

# UN review of “terrorism” should recognise Myanmar’s experience of State terror

Submission to the UN Special Rapporteur on Counter-Terrorism – December 2025

## Introduction

The military in Myanmar is constructing a dictatorship using counter-terrorism laws as its foundation. This report to the UN call for submissions illustrates how vague definitions of “terrorism” are weaponised to justify atrocity crimes against the opposition. Myanmar serves as a stark warning. When definitions of terrorism are overbroad, they become tools for authoritarian regimes to criminalise legitimate dissent. The UN Special Rapporteur must establish precise guardrails to prevent such abuse and ensure that counter-terrorism frameworks protect human rights rather than destroy them.

## Myanmar’s legal context

Myanmar's legal framework for counter-terrorism relies primarily on the Counter Terrorism Law (2014), which defines acts of terrorism broadly to target political opposition. Beyond standard provisions, Article 3 includes vague clauses criminalising acts damaging “public security” or infrastructure, and acts causing “public fear” to coerce the government.

The military's August 2021 amendment to Article 3(b)(15) introduced offences for “exhortation, persuasion, propaganda or recruitment”. This provision expands criminal liability to non-violent actions, including social media posts, speeches, and political organising.

Additionally, Article 407 of the 2008 Constitution empowers the Union Election Commission to dissolve political parties that indirectly contact or abet associations determined to have committed “terrorist acts”. This serves as the constitutional mechanism for dismantling opposition parties following their executive designation as terrorist organisations.

## Risks of overbroad definitions

The experience in Myanmar demonstrates that an overbroad definition of terrorism acts as a primary instrument of political persecution. By expanding the definition to include dissent, the State

empowers itself to criminalise the entire population, erasing distinctions between peaceful activism and violent insurgency.

The Counter-Terrorism Law (2014) covers non-violent democratic expression, such as banging pots and pans, treating them as capital offences. This has led to the sentencing of at least 33 journalists to a combined total of nearly 300 years in prison, with 25 languishing in prison at the time of submission. Teachers, trade unions, and CSOs are specifically targeted as “terrorist fronts” simply for organising strikes or supporting the Civil Disobedience Movement.

This definition effectively suspends the rule of law, justifying closed military tribunals where the [burden of proof is reversed and legal counsel is denied](#). The “terrorist” designation strips individuals of human rights protections, facilitating arbitrary arrest, torture, and death sentences. To prevent the destruction of political opposition, the international definition must be extremely narrow and explicitly exclude non-violent conduct.

## Defining the physical act of terrorism (*actus reus*)

The *actus reus* (guilty act) of terrorism must be strictly limited to physical acts of violence that cause death or serious bodily injury to civilians.

The definition must focus on the act itself, not the status of the actor or the content of their speech. In Myanmar, the military has decoupled terrorism from physical violence. A labour strike that disrupts a factory, a Facebook post that criticises the coup, or a donation to a humanitarian fund are all prosecuted as “terrorism” because the legal definition includes vague concepts like “disturbing public security” or “exhortation”.

To restore the integrity of the term, the definition must explicitly exclude:

**Speech acts and non-lethal support:** International law must exclude speech acts such as “propaganda”, “exhortation”, and “incitement”. These should be addressed under ordinary criminal law with strict free speech safeguards. Furthermore, the definition must avoid criminalising non-lethal material support. The current loose definition in Myanmar traps ordinary people by criminalising small financial transfers to families of political prisoners.

**Endangerment and psychological harm:** The definition must exclude acts that merely endanger or create a risk to life, as well as mental or psychological harm. In Myanmar, the military uses the vague concept of “causing fear” (mental harm) or “disturbing security” (creating risk) to detain protesters who have committed no physical violence. Allowing these non-physical thresholds enables pre-crime detention based on the State's subjective anxiety rather than objective harm.

**Infrastructure and digital systems:** Expanding the definition to include damage to property, critical infrastructure or electronic systems poses a severe threat to human rights. In Myanmar, the military views State administration as “critical infrastructure,” labelling doctors and railway workers on strike as terrorists for disrupting the national mechanism. Furthermore, the military categorises efforts to bypass censorship (like using VPNs) as attacks on electronic stability. To protect strikes and digital resistance, the definition must exclude property damage and digital disruption absent intent to cause physical harm.

## Defining the mental element (*mens rea*)

International law must specifically define the *mens rea* (guilt mind) of terrorism rather than leaving it to national jurisdictions. As the experience in Myanmar demonstrates, when national authorities are left to define intent, they lower the threshold to include mere knowledge, recklessness, or broad political alignment, thereby criminalising the entire opposition.

**Specific intent vs. recklessness:** The definition should require that the harmful outcome be deliberate. It is not sufficient if the outcome would merely occur in the ordinary course of events or if the act was reckless. This distinction is vital for the protection of humanitarian actors and civil society.

In Myanmar, a doctor treating a wounded patient knows that, in the ordinary course of events, that patient may return to fight against the military. If the standard is merely knowledge or recklessness, the doctor can be jailed as a terrorist. However, if the standard requires the deliberate intent to cause death or injury to civilians, the doctor is protected, as their intent is solely to save a life.

**Imputed intent:** The definition must strictly prohibit imputed intent, where the State attributes terrorist intent to an individual based on their political beliefs or associations. The military routinely claims that anyone demanding federal democracy “intends” to destabilise the State and therefore “intends” to cause terror.

## Specific intent to terrorise

Specific intent refers to the particular purpose or goal behind a criminal act, such as compelling a government or intimidating a population. In Myanmar, these elements are routinely manipulated to criminalise legitimate political pressure.

**Compelling a government:** The element of compelling a government to do or refrain from doing something is dangerous in contexts where the “government” is an illegal military that has perpetrated atrocity crimes. Since the 2021 coup, the military has branded itself the government despite lacking legitimacy. The pro-democracy movement aims to compel the military to step down. Under the current standard definition, pro-democracy actors are labelled “terrorists” for trying to force an illegal usurper to relinquish power. This creates a paradox where defenders of democracy are labelled “terrorists” by the destroyers of democracy.

**Targeting groups:** Regarding the reference to a group of persons, the definition should explicitly clarify that civil society organisations, trade unions, and religious associations are protected entities, not terrorist targets. In Myanmar, the military targets such groups, claiming they are “terrorist organisations” because they organise strikes (trade unions) or provide aid (religious associations). The definition must ensure that targeting the public is criminalised, but organising within the public is protected.

## Political motive for terror

Motive refers to the underlying reason for an act, such as political, religious or ideological goals. In Myanmar, defining terrorism by its motive allows the military to penalise the political objectives of the opposition rather than their actions.

**The danger of political motive:** Requiring a political, ideological, or religious purpose is often redundant and harmful. In Myanmar, the military classifies all demands for federal democracy as a “political purpose” designed to destabilise the State. The definition should focus solely on the intent to terrorise the population through violence, rather than the political objectives of the actors. This prevents regimes from criminalising political objectives they simply dislike.

**Distinguishing organised crime:** While motive can help distinguish terrorism from profit-oriented organised crime, this distinction should not come at the cost of criminalising political dissent. If a motive requirement is retained, it must be strictly defined to exclude advocacy for political change, self-determination, or restoration of democratic rule. Without this safeguard, the political purpose element becomes a tool for the State to outlaw its opposition's ideology rather than its violent methods.

## Exceptions to definition of terrorism

Exceptions and exclusions serve as vital circuit breakers in counter-terrorism law, preventing the definition from expanding to cover legitimate social and political activities. In Myanmar, the absence of these safeguards has allowed the military to criminalise the entire civil society ecosystem.

**Acts of protest:** The definition must explicitly exclude acts of protest that do not cause intentional death or serious injury. Without this exclusion, regimes like the military conflate non-violent assembly with terrorism. Any definition must robustly protect the right to assemble, even when that assembly is vociferously opposed to the State or involves civil disobedience.

**The provision of humanitarian assistance:** A mandatory humanitarian exemption is vital. The military’s “Four Cuts” strategy actively criminalises aid as “funding terrorism,” leading to the arrest of aid workers for supplying food and medicine to conflict-affected areas. The military’s criminalisation of aid was clearly seen following Myanmar’s [recent earthquake](#). This exemption is non-negotiable to ensure counter-terrorism laws do not become tools of starvation and deprivation.

**Self-determination and resistance:** The definition must recognise the context of resistance against illegitimate seizures of power. Resisting an illegal military coup acts in defence of the constitution and human rights. International law must not allow usurpers like the military to define those resisting its illegal rule as “terrorists”.

## Addressing State terrorism

Any definition of terrorism must include State actors. In Myanmar, the State apparatus is the primary perpetrator of terror, using violence to coerce the population.

**Exclusion of armed forces:** The definition must not exclude the activities of armed forces in armed conflict or State military forces in peacetime if those activities target civilians. The military regularly uses “counter-insurgency” as a pretext to bomb schools, burn villages, and execute civilians. If these acts are excluded from the definition of terrorism simply because they are committed by uniformed soldiers, the definition becomes a tool of impunity. International law must clarify that State forces are liable for terrorism when they utilise violence against non-combatants to spread fear.

**Functional immunities:** Functional immunities for State officials must be explicitly stripped in cases of terrorism. The individual architects of the military’s “kill chain”, who order airstrikes to terrorise the population, must not be shielded by their official status. Terrorism, like torture and genocide, must be recognised as a crime for which no official immunity applies.

**Criminal law context:** The definition must apply in a criminal law context to individuals within the State apparatus, not just under the law of State responsibility. While State responsibility allows for sanctions or reparations against the country, it is insufficient to deter individual military commanders. Individual criminal liability is essential to hold specific officers accountable for using terror as a strategy of governance.

## Defining a terrorist organisation

International definitions of “terrorist organisations” must be strictly regulated to prevent the tool of designation from becoming a weapon of collective punishment. The military has designated legitimate bodies including the National Unity Government (NUG), the Committee Representing Pyidaungsu Hluttaw (CRPH), and the People's Defence Forces (PDF) as terrorist organisations, effectively criminalising the concept of democracy itself.

**Defining “organisation”:** The definition of an organisation must require a formalised command structure and operational capability. In Myanmar, the military is likely using network analysis to map loose social connections, identifying dissident networks based on Facebook interactions or casual associations. An international definition must clarify that a loose network of like-minded individuals, or a “movement” without central command, does not constitute an organisation.

**Articulating the link:** To list an organisation, there must be a direct, material link to the commission of terrorist acts, as defined by lethal violence against civilians. Crucially, the link between the organisation and the individual must be active participation. The concept of associated persons or affiliates found in Myanmar's regulations is dangerously overbroad, trapping family members and donors who have no operational role in violence.

**Due process in listing:** The power to designate an organisation must be subject to judicial review. In Myanmar, designation is an executive order by the military with no appeal mechanism. International law must mandate that any national listing process includes the right to challenge the evidence, preventing regimes from silencing opposition parties by administrative fiat.

## The problem with “violent extremism”

“Violent extremism” and “extremism” are incapable of adequate legal definition in a manner consistent with international human rights law and should not be defined in international treaties.

**Inherent vagueness:** The terms are subjective and inherently political. In Myanmar, the military defines “extremism” as any ideology that challenges the status quo. Consequently, holding a view contrary to the military, such as supporting federal democracy, is termed “extremist.”

**Risk to human rights:** Codifying these terms provides a veneer of legality to political repression. It lowers the threshold of liability from acts of violence (terrorism) to thoughts, beliefs, or non-violent advocacy (extremism). Attempting to define “violent extremism” invites States to criminalise the precursors to action, effectively policing thought and speech.

**Existing frameworks:** International law already provides a robust framework for incitement to violence under the ICCPR and the Rabat Plan of Action. Creating a new, vaguer category of “extremism” adds no legal value but creates immense risk for minorities and dissidents.

## Conclusion

The crisis in Myanmar is not just a domestic legal failure. It is a warning of how international norms can be weaponised. The definitions currently under debate are not abstract concepts. For the people of Myanmar, they are the difference between life and death. An overbroad definition provides the architecture for dictatorship. It allows a military regime to repress its people and cloak atrocity crimes in the language of legality.

## Recommendations

- Define terrorism strictly by limiting it to acts of physical violence against civilians intended to cause death or serious bodily injury.
- Require specific intent by mandating a high threshold to prevent the criminalisation of recklessness or unknowing support.
- Exclude infrastructure and digital acts to protect the right to strike and digital resistance.
- Protect humanitarian aid with a mandatory exemption for medical care and non-lethal support in conflict zones.
- Remove political intent requirements to prevent the criminalisation of pro-democracy movements.
- Include State actors to ensure the definition encompasses military forces using terror tactics against their own populations.
- Prohibit guilt by association by requiring a direct material link to violence for any organisational designation.



- Reject definitions of extremism to prevent its abuse as a tool for political repression.