15 December 2025

ASIA JUSTICE COALITION SUBMISSION TO THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN MYANMAR

I. Context of Submission

The Asia Justice Coalition[1] ('AJC'/'Coalition') thanks the Special Rapporteur on the situation of human rights in Myanmar for the opportunity to submit its input and observations concerning the 'accountability for grave human rights violations in Myanmar'.[2] The Coalition is a network of 12 non-governmental organizations working to improve the legal landscape in Asia to ensure justice and accountability for gross violations of international human rights law and serious violations of international humanitarian law.

This submission focuses on the Special Rapporteur's interest in the 'legal frameworks applicable to accountability for human rights violations in Myanmar, including both domestic and international legal frameworks and opportunities and obstacles relevant to such frameworks'.

Recommendations in this submission arise from and build upon a multi-year project in which the Coalition commissioned briefs on available legislation and causes of action for survivors of atrocity crimes in nine Asian jurisdictions. The jurisdictions are: Republic of Korea, Japan, Singapore, Thailand, Malaysia, Indonesia, Sri Lanka, India, and Bangladesh. This in-depth series, 'Jurisdictional Briefs for International Justice in Asia'[3], considers existing legal 'hooks' that practitioners might consider if supporting survivors of international crimes. This endeavour builds on the Coalition's scoping work on universal jurisdiction[4] and its convening series[5], bringing together a diverse group of experts to examine civil society's role in pursuing universal jurisdiction cases, universal jurisdiction and the so-called Global South, and opportunities for universal jurisdiction cases in Asia.

The aim of this submission is to assist the Special Rapporteur to further 'analyze opportunities and challenges by drawing' from our ongoing research and provide 'novel or innovative approaches to accountability for grave human rights violations that have not yet received widespread attention in the Myanmar context'.

This submission proceeds as follows: First, it presents our approach towards 'accountability', reframing it from a broader lens that encompasses other ways of addressing harm, that includes

[1] **This submission shall be attributed to the Asia Justice Coalition; its contents may not necessarily reflect the position of a specific Member and/or all Members of this Coalition.**

[2] Call for submissions: accountability for grave human rights violations in Myanmar, available at < https://www.ohchr.org/en/calls-for-input/2025/call-submissions-accountability-grave-human-rights-violations-myanmar > (last accessed 11 December 2025).

[3] For more details, see AJC's Jurisdictional Briefs for International Justice in Asia, available at < https://www.asiajusticecoalition.org/jurisdiction-briefs > (last accessed 11 December 2025).

[4] See AJC's Universal Criminal Jurisdiction Scoping Paper, available at < https://www.asiajusticecoalition.org/_files/ugd/811bc6_4c6c67c3617145b1a98067342a29964b.pdf?index=true > (last accessed 11 December 2025).

[5] For more details on AJC's universal jurisdiction convenings, see, The Asia Justice Coalition, Universal Jurisdiction Convening Series, available at < https://www.asiajusticecoalition.org/universal-jurisdiction-convening-series > (last accessed 11 December 2025).

but is not limited to international criminal justice. Second, building on our considerable research and engagement in the realm of international justice, this submission highlights specific areas and findings from our work. In particular, it addresses the possibility of expanding 'accountability' for: (i) the actual grave human rights violations; (ii) funding, enabling, or benefiting from such grave human rights violations; and (iii) failing to address the crime or perpetuation of the harm. Finally, we examine obstacles and opportunities for exploring such legal avenues.

These points build on the Special Rapporteur's reports on international arms trade networks and foreign banks facilitating the Myanmar military junta's access to weapons. Our work aims to further recognise such efforts as part of the broader push against impunity.

II. Broadening our Understanding of 'Accountability' to Address the 'Accountability Gap'

Although 'justice' and 'accountability' are interlinked concepts addressing impunity, this submission adopts a distinction identified in AJC's Women in International Justice and Accountability (WIJA) consultations.[6] For this submission, 'justice' is *broader* than 'accountability'—it is systemic, structural, holistic, and expansive. What constitutes *achieving* 'justice' is specific to the lived experience, preferences, and needs of affected individuals and communities. In contrast, 'accountability' is *narrower*—pursuing 'accountability' is about holding a specific individual or group responsible, including through formal legal processes. Making this distinction, this submission recognises that 'accountability' is a necessary, but not sufficient condition for 'justice'.

An expansive understanding of accountability is necessary to address the well-documented 'accountability gap' regarding core international crimes occurring in Myanmar. This gap is reflected in the absence of effective avenues for accountability, including structural barriers such as restrictive legal frameworks, subordination of the judiciary and the collapse of the rule of law in Myanmar post-coup, as well as the failure of the UN Security Council to refer the full situation in Myanmar to the International Criminal Court.

Beyond Myanmar, this 'accountability gap' exists because:

a) At the international level, despite ongoing proceedings in the International Court of Justice and the International Criminal Court, accountability for non-State actors for harms committed in Myanmar are limited; and
b) At the regional and domestic level, Asia has the lowest uptake of the Rome Statute, translating to a lack of enabling legal frameworks for individual criminal prosecution of atrocity crimes.

Universal criminal jurisdiction matters assist in bridging the gap, such as those in Argentina pertaining to Myanmar, but these proceedings are geographically and culturally distant. This creates significant safety and resource challenges for supporting survivor participation. It also reinforces regional political discourse that accountability for such harms is a violation of the norms of 'sovereignty and non-interference', and is therefore viewed as unattainable in the neighbourhood.

Examining forms of accountability beyond prosecution for core international crimes does not dismiss the importance of international criminal justice. However, we argue that prosecution for core international crimes is one aspect of a wider legal ecosystem that can and must be explored.

III. Opportunities to Expand 'Accountability'

[6] For more details, see The Asia Justice Coalition, Women in International Justice and Accountability (WIJA) Project, available at < https://www.asiajusticecoalition.org/bangladesh > (last accessed 11 December 2025).

Expanding our understanding of 'accountability' allows us to examine the harms caused in core international crimes in Myanmar in three broad areas: (i) legal avenues that address the actual harm caused; (ii) legal avenues that accountable those who benefit from the harms in different ways; and (iii) legal avenues that address the failure to address the crime or that allow the perpetuation of the harm, including by holding States to account.

i. **Remedy for violation/harm caused:**

Beyond criminal prosecution for the crimes themselves, this submission argues for the value of considering additional avenues within the domestic laws of Myanmar's neighbours and the broader international community, including tort claims and compensation mechanisms (either administrative or by means of constitutional provisions).

1. Mass tort

There are possibilities that must be explored regarding tort claims for atrocity crimes in the region, using domestic law in particular jurisdictions, such as Singapore and South Korea. The use of tort law as a route for affected communities to seek compensation from those who have directly or indirectly contributed to their harm is underexplored, and in particular, a focus on the tort of negligence may be especially relevant. This is because corporate liability for negligence is a well-established principle under international law.

In Singapore for instance, it may be possible to bring a tortious action under common law for atrocity crimes committed outside Singapore.[7] The actions that may be relevant would include trespasses to the person such as battery, assault and false imprisonment. When such trespass results in death, there is a right of action by statute, which may be to recover pecuniary loss.[8] Given companies under Singapore law have the capacity to sue and be sued, if there are situations where Singaporean companies have committed acts resulting in such harms, they potentially may be sued under tort law. In addition, a foreigner would have the same rights and remedies as a Singaporean citizen under the law, and even for torts committed abroad, Singaporean courts may have jurisdiction, based on particular criteria. Singaporean law can be applied subject to the 'double actionability rule' based on which the alleged wrong is actionable under Singaporean law and under the law of the country where the tort was committed. There may be limited exceptions to this rule in some circumstances. While this avenue has not been used before, there is potential for bringing such tortious claims, based on the right circumstances.

As another example from the region – in South Korea, Article 750 of the Civil Act of Korea defines torts as '[a]ny individual who causes losses or inflicts injuries on another person through an unlawful act, whether intentionally or negligently, is obligated to provide compensation for resulting damages'. These torts may occur outside the territory of Korea. Furthermore, the physical presence of the defendant is not required in the country, but must be served the legal documents properly, in line with civil procedure laws of Korea. Additional requirements for a successful claim would include a finding of jurisdiction of the Korean court (if the party or case in dispute has a 'substantial connection' to Korea).[9] The Civil Act also provides for pecuniary compensation for successful tort claims.[10] While there do not seem to be publicly available cases involving foreign

[7] For more detailed analysis of the legal environment in Singapore as relevant to atrocity crimes remedies, see, The Asia Justice Coalition, 'Jurisdictional Briefs for International Justice in Asia – Singapore' < https://www.asiajusticecoalition.org/_files/ugd/811bc6_3a0d046593894f3680822616b768c59b.pdf > (last accessed 11 December 2025).
[8] Civil Law Act 1909, Section 20.
[9] Private International Law Act, Article 2(1)(General Principles).
[10] Civil Act of Korea, Articles 751 and 752.

and illegal acts outside of Korea, the possibility of such cases being brought in the future must be explored seriously, due to the existing legal framework in place.[11]

2. *Administrative compensation*

Another underexplored legal remedy relates to administrative compensation. As an example, in Japan, the Constitution provides for the right of 'every person' to sue for redress of harm caused by unlawful acts by public officials (Article 17). This has been given effect to by the Law No. 124 of 1947 Concerning State Liability for Compensation ('State Liability Act'), by which an affected person of *any nationality* may seek compensation from the Japanese government for decisions that have related, or been associated with, harm.[12] The potential use of the State Liability Act for harm resulting from Japanese government decisions such as relating to procurement, to investment in conflict-related corporations, or the failure to regulate such corporations that then go on the take actions that are harmful, is an avenue to be explored.

ii. **Funding, enabling, or benefiting from the violation:**

1. *Trafficking*

The diversion of Myanmar's law-enforcement resources from anti-trafficking operations to the suppression of pro-democracy protests has left a huge gap in crime monitoring, while the escalating armed conflict has simultaneously undermined the rule of law and generated widespread insecurity. Consequently, thousands of the civilians, including the Rohingya, have fled in desperation to neighbouring countries. These precarious conditions have fuelled a surge in trafficking, particularly of women and children, across the region and beyond, heightening the risk of bonded labour, forced recruitment as child soldiers, domestic work, child marriages, and human and drug trafficking. Further, the Myanmar military benefits from the profits earned through trafficking and other transnational crimes, which incentivizes it to neglect the protection of the Burmese nationals, including the Rohingya, or to hold the perpetrators accountable.

However, there is considerable regional political will to address trafficking more broadly, demonstrated by Myanmar's neighbours' participation in existing legal instruments such as the 2015 ASEAN Convention Against Trafficking (ACTIP), the 2004 ASEAN Mutual Legal Assistance in Criminal Matters (MLAT), and the UN Palermo Protocol. To give effect to these commitments, emphasis can be placed on State investigation and prosecution of *their own nationals* who engage in or profit from trafficking that originates in Myanmar. Such an approach upholds States' legal obligations and focuses accountability on the actual traffickers, rather than shifting blame onto victimised or coerced communities (see e.g. prosecution for proceeds from trafficking in persons or arms in Singapore under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992).[13]

2. *Corporate Actions*

[11] For a more detailed analysis of the legal environment in South Korea in relation to atrocity crimes, see, The Asia Justice Coalition, 'Jurisdictional Briefs for International Justice in Asia – Republic of Korea' < https://www.asiajusticecoalition.org/_files/ugd/811bc6_ffbf74dc5e4042c1ba726fc96bcc8d4c.pdf > (last accessed 11 December 2025).

[12] For more, a more detailed analysis of the legal environment in Japan in relation to atrocity crimes, see, The Asia Justice Coalition, 'Jurisdictional Briefs for International Justice in Asia – Japan' < https://www.asiajusticecoalition.org/_files/ugd/811bc6_6c9f716e1f0844659440fa9acc056411.pdf> pp. 18-21 (last accessed 11 December 2025).

[13] For more, a more detailed analysis of the legal environment in Singapore in relation to atrocity crimes, see, The Asia Justice Coalition, 'Jurisdictional Briefs for International Justice in Asia – Singapore' < https://www.asiajusticecoalition.org/_files/ugd/811bc6_3a0d046593894f3680822616b768c59b.pdf> (last accessed 11 December 2025).

Actors that benefit from harms, other than those directly implicated, must also be held to account, and all potential legal actions that can be taken in this regard should be explored. For instance, corporations that trade in components of weapons or technology used by the military should be scrutinized for breaches of compliance with customs laws. A recent case from Singapore in 2023 highlights this avenue – under Section 5 of the Strategic Goods (Control) Act 2002 ('SGCA'), the export of strategic goods requires an export permit. Hydronav Services (Singapore) Pte Ltd ('Hydronav') was involved in the export of such strategic goods – the export of a multi-beam echo sounder system and an unmanned aerial vehicle – for use by the Myanmar military. Hydronav was fined over $1 million Singapore dollars for exporting strategic goods without the necessary permits, and two employees of the company were also fined.[14] Actions such as this place additional scrutiny and bring pressure to bear on companies that are benefiting from trade with the Myanmar military, directly or indirectly. In addition, it is worth pointing out that corporations may be held criminally liable in Singapore (though prosecutions are rare),[15] and that registration of a company may be refused or cancelled if the company is 'likely to be used for an unlawful purpose'.[16]

iii. **Failing to address the crime or perpetuation of the harm:**

While Asian States have ratified only a limited human rights and accountability treaties, it is worthwhile to pursue State responsibility under international law wherever possible.

One such treaty is the Convention Against Torture (CAT)[17], which could be pressed upon States to fulfil specific treaty obligations despite limitations in application. Within the CAT, the principle of *aut dedere aut judicare* (or the obligation to extradite or prosecute domestically) is particularly important if alleged perpetrators of torture *within Myanmar* travel to other jurisdictions in the region. This may place States that fail to fully domesticate treaty obligations at justiciable odds with their legal responsibilities under international law.[18] Other treaties that enshrine *aut dedere aut judicare* obligations relevant to the region include the 1948 Genocide Convention[19] and the 1949 Geneva Conventions.[20] The Draft Articles on Prevention and Punishment of Crimes Against Humanity[21], which will be negotiated under the aegis of the UN in 2028-2029, also provides the *aut dedere aut judicare* obligation and bridge the gap for accountability in the region.

IV. Obstacles and Opportunities in Pursuing Expanded Accountability

AJC observes that a key obstacle to operationalising this expanded understanding of accountability is the persistence of a 'silo effect' reinforced by a 'top-down' model of knowledge production and

[14] 'The Singapore Customs, 'Singapore company, its director and sales manager fined over $1.1 million for exporting strategic goods without requisite permits' < https://www.customs.gov.sg/files/2023-9-21-media-release.pdf > (last accessed 11 December 2025).

[15] Singapore Penal Code, Section 11.

[16] Companies Act 1967, Section 20(2).

[17] See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

[18] See Constitutional Court en banc Decision, Case No 2016 Hun-Ma1034 decided on September 30, 2021 (300 KCCR, 1200) and Tae Hyun Choi & Sangkul Kim, 'Nationalized International Criminal Law: Genocidal Intent, Command Responsibility and an Overview of the South Korean Implementing Legislation of the ICC Statute' Michigan State Journal of International Law 19 (2011) 589-637 quoted in Jurisdictional Brief on South Korea, p. 6.

[19] See Manzoor Hasan, Syed Mansoob Murshed, and Priya Pillai (ed), *The Rohingya Crisis: Humanitarian and Legal Approaches*, Routledge (2023).

[20] On grave breaches of the Geneva Convention, see Aakash Chandran and Jennifer Keene-McCann, 'Centering Accountability in Asia: Universal Jurisdiction, Grave Breaches, and Cautious Optimism', *Opinio Juris* available at < https://opiniojuris.org/2022/08/31/symposium-on-myanmar-and-international-indifference-rethinking-accountability-centering-accountability-in-asia-universal-jurisdiction-grave-breaches-and-cautious-optimism/ > (last accessed on 11 December 2025).

[21] International Law Commission, Draft Articles on Prevention and Punishment of Crimes Against Humanity (2019), Draft Article 10, available at < https://legal.un.org/ilc/texts/instruments/english/draft_articles/7_7_2019.pdf > (last accessed 11 December 2025)

practice dissemination. This model privileges 'international' experts over 'local', sidelining or ignoring practitioners who possess critical contextual knowledge, cultural competence, and practical experience. The problem is furthered by fragmented and uncoordinated stakeholder engagement.

This 'silo effect'—observed in many professional contexts—refers to the *de facto* separation of advocates, practitioners, and thinkers working towards the same cause. It is driven in part by time and funding constraints, as well as because of limited cross-disciplinary and cross-jurisdictional learning. In this context, it contributes to the 'accountability gap' by preventing practitioners from building on one another's work, resulting in duplicative research, competing advocacy initiatives, inefficient allocation of resources and lost opportunities for legal challenges.

This dynamic is particularly evidence in the divide between practitioners who 'work on Myanmar' (often remotely) and domestic legal practitioners in neighbouring States. While many domestic lawyers are actively engaged in civil, criminal, constitutional, administrative, or corporate law—often tangentially connected to human rights causes, they likely do not consider themselves as 'human rights lawyers'. This self-categorization, shaped by systemic and professional barriers, narrows the human rights discourse and results in a compartmentalized approach to accountability. Bridging this divide is essential to mobilizing domestic legal expertise toward addressing harms arising from Myanmar.

To offset the fragmentation and facilitate horizontal collaboration, AJC is working with practitioners across the region by holding closed-door meetings and discussions around universal jurisdiction[22] and multilateral treaties such as the Ljubljana–The Hague Mutual Legal Assistance Treaty[23] and the proposed Crimes Against Humanity Convention.[24] AJC has also benefitted from the expertise of the regional and domestic lawyers to produce jurisdictional briefs focusing on relevant civil and criminal causes of action across Asia, and those related to non-refoulement.

AJC recognizes that development of a community of practice is crucial for closing the accountability gap. Breaking down the 'silos' and fostering collaboration across contexts, legal jurisdictions, could facilitate non-segmented learnings and sharing of expertise. When strategies are made *relevant* to domestic practitioners, they could substantially strengthen the fight against impunity in the region.

In other words, the diverse legal and policy pathways already exist in Asia; the task now is to mobilize legal practitioners, civil society to popularize and widen these avenues for redress.

AJC further observes that that the region is not hostile to accountability per se, but that accountability is often narrowly framed as an international or multilateral undertaking, rather than as something that can be pursued through domestic legal systems. This framing reinforces existing silos and contributes to the underutilization of domestic legal avenues that could otherwise be mobilized to address harms arising in Myanmar.

The Values and Interest study undertaken by AJC and the Centre for Peace and Justice, BRAC University, examined the 'political will' for accountability in Bangladesh, Indonesia, and Malaysia

[22] For more details on AJC's universal jurisdiction convenings, see, The Asia Justice Coalition, Universal Jurisdiction Convening Series, available at < https://www.asiajusticecoalition.org/universal-jurisdiction-convening-series > (last accessed 11 December 2025).

[23] For more details on AJC's work on the MLA Convention, see, The Asia Justice Coalition, Convention on International Cooperation in the Investigation and Prosecution of Genocide, Crimes against Humanity, War Crimes and other International Crimes, available at < https://www.asiajusticecoalition.org/ljubljana-the-hague-mla-treaty > (last accessed 11 December 2025).

[24] For more details on AJC's work on the CAH Convention, see, The Asia Justice Coalition, Crimes Against Humanity Convention, available at < https://www.asiajusticecoalition.org/crimesagainsthumanityconvention > (last accessed 11 December 2025).

and supports this assessment. The study found that accountability for international crimes—atrocity crimes committed outside a State's jurisdiction and against non-citizens—is widely treated as an international issue. In Bangladesh and Malaysia, accountability is not publicly articulated as a matter for domestic courts, even where relevant legal frameworks exist.

This tendency reflects the continued influence of 'sovereignty' and 'non-interference' norms, but it does not indicate an absence of political will. Rather, States appear more willing to engage with accountability when it is framed as part of a shared international responsibility or pursued through indirect or multilateral channels.[25] This cautious positioning, while politically intelligible, has the effect of sidelining domestic legal tools and domestic legal practitioners who could otherwise play a meaningful role in accountability efforts.

Reframing accountability to include domestic legal responses—alongside international mechanisms—would align more closely with existing State practice and regional commitments, while also creating space to activate civil, administrative, constitutional, corporate, and criminal law expertise within neighbouring jurisdictions. Doing so would help bridge the gap between international accountability discourse and the practical legal pathways already available in the region.

V. Conclusion

In conclusion, we urge a broader conception and interpretation of 'accountability' – one that extends beyond international criminal accountability. The harms suffered by the victims and survivors of atrocity crimes in Myanmar, including the Rohingya, calls for comprehensive documentation and the expansion of remedial avenues. These avenues could be explored by building a community of practice with domestic practitioners and reframing accountability to include domestic legal responses alongside international mechanisms.

We thank the Special Rapporteur for the opportunity to contribute towards his conference-room paper focused on addressing accountability in Myanmar. The Asia Justice Coalition stands ready and looks forward to continuing this discussion and engagement with the Special Rapporteur.

[25] For more, see, The Asia Justice Coalition, Exploring State Values and Interests in Pursuit of International Justice in Asia, available at < https://www.asiajusticecoalition.org/state-values-and-interests > (last accessed 11 December 2025).