international, such as civil society organizations or humanitarian aid organizations. On the other hand, this definition excludes, for example, organizations associated with a recognized religion, political parties, or for-profit businesses, which are instead governed by other Acts in the legislative framework.

Registration boards, consisting of ministers and existing government officials at the national, district, and township levels, respectively, oversee the registration of organizations.⁷ The Union Minister of the Ministry of Home Affairs is the Chairman of the Union Registration Board, which has national jurisdiction. In all other registration boards at the state, territory, district, and township levels, respectively, the Chairman consists of a senior minister or government official of the regional or local government concerned. The precise constitution of membership of each registration board and the specificities regarding the appointment of the members of the registration board are not set out specifically in the ORL, giving the appointing authority significant control over who is represented in the registration boards. Instead, it is established that each registration board at each level of government will include “representatives from concerned government organizations.”⁸ Finally, the Secretary of each registration board consists of either the Director or Deputy Director of the General Administration Department at the concerned level of government.⁹ While not specified in the law, it is reasonable to assume that each registration board will ultimately be answerable to the Ministry of Home Affairs, which is itself answerable to the Commander-in-Chief of Defense Services.

The registration board that a domestic organization must apply to is determined by the geographic scope within which the organization seeks to conduct its activities.¹⁰ The bigger the geographic scope, the higher the fees for the registration application, up to K300,000 for a registration application at the Union registration board, which grants registration to organizations carrying out activities across the whole of the country.¹¹ A domestic organization can only register with one registration board and must re-register before 90 days of the expiration of the current registration for a fee of up to K100,000 depending on the geographic

⁴ Section 2(d), ORL (2022)

⁵ Section 2(d), ORL (2022)

⁶ Section 2(g), ORL (2022)

⁷ See Chapter III, ORL (2022) for a full breakdown of each registration board.

⁸ Section 5, ORL (2022)

⁹ Section 5, ORL (2022)

¹⁰ Section 12(b), ORL (2022)

¹¹ Section 12(a), ORL (2022)

scope.¹² International organizations, on the other hand, are required to submit their application to the Union Registration Board.

Once an application is filed, the concerned registration board must issue a temporary registration to an applicant organization within 21 days of the submission of the application (excluding public holidays).¹³ The ORL is silent regarding the time limit the registration board has to come to a final decision on registering an organization. Once a final decision is made, the registration board must issue a registration certificate within 30 days of the date of the final decision to grant registration.¹⁴ If the registration board rejects an application, they must provide detailed reasons for the decision within a prescribed time of either 15 days or 30 days depending on the registration board concerned.¹⁵ The organization can amend an application in accordance with the opinion of the registration board and re-submit within 30 days.¹⁶ If the application is then rejected a second time, the decision is final.¹⁷

A registration certificate is valid for five years and an application for re-registration must be made at least 90 days prior to the expiry period.¹⁸ The registration board sets the fee for registration that an approved organization must pay within a period of time set by the board.¹⁹ This fee is in addition to the application fee required to submit an application in the first instance. If the organization fails to do pay the registration fee within the time limit, the registration will be considered “null and void.”²⁰

The registration boards are responsible for scrutinizing applications, granting permission or denying registration, or canceling the registration of organizations.²¹ They are also mandated to oversee the compliance of organizations with the ORL’s terms and prohibitions and issue penalties for violations. Any government department can report a suspected violation of the ORL to the relevant registration board, which then triggers an investigation by the registration board.²²

If a registered organization fails to comply with the duties as interpreted by the relevant registration board, the board may adopt a management order that warns, restricts the functions of the organization for a set period of time; or suspends or nullifies the registration of the organization.²³ For example, if the organization is found to interfere in the internal affairs of the State or politics then the registration board is directed by the ORL to nullify the registration of

¹² Section 13-15, ORL (2022)

¹³ Section 8(a) & 18(a), ORL (2022)

¹⁴ Section 8(d) & 18(d), ORL (2022)

¹⁵ Section 10, ORL (2022)

¹⁶ Section 11(a), ORL (2022)

¹⁷ Section 11(b), ORL (2022)

¹⁸ Section 47, ORL (2022)

¹⁹ Section 9(a), ORL (2022)

²⁰ Section 9(b), ORL (2022)

²¹ Section 6(a)-(b), ORL (2022)

²² Section 32 & Section 50, ORL (2022)

²³ Section 29, ORL (2022)

the organization.²⁴ If the registration of the organization is nullified, the assets of the organization become the property of the Union government.²⁵ If the organization disagrees with a finding of a violation by the registration board, the organization can file an objection letter with the board for reconsideration of the initial decision. The second decision of the registration board is final and not eligible for further appeal to a judicial body. Finally, individuals considered to be associated with an organization found to be in violation of the ORL may face arrest, prosecution, and prison sentences depending on the violation found.

III. Compliance of ORL with Obligations under International Human Rights Law

International human rights law, States must respect and ensure the rights to freedom of expression and information, freedom of association, freedom of peaceful assembly and the right to take part in the conduct of public affairs, among other rights. These rights are guaranteed in a number of treaty and declarative instruments, including, at the universal level, the Universal Declaration of Human Rights and the International Covenant on Political and Civil Rights (ICCPR). Although Myanmar has not yet become party to the ICCPR, the substantive rights protected in the treaty are part of customary international law and, as a result, are binding on Myanmar. These rights are also reflected in numerous resolutions of the UN General Assembly and UN Human Rights Council. The jurisprudence of the Human Rights Committee, the body responsible for interpreting the content of the rights and obligations contained in the ICCPR, will necessarily be instructive as to the content of the rights under general international law.

A. Right to Freedom of Association, Expression, Peaceful Assembly, and the Right to Take Part in the Conduct of Public Affairs

States have an obligation to respect and ensure the right to freedom of association and thereby guarantee the right of persons acting in association with one another as members of not-for-profit organizations to pursue their activities and operate without interference by State authorities,²⁶ except in narrow circumstances.²⁷ Under international standards, procedures governing the registration of civil society organizations, to the extent that they exist, must be transparent, accessible, non-discriminatory, expeditious, inexpensive, and allow for the possibility to appeal in addition to ensuring functional autonomy.²⁸

²⁴ Section 29, ORL (2022)

²⁵ Section 51, ORL (2022)

²⁶ Article 20, UDHR; Article 22(1), ICCPR

²⁷ Article 22(2) ICCPR

²⁸ See, for example, U.N. Human Rights Council, Protecting Human Rights Defenders: Resolution, adopted by the Human Rights Council, UN Doc. A/HRC/RES/22/6 (2013), paragraph 8-9(a); U.N. Special Representative of the Secretary-General on human rights defenders, Hina Jilani, Report: Human Rights Defenders, U.N. Doc. A/59/401 (2004), paras 51-62, <https://undocs.org/en/A/59/401>

States have similar obligations with respect to the right to peaceful assembly,²⁹ which enables civil society organizations to share their message collectively and publicly.³⁰ The rights to peaceful assembly and association are interrelated with other fundamental freedoms, including the rights to freedom of expression,³¹ and the right to take part in the conduct of public affairs under.³²

No restrictions may be imposed on the above rights unless they are imposed in a non-discriminatory manner and in conformity with the principle of legality and are necessary and proportionate for only any of the following purposes: national security, public health or morals, public order or to protect the rights and freedoms of others.³³

B. Permissible Limitations on the Right to Freedom of Association and Other Rights

1. Legality: Overbroad Language of the ORL

To meet the requirement of legality, the restrictions must be provided for specifically in law and that law must be expressed with a high enough degree of precision to enable an individual, or organization, to regulate their conduct accordingly. Further, a law limiting a right must not confer on implementing authorities' "unfettered discretion" to restrict a right. This principle has been reiterated by the UN Special Rapporteur on human rights defenders and the U.N. Human Rights Council specifying that legal provisions affecting human rights defenders must be clearly defined, determinable, and non-retroactive to avoid potential abuse by authorities.³⁴

The ORL contains many provisions that are overly broad and leave significant discretion to the registration board authority concerned, whose independence and impartiality is not ensured by the ORL. Given the ongoing crackdown on civil society since the military coup, there is a reasonable likelihood that such discretion will be exercised in bad faith or in an arbitrary manner. Many activities that are legal and specially protected under international human rights law and standards could fall under prohibited activities under the ORL. For example, without further

²⁹ Article 20 UDHR; Article 21, ICCPR

³⁰ Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, 'Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association', UN Doc. A/HRC/23/29, 2013, paras 44-45.

³¹ Articles 19, UDHR; Article 19, ICCPR

³² Article 21 UDHR; Article 25, ICCPR. See also, UN Human Rights Committee, 'General Comment 25: Article 25 (Participation in Public Affairs and the Right to Vote) - The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service', U.N. Doc. CCPR/C/21/Rev.1/Add.7, 1996, para 8.

³³ Article 22(2), ICCPR. See also Article 17, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/53/144 (1999), which says that limitations on rights and freedoms provided in the Declaration will only be limited to "applicable international obligations and ...determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."

³⁴ Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders, 'Report of the Special Rapporteur on the situation of human rights defenders', UN Doc. A/67/292, 2012, para 86; U.N. Human Rights Council, Protecting Human Rights Defenders: Resolution, adopted by the Human Rights Council, UN Doc. A/HRC/RES/22/6 (2013), para 11.

definition, Section 28 specifies that organizations are prohibited from “mentioning false data,”³⁵ and must avoid “interference in the internal affairs of the State or politics.”³⁶ Further, organizations are not permitted to work “beyond the objective and work process allowed by the relevant registration organization according to the recommendation of relevant government departments and organizations.”³⁷ Additionally, they cannot “give talks” or “lure for any benefit the undertakings of development tasks relating to benefitting the society for the common interests of members.”³⁸ Finally, organizations are not to “be allowed to illegally take, hand over, use and provide money, material or any aid in an illegal way or commit concealment and obstruction of justice by withholding information over an undertaking.”³⁹ On their face, these prohibitions engage conduct that are the legitimate conduct of CSOs and none of these provisions contain further definitions or guidance about the specific behaviors or activities that would be covered.

This is particularly problematic in relation to provisions that contain severe penalties for both individuals and organizations. For example, anyone who seeks to register an organization or join an organization cannot form one associated with a “movement.”⁴⁰ If an individual is found to be in violation of this provision, they will be subject to a fine of up to K1 million⁴¹ or three years imprisonment upon conviction.⁴² Additionally, Section 39 specifies that “any registered organization shall not be allowed to directly or indirectly harm the perpetuation of State sovereign power, the prevalence of law and order, security and national unity.”⁴³ A violation of Section 39 entails a fine of K5 million⁴⁴ or five-year imprisonment or both while the registration of the organization will be nullified and the money and assets of the organization confiscated.⁴⁵

As a result of these many ambiguities which do not sufficiently guide behavior and which leave significant discretion to registration boards which cannot be said to be independent or impartial, the ORL cannot be considered to be “provided by law” as it does not meet the principle of legality as is required for a restriction on freedom of association to be permissible under international human rights law.

³⁵ Section 28, ORL (2022)

³⁶ Section 28(q), ORL (2022)

³⁷ Section 28(e), ORL (2022)

³⁸ Section 36, ORL (2022)

³⁹ Section 37, ORL (2022)

⁴⁰ Section 33, ORL (2022)

⁴¹ Worth approximately \$473.00 U.S. dollars (16 November 2022).

⁴² Section 40, ORL (2022)

⁴³ Section 39, ORL (2022)

⁴⁴ Worth approximately \$2,365.37 U.S. dollars (16 November 2022).

⁴⁵ Section 43, ORL (2022)

2. Legitimate Aim: Targeting Organizations that Serve a Social Function

Even if the ORL satisfied the principle of legality, it must also be found to pursue a legitimate aim. Legitimate aims are confined exclusively to national security, public safety, public order, public health or morals, or the protection of the rights and freedom of others.⁴⁶

Chapter II which specifies the “Vision” of the ORL, states that one aim of the legislation is to protect the right of legal standing for the organization to seek assistance or aid from governmental departments,⁴⁷ and “to ensure the organization takes responsibility and accountability.”⁴⁸ It can be inferred from the remaining provisions in the ORL that the “responsibility and accountability” of organizations refers to ensuring that their activities are not perceived as a threat to a number of ill-defined concepts in relation to the State. For example, a registration board is instructed to grant registration to an organization if it does not “see any reason which will adversely affect the perpetuity of sovereign power, the rule of law, security and the national unity.”⁴⁹ While further definitions of these concepts are not provided in the ORL, they potentially fall into the definitions of three legitimate aims: “national security,” “public order,” and “public safety.”

Under international standards, the “interests of national security” may serve as a ground for restrictions only if such a restriction is necessary to preserve the State’s capacity to protect the existence of the nation, its territorial integrity or political independence against a credible threat or use of force. However, restricting peaceful assemblies and other rights, as the ORL seeks to do, can only be justified in exceptional circumstances unless the reason that national security has deteriorated is due to the suppression of human rights.⁵⁰ Based on credible reports from U.N. bodies,⁵¹ the work of the UN Special Rapporteur on the human rights situation of Myanmar,⁵² and the work of civil society organizations,⁵³ the deterioration of security in Myanmar is, in fact,

⁴⁶ Article 22(2), ICCPR.

⁴⁷ Section 3(c)-(d), ORL (2022)

⁴⁸ Section 3(e), ORL (2022)

⁴⁹ Section 8(c) & 18(c), ORL (2022)

⁵⁰ UN Human Rights Committee, ‘General Comment No. 37: the right of peaceful assembly (article 21)’, UN Doc CCPR/C/GC/37, 2020, Para. 42.

⁵¹ See, for example, Detailed findings of the Independent International Fact-Finding Mission on Myanmar (UN Doc. A/HRC/42/CRP.5), 16 September 2019. See, most recently, UN Human Rights Council Resolution on the Situation of human rights in Myanmar (UN doc. A/HRC/49/L.12), 1 April 2022.

⁵² See, for example, Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews (UN doc. A/77/494), 03 October 2022.

⁵³ See, for example, International Commission of Jurists, “Myanmar: Security forces’ killings of protesters should be investigated as crimes against humanity,” (04 March 2021), available at: <https://www.icj.org/myanmar-security-forces-killings-of-protesters-should-be-investigated-as-crimes-against-humanity/> (accessed 16 November 2022); Amnesty International, “Myanmar: Deadly air strikes in Kachin State appear to fit pattern of unlawful attacks,” (24 October 2022), available at: <https://www.amnesty.org/en/latest/news/2022/10/myanmar-air-strikes-kachin-state/> (accessed 16 November 2022); Human Rights Watch, ‘In Post-Coup Myanmar: ‘Death Squads’ and Extrajudicial Killings,’ (3 November 2022) available at: <https://www.hrw.org/news/2022/11/03/post-coup-myanmar-death-squads-and-extrajudicial-killings> (accessed 16 November 2022); Fortify Rights, “Myanmar: New Evidence and Findings of Post-Coup d’État Crimes Against Humanity,” (24 March 2022) available at: <https://www.fortifyrights.org/mya-inv-2022-03-24/> (accessed 16 November 2022).

a direct result of the widespread government suppression of human rights following the military coup of 2021 and the longstanding human rights violations in regions where ethnic minorities are concentrated.

While the “rule of law” referred to in ORL, may be associated with the concept of “public order” in the ICCPR, implicit in public order is the respect for human rights, including the right to freedom of association and peaceful assembly.⁵⁴ Further, the Human Rights Committee has clarified that the protection of “public safety” can only be invoked as a ground for restrictions if the exercise of the right creates a real and significant risk to the safety of persons (to life or security of person) or a similar risk of serious damage to property.⁵⁵ The UN Human Rights Council Declaration on Human Rights Defenders clarifies that States must “ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law...and that such legislation is not used to impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights.”⁵⁶ Accordingly, Myanmar cannot rely on a vague definition of the “rule of law” to justify the overbroad restrictions on the freedom of association and other rights contained in the ORL.

3. Necessity and proportionality: Lack of Necessity and Disproportionate Penalties

Even if the ORL could be found to pursue a legitimate aim under international human rights law, the prohibited behaviors and penalties in the ORL are neither necessary nor proportionate to a legitimate aim. To be deemed necessary, the provisions would need to be required to meet the aim, and to be deemed proportionate the provisions would need to be the least restrictive means to achieve that aim.

Provisions in the ORL fail to comply with these principles in three particular areas: 1. Lengthy and complicated registration requirements of international organizations in particular which cannot be justified in terms of necessity; 2. Invasive surveillance of the activities of organizations with the intent of controlling the activities which is neither necessary nor proportionate; 3. Severe penalties in the form of fines, confiscation of assets, and criminalization which is disproportionate, particularly in light of the overbroad provision discussed in sections above.

Lengthy & Complicated Registration

⁵⁴ The Human Rights Committee has defined the meaning of “public order” to mean the sum of rules that ensure the proper functioning of society, or the set of fundamental principles on which society is founded, which also entails respect for human rights, including the right of peaceful assembly. See, UN Human Rights Committee, ‘General Comment No. 37: the right of peaceful assembly (article 21)’, UN Doc CCPR/C/GC/37, 2020, para. 44

⁵⁵ UN Human Rights Committee, ‘General Comment No. 37: the right of peaceful assembly (article 21)’, UN Doc CCPR/C/GC/37, 2020, para. 43; See also, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, para. 33.

⁵⁶ U.N. Human Rights Council, Protecting Human Rights Defenders: Resolution, adopted by the Human Rights Council, UN Doc. A/HRC/RES/22/6 (2013), Paragraph 5

Registration requirements for international organizations are lengthy, stringent, excessively burdensome, and include many opportunities for government agencies to stall an application and prevent an international organization from registering. For example, an international organization application must include in its application for registration recommendations by various government agencies secured in advance. These include: 1. a recommendation by the government department, which is related to the objective of the organization, 2. recommendations by the Ministry of Investment and Foreign Economic Relations, and 3. recommendations by the Ministry of Immigration and Population, and 4. a letter seeking the opinion of the Ministry of Foreign Affairs.⁵⁷ Further, an international organization must submit a draft of a memorandum of understanding.⁵⁸ Finally, the organization must also present permission from the administration board in the area where the international organization will carry out its activities.⁵⁹

These requirements were not contained under the prior legal framework, yet international organizations that seek to promote and protect human rights or provide humanitarian aid have been serving communities in Myanmar for decades. Organizations that perform a humanitarian aid function in “disaster-hit areas” declared by the State under the Natural Disaster Management Law” have additional requirements and must also seek permission from and cooperate with the relevant local administration and show “money for donations, the number of materials, value of materials and the proposed projects.”⁶⁰

In addition, the need to get a recommendation from a governmental agency is inherently incompatible with the purpose and object of an independent civil society. It may be impossible for a CSO to carry out its independent functions if it is required to seek the favour of a governmental agent.

The multitude of approvals, letters, and recommendations from a handful of government agencies complicates and frustrates rather than facilitates the work of these organizations and serve no purpose beyond deterring international organizations from registering. As a result, they cannot be considered necessary to a legitimate aim.

Invasive Monitoring

The ORL also establishes a strict monitoring regime, which, like lengthy and complicated registration processes, necessarily would serve to hinder the work of civil society organizations to the detriment of the people that they serve. For example, registration boards are mandated to “give directions to the organizations not to cooperate with, assist in and provide support to either directly or indirectly money laundering and terrorism financing through cash flow, cash management, and monetary support.”⁶¹

⁵⁷ Section 17(o), ORL (2022)

⁵⁸ Section 17(i), ORL (2022)

⁵⁹ Section 17(r), ORL (2022)

⁶⁰ Section 28(k), ORL (2022)

⁶¹ Section 6(e)-(f), ORL (2022)

To this end, organizations must submit annual reports to the relevant registration board, allow inspection of documents and premises, and submit structural and management changes of the organization for approval by the registration board.⁶² Additionally, they must “coordinate with the concerned government departments and organizations to enable auditing as and where necessary of the organization’s cash and assets as well as the annual financial statements.”⁶³ If the organization is to travel to a “travel-restricted area” they must cooperate with the relevant administration body and security forces.⁶⁴

Finally, surveillance of organizations with a humanitarian function is particularly problematic and both hinders humanitarian aid from reaching populations while also subjecting aid workers to increased security risks, neither of which is necessary nor proportionate to a legitimate aim in the ORL. For example, under the ORL, humanitarian aid organizations are mandated to avoid “illegal measures, discrimination, and danger to the aided organization and persons.”⁶⁵ Organizations providing humanitarian aid have privately raised the issue that transport of aid supplies will be subjected to increased inspections at different checkpoints, with requests for proof of registration under the ORL. These inspection measures will likely delay humanitarian activities further. Additionally, at checkpoints in areas not controlled by the de facto military junta, staff or vendors related to registered organizations under the ORL may be exposed to security risks from armed groups due to their perceived affiliation or legitimization of the military junta. Organizations have also highlighted that the process and implications remain unclear for those partners in areas that are not under the control of de facto authorities. Registration under the new law will also be complicated for those organizations working in contested areas with mixed control arrangements, which are likely to be trapped between two or more competing and conflicting legal and regulatory regimes, intensifying operational, reputational, and security risks.

The detriment of the work to organizations is severe and cannot be considered the least restrictive measure to ensure a legitimate aim. Instead, the monitoring provisions appear to serve no additional purpose than to ensure consistent surveillance of the activities of organizations. As a result, they cannot be considered neither necessary nor proportionate to a legitimate aim.

Criminalization and Penalization

Finally, as alluded to in the Sections above, the penalties for violating the ORL are severe and cannot be determined to be either necessary or proportionate to a legitimate aim. Like the monitoring provisions and the prohibition provisions, they seek to submit organizations to the oversight and control of registration boards. Particularly problematic are Sections 33, 38, 39, 40, 41, and 43.

For example, Section 38, along with Section 39 prohibit any organization from having direct or indirect contact to organizations or person supporting armed groups or listed as “terrorist

⁶² Section 28(h), ORL (2022)

⁶³ Section 6(e)-(f), ORL (2022)

⁶⁴ Section 28(m), ORL (2022)

⁶⁵ Section 28(n), ORL (2022)

organizations.” Failing to comply with Sections 38 and 39 entails a fine of K5 million or five-year imprisonment or both while the registration of the organization will also be nullified, and the money and assets confiscated.⁶⁶ Direct and indirect contact are not defined in the ORL. Terrorist organizations are also not defined in the ORL. Historically, however, individuals who are not associated with armed groups and who fall into the category of peaceful protestors or pro-democracy supporters, or simply anti-military coup, are also labeled as terrorists by the governing authorities.⁶⁷ This means that contact between organizations and a large proportion of the population of Myanmar is potentially criminalized by the ORL, depending on the discretion of the registration boards which cannot be considered to be independent and impartial bodies.

Further, prohibitions directed at individuals not yet associated with an organization are also severe. Individuals cannot work for or join an organization without a registration certificate or with an expired certificate. If they do, they face a fine of up to K500,000, and if they fail to pay the fine, they will receive two years of imprisonment.⁶⁸ Further, individuals cannot “directly or indirectly contact or encourage” “organizations and persons who oppose the State” with armed struggle, “organizations and persons declared as committing terror acts by the State,” and “the unlawful organizations and their members.”⁶⁹ In particular, these provisions in the ORL increase the vulnerability of lawyers, civil society workers, and other professionals that provide legal, medical, or humanitarian assistance to those ‘alleged’ to be the member of the ‘terrorist’ or ‘illegal organization’ having the knock-on effect on various organizations including those providing legal assistance to political detainees. These measures rather than being necessary or proportionate to the rule of law, which is a stated aim in the ORL, are antithetical to it. As a result, these provisions do not comply with international human rights law.

IV. Conclusion

The new Organization Registration Law makes individuals and organizations face unacceptable and illegitimate and, for some, nearly insurmountable obstacles in exercising the right to freedom of association, assembly, opinion, expression, and political participation. Compliance with the law makes would not allow for the effective functioning of independent CSOs.

The broad reading of provisions relating to registration, as well as controls on individual and organizational behavior combined with extremely harsh penalties for noncompliance combines to make the ORL a dangerous amendment to the law in Myanmar that is wholly incompliant with Myanmar’s obligations under international law and standards. The potential chill on the behavior of not-for-profit organizations and individuals associated with them because of the new law will make it harder for vulnerable populations to receive assistance during an already fragile state of

⁶⁶ Section 43, ORL (2022)

⁶⁷ See, for example, Reuters, “Myanmar’s junta brands rival government a terrorist group,” (8 May 2021) available at: <https://www.reuters.com/world/asia-pacific/myanmars-junta-brands-rival-government-terrorist-group-2021-05-08/> (accessed 16 November 2022); Civicus, ‘Myanmar Junta Continues to Arrest, Torture Activists Despite Global Outrage Around Executions,’ (15 September 2022).

⁶⁸ Section 41, ORL (2022)

⁶⁹ Section 38, ORL (2022)

the country due to the ongoing military coup. As a result, the government of Myanmar must repeal the Organization Registration Law, cease any penalization of organizations or individuals under the ORL, and instead pass a new law that complies with the international human rights obligations of Myanmar.

V. Annex

Republic of the Union of Myanmar
State Administration Council Organization Registration Law⁷⁰
State Administration Council Law No 46/2022 5th Waxing of Tazaungmone 1384 ME
28 October 2022

THE State Administration Council enacted this law under Section 419 of the Constitution of the Republic of the Union of Myanmar.

Chapter I Title and Definition

1. This law shall be named the Organization Registration Law.

2. The words involved in this law shall be defined as follows: -

(a) The State shall be defined as the Republic of the Union of Myanmar.

(b) The organization shall be defined as an internal organization and a non-governmental international organization.

(c) The internal organization shall be defined as a non-governmental organization which was registered under this law, formed with five or more citizens in order to carry out social tasks without taking any benefit in accord with the entitlements mentioned in the Constitution for the sake of the State and the citizens. Such a word shall consist of its branches opened under the permission of the relevant registration body.

(d) The non-governmental international organization shall be defined as the organization officially formed in any foreign country to open its branch in the country with at least 40 percent of Myanmar citizens in the executive committee which was registered at the Union Registration Board under this law in order to conduct any social task without taking benefit in the country. Such a word shall be inclusive of its branches in the country opened under the permission of the Union Registration Board.

(e) Registration Body shall be defined as Union Registration Board, Region or State Registration Board, Union Territorial Registration Board, Self-Administered Division or Zone Registration Board or Township Registration Board.

⁷⁰ English translation originally published in The Global New Light of Myanmar Volume IX, No. 196, 6th Waxing of Tazaungmone 1384 ME (29 October 2022); No. 197, 7th Waxing of Tazaungmone 1384 ME (30 October 2022); No. 198, 8th Waxing of Tazaungmone 1384 ME (31 October 2022); No. 199, 9th Waxing of Tazaungmone 1384 ME (1 November); No. 200, 10th Waxing of Tazaungmone 1384 ME (2 November 2022); No. 201, 11th Waxing of Tazaungmone 1384 ME (3 November); No. 202, 12th Waxing of Tazaungmone 1384 ME (4 November); No. 203, 13th Waxing of Tazaungmone 1384 ME (5 November 2022).

(f) Registration Certificate shall be defined as the certificate issued relevant registration board. Such a word shall be inclusive of a temporary certificate and renewed certificate issued by the relevant registration board.

(g) The social task shall be defined as any task which does not take any benefit with the purpose of the interests of the majority which is not directly or indirectly related to the political, economic and religious sectors. Such a word shall be inclusive of development tasks concerning the welfare tasks for the common interests of the society.

(h) An official of the organization shall be defined as the chair, secretary or executive member of the internal organization or head, in-charge, in-charge of a branch or executive member of a non-governmental international organization or an organization member assigned under the letter of authority to take any responsibility of the relevant organization.

(i) Ministry shall be confined to the Ministry of Home Affairs of the Union Government.

(j) Department shall be confined to the Department of General Administration under the Ministry of Home Affairs and its subordinate Union Territory, Region, State, Self-Administered Division, Zone, District and Township Departments of General Administration.

Chapter II Vision

3. Visions of this law are as follows:

- (a) To form the organization under the entitlements of the Constitution.
- (b) To have the right for forming the organization under the law.
- (c) To protect their right of standing by registering the organization under the law.
- (d) To seek assistance for the undertakings and activities of the organization, accept and use them under the law and take assistance from relevant government departments under the law.
- (e) To establish a monitoring system in order to emerge the organization with responsibility and accountability in its tasks.
- (f) To strengthen the organization benefiting the State and the citizens.

Chapter III

Formation of registration board, duties and functions

4. In order to supervise and register the organization under the law, the registration boards shall be formed as follows:-

- (a) Union Registration Board
- (b) Region and State Registration Board
- (c) Union Territory Registration Board

(d) Self-Administered Division or Self-Administered Zone Registration Board

(e) District Registration Board

(f) Township Registration Board

5.

(a) The Union Government shall form the Union Registration Board as follows:

[1] Union Minister, Ministry of Home AffairsChairman

[2] Representatives from concerned government organizations.....Members

[3] Director-General, General Administration DepartmentSecretary

(b) Regional or State Government shall form the Regional or State Registration Board as follows:

[1] A Minister from Region or State Government.....Chairman

[2] Representatives from concerned Government Organizations.... Members

[3] Director, Region or State General Administration Department.....Secretary

(c) Union Territory Governing Body shall form the Union Territory Registration Board as follows:

[1] A Member of Union Territory Governing Body..... Chairman

[2] Representatives from concerned organizations..... Members

[3] Director, Union Territory General Administration Department.....Secretary

(d) Self-Administered Division or Self-Administered Zone Governing Body shall form the Self-Administered Division or Self-Administered Zone Registration Board as follows:

[1] An Executive Committee Member from Self-Administered Division or Self-Administered Zone Governing Body.....Chairman

[2] Representatives from concerned organizations.....Members

[3] Deputy Director, Self-Administered Division or Self-Administered Zone General Administration DepartmentSecretary

(e) The District Administrator, District General Administration Department shall form the District Registration Board as follows:

[1] District Administrator, District General Administration DepartmentChairman

[2] Representatives from concerned government organizationsMembers

[3] Assistant Director, District General Administration DepartmentSecretary

(f) The Township Administrator, Township General Administration Department shall form the Township Registration Board as follows:

[1] Township Administrator, Township General Administration Department.....Chairman

[2] Representatives from concerned government organizations.....Members

[3] Deputy Township Administrator, Township General Administration Department.....Secretary

(g) Those vested with the power to form the registration bodies under Sections (a), (b), (c), (d), (e) and (f) can reform the bodies as prescribed.

[6] The job descriptions for the registration bodies are:

[a] to scrutinize the registration application of the organization concerned and grant the permission, decide not to grant the permission and cancel the registration;

[b] to scrutinize the application by the concerned organization for an extension of the registration and grant the extension and decide not to grant the extension;

[c] to ensure compliance with the law by the organizations and provide assistance;

[d] to coordinate with the concerned government departments and organizations in respect to the organizational objectives and processes;

[e] to give directions to the organizations not to cooperate with, assist in and provide support to either directly or indirectly money laundering and terrorism financing through cash flow, cash management and monetary support; and

[f] to coordinate with the concerned government departments and organizations to enable auditing as and where necessary of the organization's cash and assets as well as the annual financial statements.

Chapter 4 Registration of Domestic Organizations

7. A domestic organization shall, to obtain the registration certificate, apply for registration, providing the following particulars, assigning the application duties to either the chairman or the secretary or an executive committee member or an organization member, providing the latter two with a power of attorney:

[a] name of the organization;

[b] names of chair and secretary of the organization;

[c] location and contact address of the organization;

- [d] date of foundation of the organization;
- [e] objective;
- [f] programme;
- [g] recommendation by the organization concerned with objective and programme;
- [h] number of executive committee members;
- [i] number of organization's members;
- [j] organization's cash and assets;
- [k] social activities carried out;
- [l] organization's article of association;
- [m] date of application; and
- [n] undertaking for abidance with the provisions enshrined in the existing laws.

8. The concerned registration board shall

- [a] issue the temporary registration certificate to the organization which has applied for registration under Section 7 within 21 days from submission of the application, excluding the gazetted holidays;
- [b] scrutinize the application to see if it is in accord with the prescribed rules

after issuing the temporary certificate;

- [c] grant registration if it does not see any reason which will adversely affect the perpetuity of sovereign power, the rule of law, security and the national unity; and
- [d] issue the registration certificate within 30 days from the date of the decision to grant the registration.

9.

[a] The domestic organization which has been granted registration shall

[1] pay the registration fees at the concerned Myanmar Economic Bank within the period prescribed by the concerned registration board and withdraw the registration certificate, producing the bank's acknowledgement receipt; and

[2] return the temporary registration certificate issued upon withdrawal of the registration certificate.

[b] in the event of failure to return the temporary registration certificate or to withdraw the registration certificate or to produce the evidence proving having paid the registration fees or in the

event of the temporary certificate and the registration certificate issued beyond the prescribed period, it shall be deemed that registration has already been null and void.

10. If the concerned registration board decides not to grant the registration of a domestic organization, the board shall reply to the applicant, stating reasons fully within the prescribed periods as mentioned hereunder:

[a] Union Registration Board30 Days

[b] Region or State Registration Board.....30 Days

[c] Union Territory Registration Board30 Days

[d] Self-Administered Division or Self-Administered Zone Registration Board15 Days

[e] District Registration Board15 Days

[f] Township Registration Board15 Days

11.

[a] The domestic organization upon receipt of the reply letter from the concerned registration body saying that registration has been rejected can make amendments and additions as required by the concerned body and submit the application again within 30 days from receipt of the reply letter.

[b] If the concerned body decides not to grant registration for the re-application submitted under Sub-Section [a], the decision is final.

[c] If the domestic organization does not re-apply under Sub-Section [a] in the case of its application being rejected or if re-application is rejected under Sub-Section [b], the temporary registration certificate issued to that organization shall be deemed as null and void already from the date of the decision of denial.

[d] When the application for registration has been rejected by the concerned organization, the rejected domestic organization cannot re-apply for registration with whatsoever registration board.

12.

[a] The domestic organization shall

[1] pay the registration fees amounting to K300,000 for registration application at the Union Registration Body;

[2] pay the registration fees amounting to K100,000 for registration application at the Region or State Registration Body;

[3] pay the registration fees amounting to K100,000 for registration application at the Union Territory Registration Body;

[4] pay the registration fees amounting to K50,000 for registration application at the Self-Administered Division or Self-Administered Zone Registration Body;

[5] pay the registration fees amounting to K50,000 for registration application at the District Registration Body; and

[6] pay the registration fees amounting to K30,000 for registration application at the Township Registration Body.

[b]

[1] The domestic organization holding the registration certificate issued by the Union Registration Body can carry out its activities across the nation.

[2] The domestic organization holding the registration certificate issued by the Region or State Registration Body can carry out its activities within the concerned Region or State.

[3] The domestic organization holding the registration certificate issued by the Union Territory Registration Board can carry out its activities within the Union Territory.

[4] The domestic organization holding the registration certificate issued by the Self-Administered Division or Self-Administered Zone can carry out its activities within the concerned Self-Administered Division or Self-Administered Zone.

[5] The domestic organization holding the registration certificate issued by the District Registration Body can carry out its activities within the concerned district.

[6] The domestic organization holding the registration certificate issued by the Township Registration Body can carry out its activities within the concerned township.

13. A domestic organization holding a registration certificate issued by a registration body cannot register with another registration body.

14.

[a] The domestic organization holding the registration certificate shall apply for an extension of registration according to the prescribed rules at the concerned registration board 90 days ahead of the expiry of registration if it wishes to continue to exist upon the expiry of registration.

[b] If the domestic organization does not apply for an extension of registration 90 days in advance as prescribed in Sub-Section [a], it shall pay the prescribed fine at the concerned Myanmar Economic Bank, and submit an application for an extension of registration. The renewed registration certificate shall be issued to the domestic organization within 30 days of the decision made to grant the extension.

[c] The domestic organization that applies for an extension of registration shall repeat the same procedures of applying for the registration certificate for the first time.

[d] The concerned registration board can grant the registration extension after scrutinizing as prescribed in Section [8] Sub-Section [c] and issue the renewed certificate to the domestic organization that applies for extension under Sub-Section [a] or Sub-Section [c].

[e] If the registration board decides to grant the extension when the domestic organization produces evidence of having paid the registration fees within the prescribed period at the concerned Myanmar Economic Bank, the registration board shall issue the renewed registration certificate.

[f] In the event of not withdrawing the renewed registration certificate or in the event of inability to produce evidence proving having paid the registration extension fees, the renewal shall be deemed null and void already.

15.

[a] The domestic organization holding the registration certificate issued by the Union Registration Board shall pay the registration fees amounting to K100,000 for registration extension.

[b] The domestic organization holding the registration certificate issued by the Region or State Registration Board shall pay the registration fees amounting to K50,000 for registration extension.

[c] The domestic organization holding the registration certificate issued by the Self-Administered Division or Self-Administered Zone or the District Registration Board shall pay the registration fees amounting to K30,000 for registration extension.

[d] The domestic organization holding the registration certificate issued by the Township Registration Board shall pay the registration fees amounting to K10,000 for registration extension.

16.

[a] The domestic organization applying for the extension of the registration certificate can, upon receipt of a reply by the concerned registration body rejecting renewal, make amendments and additions, giving clarifications for the renewal rejecting reasons and submit the application within 30 days from the date of receipt of the reply.

[b] if the concerned registration body decides not to grant the registration extension to the application submitted as per Sub-Section [a], the decision thus made shall be final and conclusive.

[c] if the concerned registration body decides not to grant the registration extension, the domestic organization which has been denied the extension shall have no right to register with whatsoever registration body.

Chapter 5

Registration of International Non-Governmental Organizations

17. For an International Non-Governmental Organization to obtain the registration certificate, either the chief of the concerned INGO or the person- in-charge of the INGO or the executive committee member of the INGO assigned with the duties to submit the application with the power of attorney delegated shall submit the application to the Union Registration Board, mentioning the following particulars:

- [a] name of the organization
- [b] the background history of the organization
- [c] the name of the chief of the organization in the country where it is based
- [d] the name of the person in charge of the organization within the nation
- [e] the location and the address of the organization in the country where the organization is based
- [f] country where the organization is based
- [g] the documental evidence proving the recognition of the organization in the country where it is based
- [h] the article of association of the country where the organization is based
- [i] the Memorandum of Understanding [draft]
- [j] the name of the person in charge of the office within the country
- [k] the number of the executive committee
 - [1] Myanmar national
 - [2] expatriate
- [l] the number of the member of the organization
- [m] the contact address of the branch office of the organization within the country
- [n] the type of social activity to be carried out within the country and the financial source.
- [o] the recommendation by the government department which is related to the objective and the programme of the organization.
- [p] the recommendations by the Ministry of Investment and Foreign Economic Relations as well as by the Ministry of Immigration and Population.
- [q] the letter seeking the opinion of the Ministry of Foreign Affairs.
- [r] the permission of the administration board in the area where the INGO will carry out its activities.
- [s] the names of the persons in charge of the branch offices of the organization opened within the country.
- [t] the number of branch offices opened within the country and their contact addresses.
- [u] the date of application submission.

[v] the personal undertaking to abide by the provisions enshrined in the existing law.

18. The Union Registration Board shall

[a] issue the temporary registration certificate within 21 days excluding the gazetted holidays from the date of submission of the application to the INGO which has tendered the application under Section 17;

[b] scrutinize the application as prescribed after issuance of the temporary registration certificate;

[c] grant the registration of the INGO as long as there is no reason to adversely affect the perpetuity of sovereignty of the State, the rule of law, security and national unity; and

[d] issue the registration certificate within 30 days from the date of the decision to grant the registration.

19.

[a] The international non-governmental organizations which have the chance to register shall

(1) pay K500,000 of the registration fee set by the Union Registration Board to the relevant Myanmar Economic Banks within the designated period and take out the registration certificates by showing the evidence for completion of the paid fee.

(2) hand over the temporary registration certificate when taking out the registration certificates.

[b] They shall face nullification of the issued temporary registration certificate and the allowed registration certificate for their expiry if they do not hand over the temporary registration certificate or if they do not take out the registration certificate or if they cannot show off the evidence to pay the registration fee.

20. If the Union Registration Board decides not to allow registration of the international non-governmental organization, it shall mention the firm reasons and send the letter of reply to the applicant international non-governmental organization within 30 days starting from the date of the decision.

21.

[a] The international non-governmental organization which accepted the letter of reply not to allow the registration from the Union Registration Board shall apply for registration again within 30 days starting from the date of accepting the letter by amending and supplementing the necessary measures and clarifications related to the reasons of not allowing the application.

[b] If the Union Registration Board decides not to allow the re-applying under Sub-Section (a), such a decision shall be completed.

[c] If the international non-governmental organization does not apply for the registration certificate again under Sub-Section (b) or faces the situation of not allowing to apply under Sub-Section (b),

the already-issued temporary registration certificate shall have been nullified from the date of the decision made by the Union Registration Board.

22.

[a] If the international non-governmental organization holding the registration certificate wish to continuously stand for a further term after the expiry of the registration, it shall apply for renewing the registration certificate to the Union Registration Board 90 days ahead of the invalidity.

[b] If the international non-governmental organization which applies for renewal of the registration term does not apply for the renewal 90 days ahead of the expiry in accordance with Sub-Section (a), it shall apply for renewal of the registration certificate in line with the restrictions after paying set fines to relevant Myanmar Economic Banks. The renewed registration certificate shall be issued to the international non-governmental organization which has paid fines within 30 days from the date of the decision to allow the renewal of the registration certificate.

[c] The international non-governmental organization which applied for the registration after the expiry of the registration term shall apply for it as a new registration.

[d] The Union Registration Board shall verify the international non-governmental organization under provision of Sub-Section (c) of Section 18 for its application under Sub-Section (a) or (b) and shall allow its renewal of registration certificate as the non-governmental international organization.

[e] If the Union Registration Board allows renewal of the registration certificate, the international non-governmental organization shall pay K300,000 as a registration fee to the relevant Myanmar Economic Bank in the set period. If it shows the evidence for completion of paying the registration fee, the relevant registration board shall issue the renewed registration certificate.

[f] If the organization does not take out the renewed registration certificate or cannot show the evidence of paid registration fee, the renewed registration certificate approved shall be nullified.

23.

[a] If the Union Registration Board does not allow the renewal of the registration certificate of an international non-governmental organization which applied for the renewal of its registration certificate, the organization shall re-apply at the Union Registration Board within 30 days starting from the date of receiving the letter of reply not to allow the renewal of registration certificate from the board by amending, supplementing and reporting on the necessary measures related to the reasons of not allowing the renewal.

[b] If the Union Registration Board adopts its approval for re-application according to Sub-Section (a), such a decision shall be completed.

24. The international non-governmental organization which was not allowed by the Union Registration Board to apply for the registration certificate in line with Sub-Section (b) of Section 21 or to apply for renewal of the registration certificate in accordance with Sub-Section (b) of Section 23 shall not be allowed to apply for the registration again.

25. If it is found that the international non-governmental organization directly or indirectly participates in the conspiracy for harming the State's sovereign power, the prevalence of law and order, security and national unity, the Union Registration Board shall immediately nullify such an organization.

Chapter 6 **Organizations not related to registration**

26. The organizations which are not related to applying for registration under this law shall be as follows:

[a] the organizations which shall directly or indirectly carry out religious, economic and political measures in accord with any existing law

[b] the political parties which shall apply at the Union Election Commission under the Political Parties Registration Law

[c] the organizations which are formed under any existing law

[d] the committees or organizations set up by the Union level, region/state or Union Territorial level government organizations

Chapter 7 **Entitlements and duties of the organization**

27. The entitlements of the organization which has received the registration certificate shall be as follows:

-

[a] the entitlement of taking aid allowed by the State

[b] the entitlement of taking aid provided by the government organizations for undertakings of the organizations under the law

[c] the entitlement to legally take aid provided by a foreign government, international organization, international non-governmental organization, internal organization, the organization set up in accord with any other existing law or person

[d] the entitlement to accept the donations, to set up the fund, to open banking accounts and to possess movable and immovable property under the law

[e] the entitlement to prosecute or accept the prosecution

[f] the entitlement to enjoy the right of intellectual property for name, emblem, seal and design of uniform for the organization under the law and to continuously succeed the organizations during the period of holding the registration certificate

[g] the entitlement of taking legal protection and standing for movements [h] the entitlement to provide emergency aid with the permission of the relevant administration body to the area declared the natural disaster-hit area by the State under the Natural Disaster Management Law

28. The organization which has accepted the registration certificate shall follow the duties as follows: -

[a] not to mention false data and not to wrongly mention false data with the discredited stance on applying the registration certificate

[b] to use the title, badge, emblem and design of uniform of the organization not to be similar to or resemble the following things:

(1) the title, badge, emblem and design of the uniform being officially used by the State and government organizations

(2) the title of the organization which has obtained the registration certificate and the title, badge, emblem and design of uniform of any organization set up under any existing law

(3) the title being taken without representing the whole nation, an ethnic group, all ethnic groups or all arenas of the works

[c] not to amend and change data mentioned in the allowed registration certificate and not to hand over the registration certificate to another organization

[d] not to take the registration organization without the capability to implement the objective and work process of the organization

[e] not to be beyond the objective and work process allowed by the relevant registration organization according to the recommendation of relevant government departments and organizations

[f] not to interfere in, not to make interfere in or entice the people as the persons with the right of interfering in functions of the government departments and organizations with the use of the title of the organization

[g] The organization which obtained the registration certificate from the Union, region/state or Union Territory Registration Board shall submit the annual report compiled in line with the financial rules and regulations checked by the Certified Public Accountant (full-fledged) registered at the Myanmar Accountancy Council, the organizations which obtained the registration certificate from the Self-Administered Division and Zone, District or Township Registration Board shall submit the annual report compiled in line with the financial rules and regulations checked by the accountant or the audit party formed with three executive committee members, together with the financial statement to the relevant registration board within 60 days after annual calendar year without fail and the copies to the relevant government departments and organizations which issued recommendations.

[h] The organization which has obtained a registration certificate shall have to allow inspection, checking documents and enquiry of the relevant registration board or the government organization or departments assigned by the relevant board.

[i] If the registered organization wishes to change its objective and work process mentioned in the approval or extend more points, it shall have to seek approval from the relevant registration board with the recommendations of relevant government departments and organizations related to its objective and work process.

[j] If the organization wishes to dissolve the organization, change its title and contact address, open branches of the organization or its branches opened in the country or change executive committee member for various reasons, it shall have to seek approval from the relevant registration board within seven days from the date of the decision together with the agreed decisions recorded in line with the provisions, of more than a half of the executive committee members.

[k] The organization wishing to perform emergency aid measures in the disaster-hit areas declared by the State under the Natural Disaster Management Law shall seek permission from and cooperate with the relevant local administration body by showing off purposed money for donations, the number of materials, value of the materials and the proposed projects.

[l] They shall have to submit the report on the work process to the relevant township administrator of the Township General Administration Department once three months.

[m] If they want to do their tasks in the travel-restricted areas, they shall have to seek and cooperate with the relevant administration body and security forces.

[n] They shall have to avoid illegal measures, discrimination and danger to the aided organization and persons.

[o] They shall have to follow the by-laws, rules, disciplines, notifications, orders, directives and procedures issued under this law.

[p] They shall have to abide by the existing laws.

[q] They shall have to avoid interference in the internal affairs of the State or politics.

Chapter 8

Taking action under the management procedures

29. If the relevant registration board shall –

[a] find things in verification over the organization which failed to abide by any duty expressed in Sub-Sections [a], [b], [c], [d], [e], [f], [g], [h], [i], [j], [k], [l], [m], [n], [o] or [p] of Section 28, it shall have to adopt a management order or more than one over the organization: -

(1) warning

(2) restriction for functions of the organization in the set period

(3) temporary suspension of the registration certificate in a set period

(4) nullifying the registration certificate

[b] find things in verification that the organization failed to follow the duty of Sub-Section (q) of Section 28, it shall have to adopt the order to nullify the registration certificate of the organization.

30.

[a] If the organization is dissatisfied with an order adopted by the relevant registration board through the management process under Section 29, the official from the dissatisfied organization or the organization shall appeal at the one-step superior registration board within 60 days starting from the date of adopting the order.

[b] The one-step superior registration board shall approve or amend or nullify the order adopted by the relevant registration board after verifying the appeal under Sub-Section (a).

[c] The order of the one-step superior registration board which decided the appeal case shall be completed.

31. If the organization is dissatisfied with an order adopted by the Union Registration Board through the management process under Section 29, the official from the dissatisfied organization or the organization shall have to apply at the Union Registration Board within 60 days stating from the date of adopting the order to review it. The order adopted by the Union Registration Board with the reviewing shall be completed.

32. The relevant registration board shall

[a] verify the undertakings of the informed organization if any government department or organization informs the organization under Section 50.

[b] adopt an order or one more order through the management process from Section 29 if undertakings of the organization should be taken action through the management process in verifying it under Sub-Section (a).

[c] coordinate with the relevant government department of organization in verifying it under Sub-Section (a) if it is found that undertakings of the organization should be taken action under any existing law.

Chapter 9 Prohibitions

33. Anyone shall not be allowed to form the organization for movements.

34. Anyone shall not be allowed to continuously stand the organization beyond the term of the registration certificate or after nullifying the registration certificate.

35. Anyone shall not be allowed to join the organization which does not have the registration certificate as a member for carrying out the tasks, giving encouragement or pretending.

36. Any registered organization shall not be allowed to use the title of the organizations for the sake of a political party or any religion or give talks or lure for any benefit beyond the undertakings of development tasks related to benefiting the society for the common interests of members.

37. Any registered organization shall not be allowed to illegally take, hand over, use and provide money, material or any aid in an illegal way or commit concealment and obstruction of justice by withholding information over an undertaking.

38. Any registered organization shall not be allowed to directly or indirectly contact or encourage the following organizations or persons-

[a] the organizations and persons who oppose the State with armed struggling line

[b] the organizations and persons declared as committing terror acts by the State

[c] the unlawful organizations and their members

39. Any registered organization shall not be allowed to directly or indirectly harm the perpetuation of State sovereign power, the prevalence of law and order, security and national unity.

Chapter 10 Penalties

40. Whoever commits the provisions in Section 33 shall, on conviction, be punished with a fine not exceeding K1 million or three-year imprisonment.

41. Whoever commits the provisions in Section 34 or 35 shall, on conviction, be punished with a fine not exceeding K500,000. The person who does not pay the fine shall be sentenced to two-year imprisonment.

42. Whatever registered organization commits the provisions in Section 36 of 37 shall, on conviction, be punished, and the official of the organization shall be punished with a fine or imprisonment or both.

43. Whatever registered organization commits the provisions in Section 38 of 39 shall, on conviction, be punished, the official of the organization shall be punished with a fine not exceeding K5 million or five-year imprisonment or both, and an order shall be adopted to nullify the organization and confiscate money and assets of the organization.

Chapter 11 General

44. The relevant registration board shall assign the relevant department to allow registration certificate for the organization, verify renewal of the registration certificate in advance to decide it under the law, demand the necessary documents, scrutinize complaints for the registered organization and carry out necessary office work. In such doing, the relevant department shall spend necessary costs.

45. The relevant department assigned under Section 44 shall –

[a] report back to the relevant registration board for taking action under the management process or the existing law if the scrutiny shows the complaint is correct.

[b] if the complaint is correct, shall report back to the relevant registration board that the complaint shall be kept as the record.

46. The registration board or the assigned government department/organization or the department shall have to inspect the registered organization, demand the documents be checked or make enquiries,

47. The term of the registration certificate shall be five years from the date the relevant registration board allowed it.

48. If the organization holding the registration certificate causes damage to the registration certificate or loses the certificate, it shall apply for a copy of the registration certificate in line with the prescribed procedure.

49. When the relevant registration board decides not to issue or does not allow the registration certificate or nullifies it, the board shall release the statement for public awareness in any way.

50. If the government department or organization which recommended the organization for the letter's application finds things in verification that the relevant organization does not follow the disciplines, shall inform the relevant registration board about taking action against that organization under the management process or under the existing law.

51. Except the organization or the organization holding the temporary registration certificate which seeks the permit to dissolve itself for any reason, the organization of which certificate was nullified shall entrust its remnant assets to the department/organization assigned by the Union government under the following ways

[a] nullifying the organization on accord of all executive committee members who have been verified and recorded under the provisions

[b] nullifying the organization demanded by more than a half of executive committee members who have been verified and recorded under the provisions

[c] adopting the order by the court to nullify the organization

52. The action taken under the management process adopted by this law shall not block the process of prosecution under the criminal or civil process. 53. Change of the title of the organization shall not convert the fundamental rights and duties of that organization.

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November 2022 (for an updated list, visit www.icj.org/commission)

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