



“Time is not on our side”:

**The failed international response
to the Myanmar coup**

Final report by the International
Parliamentary Inquiry into the global
response to the crisis in Myanmar (IPI)

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Cover page: Demonstrators march during an anti-military coup protest in Mandalay, Myanmar, 18 April 2021. According to a Thai foreign ministry spokesman, Myanmar junta chief Min Aung Hlaing will attend an Association of Southeast Asian Nations (ASEAN) summit in Indonesia on 24 April 2021. It is his first trip outside the country since the military seized power on 01 February 2021, where security forces have killed at least 728 people since the coup started.

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ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS

APHR is a regional network of current and former parliamentarians who use their unique positions to advance human rights and democracy in Southeast Asia. We seek to help create a region where people can express themselves without fear, live free from all forms of discrimination and violence, and where development takes place with human rights at the forefront.

Our members use their mandate to advocate for human rights inside and outside of parliaments, regionally and globally. They work closely with civil society, conduct fact-finding missions, and publish recommendations and opinions on important issues affecting the region.

APHR was born out of the recognition that human rights issues in Southeast Asia are interconnected, and from the desire of progressive legislators to work together across borders to promote and protect human rights.

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Few countries have suffered so much hardship as Myanmar. Throughout its recent history, Myanmar has suffered endless civil wars, poverty and the tyrannical rule of a military more dedicated to defending its own interests and imposing by force, on an extraordinarily diverse society, an ethnocentric idea of national unity than to protecting its own people.

The latest episode in a long string of tragedies started on 1 February 2021, when, after a decade of democratic reforms that offered some glimmers of hope for the future development of the country, the military asserted itself again with a senseless coup d'état that would throw the country into chaos over the coming months. The great mass of the Myanmar population has valiantly opposed the coup from the very beginning with strikes and peaceful demonstrations organized by a civil disobedience movement (CDM) which emerged spontaneously out of the burning desire of the Myanmar people to prevent at all costs a return to military rule.

At first, most of the global community seemed to take the side of the people against the junta established by Senior General Min Aung Hlaing, the Commander in Chief of the Myanmar armed forces. As the military launched a brutal campaign of repression, many government and international institutions issued statements of concern condemning the coup and the violence, but little else.

The international attention on Myanmar soon faded away, as crises elsewhere displaced it from the headlines. Policy-makers throughout the world seemed to forget about the Myanmar people's plight. That neglect was taking place as the situation in Myanmar only kept worsening. Since the coup, the military has steadily ramped up its repression, committing all kinds of atrocities against the Myanmar people in order to consolidate its power. Failing, however, to do so, the junta has merely accomplished to drive the country into a civil war that is devastating the economy, displacing hundreds of thousands, throwing millions into poverty, and generating a humanitarian crisis of enormous proportions.

We, eight Parliamentarians from seven countries all over the world who had been observing with concern the worsening situation in Myanmar, decided that more needed to be done. At the initiative of ASEAN Parliamentarians for Human Rights (APHR), we formed an international coalition to launch the International Parliamentary Inquiry (IPI) into the global response to the crisis in Myanmar. Our aim has been to find out how and why the global community has failed to address the crisis, with the view to offering recommendations on what it should do.

The result of such work is this report, drafted to persuade the international community to substantially increase their support for the Myanmar people. We are convinced that such support is not only necessary as a consequence of the crucial geopolitical importance of Myanmar, but also because, as authoritarianism seems to be on the ascendance throughout the world, the struggle of the Myanmar people for democracy is also the struggle of all people who love democracy and justice everywhere.

A common theme often repeated by our witnesses has been that, in the face of such a horrible tragedy, the countries and international institutions that claim to support democracy in Myanmar have reacted with a timidity that puts in serious doubt their alleged commitment to the country.

The inquiry has also given us a better understanding of the political complexities of Myanmar, particularly its multiple ethnic conflicts, which are crucial to understand the prominent role of the military, and the true extent of the crimes against humanity committed by the military. But the inquiry has also shown us the determination and courage of those fighting for democracy in Myanmar; the heroism of civil society organizations, most often led by admirably resilient women, working to tackle the humanitarian crisis; and the commitment and selflessness of those activists, particularly the youth, who refuse to give up in working to realize their dream of a better and more just Myanmar.

We are deeply grateful for their testimonies and invaluable help in conducting this inquiry. We are also firmly convinced that the future of Myanmar belongs to all of them, and to millions of Myanmar people of all ethnicities who fight everyday for their rights in many different ways, many of them unacknowledged. They are the ones who can break the tragic cycle of violence that has brought so much misery and misfortune to the country, not a military that is acting as a brutal force of occupation in its own territory. But they need our help. Let's not fail them again.



Heidi Hautala
Vice-President of the European Parliament
Chairperson of the International Parliamentary Inquiry (IPI) on Myanmar

Introduction by the APHR Chairperson

ASEAN Parliamentarians for Human Rights (APHR) has always been particularly concerned about Myanmar. In fact, APHR was established in 2013 out of a group of parliamentarians from the region who at first gathered to promote the democratization of Myanmar. Ideals such as democracy, human rights, good governance and rule of law have always been at the core of our endeavors, and we worked first to realize them in Myanmar, before expanding to the whole of Southeast Asia.

The coup staged by the Myanmar military on 1 February 2022, hours before the new Parliament was about to convene, came as a shock to many in Southeast Asia and beyond, including us at APHR. We shuddered at the black period that this illegal and most senseless coup was ushering.

Now, the widespread and courageous opposition to the coup and the return to military rule has proved once again that the vast majority of the Myanmar people unmistakably want democracy. Popular resistance has managed to prevent Min Aung Hlaing from taking over the country, and it can be said that the coup has effectively failed. But the Myanmar military has unleashed its fury on the opposition, and indeed on the population at large, while the country descends into chaos.

The direct culprits of this situation are Min Aung Hlaing and his henchmen, who staged an illegal coup d'état for no other reason than to increase their power and protect their interests. But the tragedy in Myanmar is also the consequence of a collective failure among international actors.

For us, Southeast Asian parliamentarians, it is particularly worrying that foreign governments and international institutions decided early on to let the Association of Southeast Asian Nations (ASEAN), of which Myanmar is a member, to lead the way in solving the crisis. In April 2021, the regional group signed its Five Point Consensus on Myanmar, as a pathway to find a peaceful solution. But it soon became evident that the agreement was going nowhere as the junta had no intention to comply with it, the agreement lacked enforcement mechanisms, and an ASEAN riven by divisions was not up to the task. Yet most of the international community continues to support a demonstrably failed initiative and keeps hiding behind ASEAN.

It is within this context, of deepening crisis in Myanmar and international apathy, that APHR decided to launch the International Parliamentary Inquiry (IPI) into the global response to the crisis in the country. And we were lucky enough to find eight like-minded lawmakers from seven countries in four continents that share our concerns about Myanmar.

Over a period of four months, we have organized a series of online oral hearings with dozens of stakeholders; issued a call for written submissions; and organized a Fact-Finding Mission with some of the IPI Committee Members to the Thai-Myanmar border, in order to meet representatives from civil society and ethnic organizations in person. In September, we traveled to the United States to present our initial findings to UN officials, US State Department officials, members of Congress and senators, and to get a better sense of how the crisis in Myanmar is perceived among decision-makers at the UN and the US government.

This is the world's first truly international parliamentary inquiry, and we hope it sets a precedent of global cooperation in addressing issues that ultimately affect us all. The final result of our endeavors is this report, whose recommendations our Committee Members will bring to their parliaments. We at APCR are deeply honored and grateful to them. It is not easy to organize an initiative of this magnitude with representatives from countries as diverse as Finland, The Gambia, Indonesia, Malaysia, South Africa, Thailand and the United States. Their commitment and flexibility have made this Inquiry possible.

We would also like to thank the donors that funded this project, and the secretariat staff at APCR, always working tirelessly behind the scenes to make things happen.

Special thanks are due to the participants in our oral hearings and those individuals and organizations who sent their written submissions. Many of those participants are Myanmar nationals who tirelessly work for democracy in their country, and deserve all the support they can get. The global community should put all its efforts in helping them, and many others in their country, to succeed in forging a new Myanmar, free from military tyranny.



Charles Santiago
ASEAN Parliamentarians for Human Rights (APHR) Chairperson
Member of Parliament from Malaysia

On the International Parliamentary Inquiry (IPI) into the global response to the crisis in Myanmar

ASEAN Parliamentarians for Human Rights (APHR) launched in June 2022 the International Parliamentary Inquiry (IPI) into the global response to the crisis in Myanmar with the purpose of providing strategic, principled, achievable, and timebound policy recommendations to international actors so that they can better work towards an end to the violence, and a return to a path towards democracy. In order to do so, we have conducted an assessment of the response of international actors.

The IPI is formed by a Committee of Parliamentarians from seven different countries in Africa, the Americas, Asia, and Europe who are appalled by the situation in Myanmar since the military takeover. These are the members of the IPI Committee:

IPI Chair: **Hon. Heidi Hautala** – Vice-President of the European Parliament.

Hon. Mercy Chriesty Barends – Member of the House of Representatives in Indonesia, Board Member of APHR.

Hon. Taufik Basari – Member of the House of Representatives in Indonesia.

Hon. Amadou Camara – Member of the Gambia National Assembly, Steering Committee Member of the African Parliamentary Association on Human Rights (AfriPAHR).

Hon. Nqabayomzi Kwankwa – Member of Parliament in the National Assembly of South Africa, Chairperson of the AfriPAHR.

Hon. Ilhan Omar – Representative of the United States Congress.

Hon. Nitipon Piwmow – Member of Parliament in Thailand.

Hon. Charles Santiago – Member of Parliament in Malaysia, Chairperson of APHR.

The IPI Committee has held a total of six public oral online hearings, as well as several private hearings, with dozens of stakeholders and experts, and has received dozens of written submissions. Two Committee members – Hon. Charles Santiago, and Hon. Mercy Barends – conducted a fact-finding mission to the Thai-Myanmar border in August, where they were accompanied by APHR Board Member and former member of the House of Representatives of the Philippines, Tom Villarin.

This report draws from these oral hearings, the written submissions received, and an array of secondary sources, from books to media and human rights reports. APHR has made all hearings and written submissions publicly available, unless explicitly asked not to due to security concerns. It has been drafted by Olof Blomqvist, Oren Samet and Carlos Sardiña Galache under the guidance of the IPI Committee.

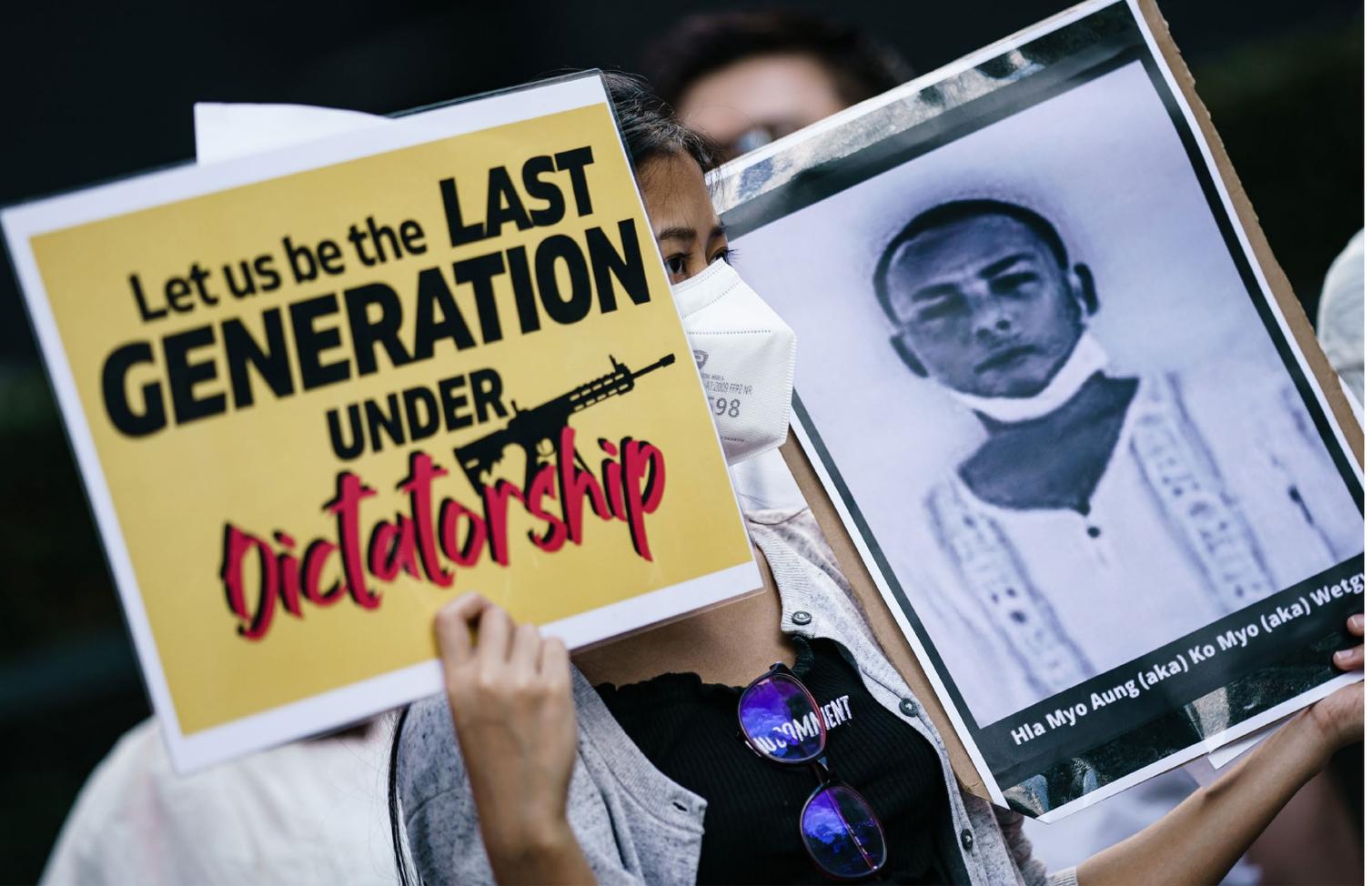


Photo: A protester holds a placard reading 'Let us be the last generation under dictatorship' (L) next to a picture of Hla Myo Aung, one of four democracy activists, recently executed by Myanmar's military government during a protest on the day of the anniversary of the '8888 Uprising' in front of the Myanmar embassy in Berlin, Germany, 08 August 2022. © EPA-EFE

Executive Summary

Since the Myanmar military staged a coup on 1 February 2021, the situation in the country has steadily deteriorated. The military junta, led by Senior General Min Aung Hlaing, has waged a brutal war of attrition against its own people, committing countless atrocities and ruining the country's economy. Military forces have killed at least 2,371 people and displaced hundreds of thousands, bringing the total number of internally displaced persons in the country to over 1.3 million. The junta has also jailed more than 15,000 political prisoners and made routine use of torture against those arrested, all while launching a far-reaching crackdown on freedoms of expression and association, including an intense repression of independent media and civil society.

Nevertheless, the people of Myanmar have resisted. The massive peaceful demonstrations in the coup's immediate aftermath, as well as the Civil Disobedience Movement (CDM) that saw hundreds of thousands join a general strike, including throughout the bureaucracy, demonstrated the population's overwhelming rejection of a return to military rule. The coup has also inspired an unprecedented level of unity among those opposed to the military, including across ethnic lines.

In April 2021, the National Unity Government (NUG) of Myanmar was formed, bringing together parliamentarians ousted in the coup, ethnic minority representatives and civil society actors. The NUG rightly claims a mandate as the legitimate representative of the Myanmar people. It enjoys widespread popular legitimacy and support, especially in the

country's heartland, and represents the most inclusive government in Myanmar's history. The NUG has expressed a commitment to establishing a new constitution and a genuine federal democracy in Myanmar, which would represent a major step toward fulfilling the aspirations for autonomy of the country's ethnic minorities.

The junta's attempts to subdue the resistance with extreme violence failed dramatically, and only served to exacerbate existing tensions and drive some anti-junta activists to turn to armed struggle to defend themselves. Anti-military militia groups known as people's defense forces (PDFs)—some under the command of the NUG—have been established across the country, including in areas that had been relatively peaceful before. The coup has also triggered a new wave of violence between the military and ethnic armed organizations (EAOs), which have been fighting for autonomy for decades in the country's borderlands. Some of these EAOs, such as the armed wings of the Karen National Union (KNU) and the Kachin Independence Organization (KIO), have allied themselves with the NUG. Not all EAOs have formally joined the anti-military struggle, as Myanmar's political landscape remains extremely complex and fractured.

The escalating violence has precipitated the near collapse of the economy and an unprecedented humanitarian crisis. Myanmar's GDP has dropped 13 percent since 2019, and 40 percent of the country's population now lives below the national poverty line. Despite the increased needs, humanitarian actors have struggled to reach vulnerable and remote populations, as the military has placed severe limitations on humanitarian access.

The international community has proven largely unable to respond effectively to the crisis. The junta's international allies—most prominently Russia and China—have emerged as steadfast and uncritical supporters, supplying both weapons and legitimacy to an otherwise isolated regime. Foreign governments that profess support for democracy have not backed up their rhetoric with the same force of action, however. While a number of countries have imposed sanctions targeting junta leaders and their personal assets, these efforts remain uncoordinated and have failed to successfully target key revenue-generating entities, such as the Myanmar Oil and Gas Enterprise (MOGE). The United Nations has been particularly hampered by internal divisions and has proved to be unable to project influence. The NUG has attracted supporters globally and continues to occupy Myanmar's seat at the UN, but most governments have been hesitant to formally recognize it, despite calls from parliaments and advocates to do so.

The Association of Southeast Asian Nations (ASEAN), of which Myanmar is a member, has been similarly plagued by internal divisions and unable to respond effectively. The bloc's "Five-Point Consensus," signed in April 2021 and aimed at addressing the crisis, has utterly failed, hampered by a lack of will on the part of all ASEAN member-states to enforce it, and a military leadership in Myanmar that did not show any intention of implementing it from the beginning. While some member-states, such as Malaysia, have called for a new approach, including direct engagement with the NUG and other pro-democracy forces, others, including Thailand or Cambodia, have persisted as junta enablers.

As Myanmar slides into civil war, the possibility for a negotiated solution to the conflict has all but closed completely. The dialogue prescribed in ASEAN's Five-Point Consensus is impossible under the current conditions. Responsibility lies with the junta, which has shown no willingness to engage with those who oppose it and has instead relied exclusively on brute force in its attempt to stamp out any opposition. The execution of four political

prisoners in July 2022, the country's first judicial execution since 1988, highlighted both the military's brutality and its complete disinterest in negotiations. The coup brought the previous power-sharing arrangement with the civilian leadership to an unceremonious end. Now the vast majority of the Myanmar people have expressed a clear desire not to return to the *status quo ante*.

Nineteen months after the coup, the military junta has been unable to consolidate its power. Wide swaths of Myanmar's territory are contested between the military and forces associated with the NUG or EAOs, and it can be stated that the coup has failed. In areas along the Thai border, EAOs like the KNU and the Karenni National Progressive Party (KNPP) are working together, providing basic services to the population, and showing what a future Myanmar, in which different groups cooperate rather than fight amongst themselves, could look like if the country is able to shake off the tyranny of the military.

As Myanmar's future hangs in the balance, external pressure on the military and support for the resistance may well be the deciding factor in the course of the conflict. The international community can, and should, do more to help the Myanmar people to send the military to the barracks and establish a federal democracy. It should start with substantially increasing its efforts to address the worsening humanitarian crisis, intensifying its pressure on the illegal junta through coordinated sanctions and arms embargoes, and recognizing the NUG as the legitimate authority in Myanmar. The NUG, as well as aligned EAOs, should be provided with funding and capacity building programmes on governance and federalism. But action should be taken urgently. As Khin Ohmar, Myanmar activist and Chair of Progressive Voice said during one of the IPI oral hearings, "time is not our side".



Photo: Myanmar soldiers march during a parade commemorating the 77th Armed Forces Day in Naypyitaw, Myanmar, 27 March 2022. © EPA-EFE © EPA-EFE

Chapter 01: Background to the Coup

For most of the time since its independence from the British Empire in 1948, Myanmar has been under military rule. Since the coup d'état staged by General Ne Win in 1962, the military has ruled the country in one way or another for five decades, ruining its economy while enriching the generals and their 'cronies', blocking the development of civilian democratic institutions, and preventing any chance for a peaceful political settlement with the numerous ethnic armed groups that have been fighting the central government for autonomy in the border areas.

The coup staged by Senior General Min Aung Hlaing on 1 February 2021 put an abrupt end to a decade of democratic reforms tightly controlled by the military. These took place under a constitution designed by the previous junta, the State Peace and Development Council (SPDC), to preserve a prominent political role for the military and its independence from civilian control and oversight.

Limited as they were, these reforms opened up the country and gave the Myanmar people a taste of the freedom that they had been deprived of for decades. Immediately after the takeover, the Myanmar people made clear that they did not wish a return to military rule through demonstrations throughout the country and a massive civil disobedience movement (CDM).

In order to consolidate its power, the military has tried to stamp out opposition to its rule through sheer brutality, committing a range of atrocities in what can only be described as a war against its own people. Since the coup, the Myanmar military is bringing to the central regions in the country, including cities like Yangon or Mandalay, roughly the same tactics it has been using for decades in its wars against the dozens of ethnic armed organizations (EAOs) in the country's borderlands, which are some of the longest-running armed conflicts in the world.

1. A fragmented nation

These wars explain the persistent and oversized role of the military in Myanmar's politics, even during the first years after independence, from 1948 to 1962, when the country had a multi-party democratic system. Throughout its history, the Myanmar military has only fought internal enemies, with the exception of a short-lived conflict in the north with remnants of the Chinese Kuomintang (KMT) that had established bases in Northern Myanmar after losing the Chinese civil war against the People's Liberation Army led by Mao Zedong.¹

Ultimately, these conflicts derive from an abortive project of nation-building which has never succeeded in creating an all-encompassing Myanmar sense of nationhood among the ethnic groups living in the country.

The nationalist movement fighting for independence during the colonial period and all post-independence governments have been led by the Bamar, the predominantly Buddhist majority, who historically lived in the plains in the heartland of the country, and whose pre-colonial kingdoms never extended their control to the whole territory of modern Myanmar.² On the other hand, the minorities have mostly inhabited the peripheries of the country, where some had their own kingdoms, such as the Rakhine or the Mon, or small states, such as the Shan, while others, like the Kachin, the Karen (also known as Kayin), the Karenni (also known as Kayah) or the Chin, lived scattered in rugged mountainous areas.

Myanmar was only unified with the arrival of the British, who conquered the country in three successive wars during the 19th century. The British, however, imposed different forms of rule in different territories—direct rule in the heartland of the country and Arakan (present-day Rakhine), and indirect rule through co-opted tribal chiefs in the so-called “excluded areas”.³ They also recruited their soldiers predominantly among members of some of the minorities, which they classified as “martial races”, thus sowing resentment towards them among the Bamar majority.⁴ The colonial power also made Myanmar a province of India, thus facilitating immigration from the subcontinent, and the Indian migrants were also resented, as foreign invaders, by many Bamar nationalists.⁵

1 For an overview of the multiple ethnic conflicts in Myanmar, see Martin Smith, *Burma: Insurgency and the Politics of Ethnicity*, 2nd ed., London 1999.

2 Victor Lieberman, *Burmese Administrative Cycles: Anarchy and Conquest, c. 1580–1760*, Princeton, NJ 1984.

3 John F. Cady, *A History of Modern Burma*, Ithaca, NY 1958, ch. IV and V.

4 Mary P. Callahan, *Making Enemies: War and State Building in Burma*, Ithaca, NY 2003, pp. 34–7.

5 James Baxter, *Report on Indian Immigration*, Rangoon 1941, p. 15.

There was also immigration to Arakan (present-day Rakhine State) from Chittagong, in Bengal, mostly Muslim farmers who joined and intermingled with an already sizable Muslim population there.⁶

All these tensions came to a head during the Second World War, when the Bamar nationalists led by Aung San, father of Aung San Suu Kyi and founder of the modern Myanmar military, took sides at the outset with the Japanese invaders, while ethnic minorities such as the Kachin or the Karen sided with the British, often pitting them against the Bamar.⁷ In Arakan, the majority Rakhine Buddhists fought alongside the Japanese, while the Rohingya Muslims sided with the retreating British, and that resulted in bloody clashes between both communities.⁸ Meanwhile, most of the Indian community was pushed out of the country, with many of them dying in a gruesome exodus.⁹

After the war, Aung San, who had switched sides when the British were about to retake Myanmar, was the main leader in the negotiations for independence. He convinced representatives of three minorities (the Shan, Kachin and Chin) to sign the famous Panglong Agreement on 12 February 1947, a public holiday in Myanmar ever since celebrated as “Union Day”, in which they were promised “full autonomy in principle”.¹⁰

Nevertheless, Aung San was assassinated alongside his cabinet a few months later, and, after independence, the promise of autonomy was never fulfilled, provoking insurgencies throughout the border areas of the country. These included a strong Communist insurgency, supported by the Chinese Communist Party, that lasted until 1987, when the Communist Party of Burma (CPB) imploded.¹¹

During the first years after independence, the control of the government often extended little beyond the then capital, Yangon, as it fought the Karen, the Communists or both. It was during this period when the military fortified itself, and managed to assert control over a much wider territory. It was also during those years when the military led by General Ne Win, a former comrade of Aung San, began to regard itself as the only guarantor of national unity vis a vis what was perceived as a weak civilian government.¹² In 1958, Ne Win staged his first coup d'état and, less than two years later, devolved authority to a civilian government. Yet, after an election in 1961, Ne Win staged his second coup in 1962, and this time he would remain in power for more than a quarter of a century.

2. The Ne Win Regime

Ne Win established a system known as “The Burmese Way to Socialism”, closed off the country, and persecuted any opposition to his rule. His Burma Socialist Programme Party (BSPP) was the only legal party in the country between 1962 and 1988, but he failed to create a one-party dictatorship, and the BSPP turned out to be just a proxy for the military.¹³

6 Charles Paton, *A Short Report on Arakan*, 1826.

7 Andrew Selth, ‘Race and Resistance in Burma, 1942–1945’, *Modern Asian Studies* 20: 3, 1986.

8 Moshe Yegar, *The Muslims of Burma: A Study of a Minority Group*, Wiesbaden 1972, pp. 95–6

9 See Hugh Tinker, ‘A Forgotten Long March: The Indian Exodus from Burma, 1942’, *Journal of Southeast Asian Studies* 6: 1, 1975.

10 Matthew J. Walton, ‘Ethnicity, Conflict and History in Burma: The Myths of Panglong’, *Asian Survey* 48: 6, 2008.

11 Bertil Lintner, *The Rise and Fall of the Communist Party of Burma (CPB)*, Ithaca, NY 1990.

12 Callahan, *Making Enemies*

13 Yoshihiro Nakanishi, *Strong Soldiers, Failed Revolution: The State and Military in Burma, 1962–1988*, Singapore 2013, pp. 112ff

Ne Win imposed a highly centralized system of government and responded to the demands of the ethnic minorities with extreme brutality, deploying the infamous “four cuts” counter-insurgency strategy in the border areas. This strategy, aimed at cutting off food, funds, intelligence and popular support for the ethnic armed organizations, meant in practice turning whole areas into free-fire zones where the military made little or no distinctions between enemy combatants and civilians.¹⁴ The military has used the “four cuts” strategy ever since. Nevertheless, it never managed to control the whole of Myanmar’s territory and ethnic armed organizations established small quasi-independent states in several areas along the country’s borders.

The Ne Win regime also persecuted the Rohingya, and branded them as “foreign interlopers” and “illegal immigrants”, despite the fact that only an insignificant percentage of them can be regarded as such, according to any Myanmar law enacted after independence.¹⁵ In 1978 the government launched the “Operation Naga Min” (or Dragon King) in Arakan, ostensibly to detect “undocumented migrants” from Bangladesh, but carried out by the military with such brutality that up to 250,000 fled as refugees to Bangladesh. Most of them returned one year later, but many have remained in refugee camps ever since. Four years later, the regime enacted the infamous 1982 Citizenship Law, that was used in the early 1990s to strip the overwhelming majority of the Rohingya of their Myanmar citizenship.¹⁶

In short, as the regime was trying to forcibly assimilate ethnic minorities regarded as “national races” such as the Kachin, the Karen or the Chin, it also began a policy of removal of those regarded as “foreigners”, including the Rohingya and the descendants of Indian migrants in central Myanmar, up to 300,000 of whom were pushed out of the country when the government nationalized their businesses in the mid-1960s.¹⁷

3. Military dictatorship after Ne Win

Mismanagement and corruption brought the Myanmar economy to its knees in the 1980s and a massive uprising overthrew the regime of General Ne Win in 1988.¹⁸ It was during that mass uprising when the National League for Democracy (NLD) was founded and Aung San Suu Kyi, daughter of the national hero Aung San, began her political career and became the leader of the pro-democracy movement in Myanmar.

The uprising was brutally crushed by the military, which soon assumed power through a junta named the State Law and Order Restoration Council (SLORC), later renamed to State Peace and Development Council (SPDC). The junta promised it would hand power to a civilian government after an election, but refused to recognize the results of the 1990 elections.¹⁹ Instead, the SLORC/SPDC ruled the country with an iron fist for over two decades, persecuting and jailing the opposition, including putting Aung San Suu Kyi under

14 Smith, *Burma*, pp. 258ff

15 Carlos Sardiña Galache, “‘Illegal Migration’ in Arakan: Myths and Numbers”, *New Mandala*, 16 August 2018.

16 Nick Cheesman, ‘How in Myanmar “National Races” Came to Surpass Citizenship and Exclude Rohingya’, *Journal of Contemporary Asia* 47: 3, 2017.

17 Nalini Ranjan Chakravarti, *The Indian Minority in Burma: The Rise and Decline of an Immigrant Community*, London 1971, pp. 181-6.

18 Bertil Lintner, *Outrage: Burma’s Struggle for Democracy*, Hong Kong, 1989.

19 Bertil Lintner, ‘The 1990 Election: Sorting Fact from Fiction’, *The Irrawaddy*, 20 October 2015.

house arrest for a total of fifteen years, but that did not dent the huge popular support that “The Lady”, as Suu Kyi is known in Myanmar, and her NLD enjoyed, mostly among the Bamar majority.

The new junta ditched the socialist system of Ne Win, and entered into lucrative business in the extractive sector, privatizing the economy and enriching both the generals and their “cronies”. It also used that money to expand the military, at the expense of social services like education or healthcare, that were woefully underfunded. According to some estimates, the Myanmar military’s manpower increased from around 190,000 soldiers in 1988 to almost 400,000 by the turn of the century.²⁰

Most of those natural resources lie in the border areas dominated by the ethnic minorities. The junta continued its wars against the ethnic armed organizations, but it also signed ceasefires with some of them -albeit without making any political concessions- tried to co-opt their elites, and supported ethnic militias that fought against those the EAOs reluctant to sign the ceasefires agreements.²¹

As the junta committed human rights abuses against the opposition led by Aung San Suu Kyi’s NLD and in its wars against the EAOs, it became increasingly isolated internationally. Throughout the 1990s, European countries and the United States imposed a wide array of sanctions against the generals, who were supported mainly by China.

In 2003, the SPDC announced its seven-step road-map to what it described as a “discipline-flourishing democracy”, which included the drafting of a new Constitution, elections and then ceding power to a new civilian government. The Constitution, in which the pro-democracy forces had no say in drafting, was eventually approved in 2008, in a referendum widely condemned as a sham that took place days after Cyclone Nargis devastated wide areas of the Myanmar Delta, killing at least 130,000 people.²²



Photo: A picture made available on 10 March 2016 shows Htin Kyaw (R), standing next to Aung San Suu Kyi during a press meeting at her residence in Yangon, Myanmar © EPA-EFE

20 Andrew Selth, *Burma’s Armed Forces: Power Without Glory*, Norwalk, CT 2002, pp. 78–9
21 Kevin Woods, ‘Ceasefire Capitalism: Military-Private Partnerships, Resource Concessions and Military-State Building in the Burma–China Borderlands’, *Journal of Peasant Studies* 38: 4, 2011.
22 Brad Adams, ‘The Lessons of Cyclone Nargis’, *The Bangkok Post*, 3 May 2009.

4. The democratic opening

The 2008 Constitution reserved 25 percent of seats in Parliament to soldiers appointed by the military, and also gave the Commander in Chief of the armed forces control over three key security ministries—Defense, Home Affairs and Border Affairs—as well as wide prerogatives that provided the military with an almost total autonomy from civilian oversight. In 2011, a few months after a widely discredited election that was boycotted by the NLD, the Union Solidarity and Development Party (USDP) took power, former general Thein Sein was appointed President and the transition began.

One year later, the NLD was allowed to run in a by-election, and Aung San Suu Kyi became a member of parliament, while the Thein Sein administration initiated a process of reforms which brought the legalization of political parties and trade unions, as well as the liberalization of the press. The democratization also entailed some amount of international recognition by countries that had hitherto isolated Myanmar, such as the United States and members of the European Union, lifting some of the sanctions they had been imposing since the nineties.²³

The new government also initiated a peace process with the ethnic armed organizations. Despite the fact that some EAOs signed what was termed a nationwide ceasefire agreement, it was a fragile peace, and in 2011 war flared up again in Kachin state between the military and the Kachin Independence Army (KIO), after a ceasefire that had lasted for fourteen years.²⁴ The next year, successive waves of sectarian violence between the Buddhist Rakhine and the Muslim Rohingya engulfed Rakhine state, with thousands of Rohingya displaced to camps that would become permanent.²⁵ The period also saw the emergence of Buddhist ultranationalist groups in central Myanmar, and anti-Muslim pogroms in cities like Meiktila.²⁶

The liberalization culminated in the victory of Aung San Suu Kyi's NLD in the 2015 election, after which the party took the government in an uneasy power-sharing arrangement with the military. As the mother of two British nationals, Suu Kyi was constitutionally barred from being President, but she and her party circumvented it by creating the position of "State Counselor", through which she could, as she had promised before the election, rule "above the President".²⁷

Throughout the period, Aung San Suu Kyi and her party demanded to change the Constitution. But any constitutional amendment without the assent of the military is extremely difficult, as it has to be approved by more than three-quarters of Parliament (the votes of all elected representatives and at least one of the MPs appointed by the military), and then be approved in a referendum by over 50 per cent of those eligible to vote.²⁸

23 Merrit Kennedy, 'U.S. Lifts Economic Sanctions Against Myanmar,' NPR, 7 October 2016. See also Adrian Croft and Justyna Pawlak, 'EU lifts Myanmar sanctions despite human rights concerns,' Reuters, 23 April 2013.

24 Human Rights Watch, "Untold Miseries": *War-time Abuses and Forced Displacement in Burma's Kachin State*, 20 March 2012.

25 Carlos Sardiña Galache, *The Burmese Labyrinth: A History of the Rohingya Tragedy*, London 2020, ch. 3.

26 Francis Wade, *Myanmar's Enemy Within: Buddhist Violence and the Making of a Muslim 'Other'*, London 2017, ch. 8.

27 Andrew R.C. Marshall and Timothy McLaughlin, 'Myanmar's Suu Kyi says will be above president in new government,' Reuters, 5 November 2015.

28 *Constitution of the Republic of the Union of Myanmar*, Ministry of Information, Myanmar, September 2008, chapter 12.

Despite those demands, the civilian government led by Suu Kyi seemed to cooperate with the military. The State Counselor organized successive conferences with the EAOs, but her government made little concessions to the ethnic minorities, the peace process followed the lines of the previous administration and stalled.²⁹ The war in Kachin state continued and only a handful of small EAOs signed the ceasefire agreement.

Meanwhile, in Rakhine emerged a new Rohingya insurgent group, the Arakan Salvation Rohingya Army (ARSA), which attacked several security outposts in 2016 and 2017. The military launched two “clearance operations” in which thousands of Rohingya were killed, hundreds of villages were razed to the ground, and about 800,000 were pushed to flee into Bangladesh.³⁰ The civilian government supported the military during the operations, stalled on repatriation, and even Aung San Suu Kyi herself defended Myanmar at the International Court of Justice (ICJ) in 2019, when The Gambia brought a case against Myanmar for violating the Genocide Convention.³¹

The NLD government also refused to engage with a new Rakhine insurgent group, the Arakan Army (AA), founded in 2009 under the auspices of the KIO in Kachin State, and which launched a big offensive in Rakhine in late 2018, taking large areas of the state, in one of the most vicious conflicts in recent years in the country.³² The government branded the AA a terrorist organization and suspended the November 2020 elections in most of the State citing security reasons. A few weeks after the polls, the AA and the military signed an unofficial ceasefire and demanded the NLD to hold the elections in the townships where it had been canceled, but their request fell on deaf ears.³³

In national polls, the NLD won again by a landslide. The rival USDP reacted by accusing it of widespread electoral fraud. These accusations, which were dismissed by both the NLD and international observers asserting that the election had been free and fair, provided the rationale for the coup in the early morning 1 February 2021, just hours before the new Parliament was about to convene.

The coup took many observers by surprise, as the system designed by the military was firmly established, and changing the Constitution would have been extremely difficult. The military hardly needed a coup to protect its position, so the takeover has been attributed to the personal ambitions of the Commander in Chief of the Armed Forces, Sr. Gen. Min Aung Hlaing, due to retire in mid-2021 and reportedly harboring the desire to become President.³⁴ Regardless of the motivations behind it, the coup has effectively put an end to the political system designed by the previous junta: whatever the outcome of the current conflict between the military and the pro-democracy camp, a return to the status quo ante is very unlikely.

29 Bobby Anderson, ‘Stalemate and Suspicion: An Appraisal of the Myanmar Peace Process,’ Tea Circle Oxford, 6 June 2018.

30 Sardiña Galache, *Burmese Labyrinth*, ch. 16.

31 For Aung San Suu Kyi’s intervention at the ICJ, see ‘Transcript: Aung San Suu Kyi’s speech at the ICJ in full,’ 12 December 2019, Al Jazeera.

32 David Mathieson, *The Arakan Army in Myanmar: Deadly Conflict Rises in Rakhine State*, United States Institute of Peace (USIP), 2 November 2020.

33 Radio Free Asia, ‘Amid Fragile Ceasefire, Frustration Over Missed Election in Myanmar’s Rakhine State,’ 31 December 2020.

34 Antoni Slodkowski, ‘Newsmaker: Ambitious but cornered, Myanmar army chief took full power,’ Reuters, 2 February 2021.



Photo: A demonstrator flashes the three-finger salute during an anti-military coup protest in Mandalay, Myanmar, 18 May 2021. © EPA-EFE

Chapter 02: The situation in Myanmar after the Coup

1. The immediate aftermath of the coup and resistance to military rule

An illegal coup

As APHR has noted previously, the military's seizure of power on 1 February 2021 and suspension of parliament were widely condemned as illegal under both domestic and international law.³⁵ Legal analysts called the coup a violation of "even the flawed Constitution that the military itself imposed in 2008"³⁶ and the Inter-Parliamentary Union (IPU) labeled it a "clear violation" of article 21 of the Universal Declaration of Human Rights (UDHR) that "the will of the people shall be the basis of the authority of government."³⁷

The military justified the coup by alleging widespread fraud in the 2020 elections, won by the NLD in a landslide. Several credible international experts have, however, declared the vote reflective of the will of the people.³⁸ The junta has reneged on its promise to stage

35 APHR, *Parliamentarians at Risk: Reprisals against opposition MPs in Southeast Asia in 2021*, 2 December 2021. Available at: <https://aseanmp.org/2021/12/02/parliamentarians-at-risk-reprisals-against-opposition-mps-in-southeast-asia-in-2021/>

36 International Commission of Jurists (ICJ), "Myanmar: Military Coup d'état violates principles of rule of law, international law and Myanmar's Constitution", 8 February 2020.

37 IPU Committee on the Human Rights of Parliamentarians, "Decisions adopted at the 165th Session", p. 9, 25 May 2021.

38 Carter Centre, "Preliminary Statement on the 2020 Myanmar General Elections", 10 November 2020; and Asian Network for Free Elections, *The 2020 Myanmar General Elections: Democracy Under Attack*, 17 May 2021.

new elections within one year of the coup, and it is unclear when – or if – new polls might take place. Several sources stressed to the IPI, however, that any elections organized by the military could not be considered legitimate.

Protests and political resistance

The military's seizure of power was met with massive, largely peaceful protests that soon spread across Myanmar. While the junta's response was initially muted, it turned increasingly violent as resistance intensified. The military and other security organs responded brutally to the demonstrations, using live ammunition indiscriminately on several occasions, and killing thousands (see below for further analysis of the human rights situation since the coup).

Almost immediately following the coup, civil servants, healthcare workers and others organized themselves into a Civil Disobedience Movement (CDM). The CDM launched a country-wide general strike, in which large sections of the bureaucracy refused to work. The movement gained increasing support as protests grew; some 90% of healthcare workers nationally, and more than 50% of teaching staff in some regions, reportedly joined the CDM.³⁹ The general strike caused much of the government to grind to a halt across the country, while in some regions the CDM have established parallel service delivery structures.⁴⁰ The junta has responded by seeking to disrupt the movement through violence, including attacks on healthcare centers, as well as mass arrests of suspected CDM members (see section on human rights violations below).

Myanmar has also seen the emergence of organized political opposition since the coup. Immediately after seizing power on 1 February 2021, the junta suspended the Pyidaungsu Hluttaw (the bicameral national legislature), stripped all 498 MPs from of their seats, and detained MPs and other senior NLD figures, or ordered them to leave Naypyitaw.⁴¹ Days after the coup, on 5 February 2021, close to 300 ousted MPs established the Committee Representing Pyidaungsu Hluttaw (CRPH) to carry out the functions of parliament, led by 20 elected representatives.⁴²

The CRPH announced on 16 April the creation of a new National Unity Government (NUG), comprised of ousted MPs, ethnic minority representatives, and members of civil society.⁴³ The NUG and associated pro-democracy forces have announced their intention to draft a new constitution establishing a genuine federal democracy, a key demand of many ethnic minority groups. Already in April 2021, the CRPH issued a Federal Democracy Charter to serve as a blueprint for a constitution in a future democratic Myanmar.⁴⁴

Both the NUG and CRPH are widely seen as the true representatives of the people of Myanmar. The NUG enjoys broad popular support, in particular among the Bamar majority in Myanmar's heartlands. The inclusion of ethnic minority representatives means that it has also effectively become the most inclusive attempt at governance in Myanmar's history. Unlike the pre-coup civilian administration, the NUG has also adopted inclusive policies

39 Anonymus, "The Centrality of the Civil Disobedience Movement in Myanmar's Post-Coup Era", *New Mandala*, 19 October 2021.

40 Radio Free Asia, "Despite the risks, many doctors in Myanmar stand firm against the junta", 15 July 2022.

41 APHR, *Parliamentarians at Risk*.

42 For more information see the CRPH website, available at: <https://crphmyanmar.org/>

43 CRPH, "Formation of the National Unity Government of Myanmar", 16 April.

44 CRPH, *Federal Democracy Charter - Part I*, available at: <https://crphmyanmar.org/wp-content/uploads/2021/04/Federal-Democracy-Charter-English.pdf>

towards the Rohingya minority, including by appointing a full-time advisor and voicing its support for Rohingya citizenship as well as for accountability for crimes against the Rohingya. Rohingya groups have welcomed these announcements and expressed their support for the NUG, while also urging the NUG to more explicitly express public support for all international justice mechanisms.⁴⁵

Throughout IPI hearings, participants, even those that also expressed a level of criticism towards the NUG, overwhelmingly called for the international community to recognise it as the legitimate government of Myanmar and engage with it instead of the junta.

The junta has attempted to disrupt and criminalize the work of the NUG and the CPRH. On 21 March, the SAC issued an order banning the CRPH and “its affiliated committees” under the Unlawful Associations Act, a colonial-era law that can bring with it prison sentences of between two and five years. On 8 May, the junta went one step further and declared the CRPH and the NUG “terrorist groups” under the 2014 Counter-Terrorism Law, with members facing between three and 15 years of imprisonment. The majority of NUG and CRPH members continue to remain in Myanmar, often operating from areas controlled by EAOs. In interviews with ACHR, members of the CRPH described the extreme challenges of carrying out their work. Many remain in hiding in areas with poor telecommunications access and are forced to move between safe houses often to avoid arrest.⁴⁶ At least 175 members of national, regional and state parliaments, as well as other government officials, have been arrested since the coup, more than 100 of whom remain under arrest.⁴⁷

Armed resistance

The coup has triggered a new wave of violence between the military and ethnic armed organizations (EAOs) across the country. The landscape of EAOs is extremely complex, and many distrust the NUG, and in particular its NLD members, who largely dismissed EAO demands for greater decentralization when they were in power.⁴⁸ Some EAOs have looked beyond such distrust, however, and have openly allied themselves with the NUG, including the armed wings of the Karen National Union (KNU) and the Kachin Independence Organization (KIO), who control their own territories along the Thai and Chinese borders and have provided safe haven to NUG members. Other EAOs have offered important support to the NUG but without publicly declaring a formal allegiance.⁴⁹

Other EAOs have taken a more ambivalent stance towards the NUG, or maintained relations with the junta. The most powerful EAO in the country, at least in military terms, the United Wa State Army (UWSA), which is supported by China and has controlled a sizable territory in Northern Shan State for over two decades, remains uninvolved in the situation beyond the borders of its *de facto* state.⁵⁰ The Restoration Council of Shan State

45 Frontier Myanmar, “The NUG’s Rohingya policy: ‘Campaign statement’ or genuine reform?”, 15 July 2021.

46 ACHR, *Parliamentarians at Risk*.

47 Written submission by the AAPP to the IPI, July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/AAPP-Written-Submission-for-IPI-ACHR.pdf>

48 David Scott Mathieson, “The rebels who will and won’t fight Myanmar’s coup”, *Asia Times*, 31 March 2021.

49 International Crisis Group, *Myanmar’s Coup Shakes Up Its Ethnic Conflicts*, 12 January 2022.

50 David Scott Mathieson, “Myanmar’s ‘peace talks’ a dangerous diversion”, *Asia Times*, 7 July 2022.

(RCSS) remains involved in the peace process conducted by the State Administration Council (SAC), and its chairman, the veteran Shan leader Yawd Serk, recently met Senior General Min Aung Hlaing in Naypyitaw.⁵¹

The Arakan Army (AA), which has become one of the most powerful EAOs in recent years and controls wide areas in Rakhine state, reached an informal ceasefire with the Myanmar army shortly before the coup, and remained aloof from developments elsewhere in the country for the first months after the coup. Yet hostilities between the AA and the Myanmar military have been steadily mounting in recent months. Nevertheless, the AA remains disengaged from the NUG, as it considers its fight for the liberation of Rakhine as independent from the struggle for democracy in the rest of the country. A renewed war in Rakhine threatens to open a new front for the already overstretched Myanmar army. Overall, the junta has been unable to consolidate its control over the country, while the intensifying fighting since the coup has led to serious human rights violations, as well as triggering mass displacement and a humanitarian crisis. (see sections 2.2 and 2.3 below).

The NUG is nominally in command of the People's Defense Forces (PDFs), anti-junta militias operating throughout the country. Their control over such groups in practice is, however, highly tenuous, and in many cases non-existent. These groups have been accused of carrying out targeted killings against alleged regime supporters, although the true extent of such practices is extremely difficult to determine. In the face of the mounting armed resistance, the junta has, for its part, tried to raise civilian pro-military militias (known as Pyusawhti), although this strategy has largely failed.⁵²

2. Human rights violations since the coup

The junta has responded with brutal repression to resistance since the coup, committing a range of human rights violations, including extrajudicial executions, unlawful killings, arbitrary detentions, enforced disappearances, torture and other ill-treatment, and sexual and gender-based violence. These violations amount to crimes against humanity under international law, according to credible observers such as the UN Special Representative on human rights in Myanmar.

Unlawful Killings

According to the Assistance Association for Political Prisoners (AAPP), at least 2,371 people have been killed by the junta or its proxy forces since the coup. However, AAPP estimates that the actual figure is likely at least twice as high, since their count only includes the deaths of people they can fully identify and independently corroborate, according to an interview conducted during an IPI Fact-Finding Mission to the Thai-Myanmar border in August.

Many of those killed were protesters who took to the streets to voice opposition to military rule in the months immediately after the coup. After an initial period of relative restraint, police and military from late March 2021 increasingly started to resort to violence in repressing protests. Although the demonstrations were overwhelmingly peaceful, soldiers and other state agents used live ammunition, often indiscriminately. Already by 13 April,

51 David Scott Mathieson, "Myanmar Coup Leader's Turbulent Affair With Shan Warlord Yawd Serk", *The Irrawaddy*, 22 September 2022.

52 International Crisis Group, *Resisting the Resistance: Myanmar's Pro-military Pyusawhti Militias*, 6 April 2022.

more than 700 people had died in protests, the vast majority of them shot dead by military, police or proxy forces.⁵³ Women and girls were at the forefront of protests, and were among the first victims of security forces. Out of the 2,371 people killed by the junta since the coup, at least 281 have been women or girls.⁵⁴

Human rights organizations have documented numerous massacres where security forces fired indiscriminately at peaceful anti-coup demonstrators. One egregious example is the massacre on 14 March 2021, when soldiers killed at least 65 protesters and bystanders in an industrial zone outside Yangon's Hlaing Tharyar township.⁵⁵ Some two weeks later, on Myanmar's Armed Forces Day on 27 March, security forces killed some 110 people, including at least four children, in protests across the country.⁵⁶

As armed conflict has intensified across Myanmar since the coup, the junta has killed civilians through ground incursions, airstrikes and other tactics. Human rights groups have accused the military of using indiscriminate violence against the civilian population, including through air strikes and shelling, which may amount to war crimes. According to Amnesty International, the military has committed war crimes and likely crimes against humanity – including killings of hundreds of civilians and the forced displacement of thousands – in Karen and Kayah (Karenni) state, in particular since December 2021.⁵⁷ The organization has further accused the military of using landmines on a “massive scale” in Kayah state, where the Karen Human Rights Group (KHRG) has documented at least 20 civilians killed or injured by mines since June 2021.⁵⁸

KHRG has documented at least 55 airstrikes in Karen state since the coup, which have caused emotional and physical trauma, and badly impacted local populations' livelihoods and ability to access public services.⁵⁹ Thinzar Shunlei Yi, a Myanmar youth activist and the founder of Sisters 2 Sisters, told the IPI of the devastating toll of airstrikes and shelling also in Kachin state, where the military has deliberately targeted civilian areas.⁶⁰

At least 198 children have been killed by the junta since the coup, according to AAPP. On 20 September 2022, for example, at least 11 children were killed in a military airstrike on a school in the northwestern Sagaing region.⁶¹ Child rights groups have highlighted the wider consequences of such post-coup violence on children, including psychological trauma, the loss of caregivers and livelihoods, and severe disruption of their education.⁶²

53 BBC, “Myanmar coup: The people shot dead since the protests began,” 13 April 2021.

54 AAPP data on killings by the junta since the coup, available at: <https://airtable.com/shrYUbzQe1hKXQ68x/tblswChRJGSzJWr7k>

55 Human Rights Watch, “Myanmar: Protesters Targeted in March Massacre”, 2 December 2021.

56 *The Irrawaddy*, “Myanmar Junta's Worst Massacres of 2021”, 30 December 2021

57 Amnesty International, “Myanmar: Military onslaught in eastern states amounts to collective punishment”, 31 May 2022

58 Al Jazeera, “Myanmar accused of war crimes over ‘depraved use’ of landmines”, 20 July 2022.

59 Submission by the KHRG to the IPI, 31 July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/KHRG-Written-Submission-for-IPI-APHR.pdf>

60 Thinzar Shunlei Yi's intervention at IPI oral Hearing 1, 22 June 2022. Available at: <https://www.youtube.com/watch?v=hgn230v94nA>

61 UNICEF, “At least 11 schoolchildren killed in Myanmar attack”, 19 September 2022.

62 Save the Children, “Save the Children responds to the latest escalation in violence in Myanmar, including harm to children”, 14 October 2021.



Photo: Ethnic Karen villagers fleeing from air attacks by Myanmar military take rest in a jungle after crossing border at a Thai-Myanmar border in Mae Hong Son province, Thailand, 28 March 2021
© EPA-EFE

Arbitrary arrests

The junta has engaged in widespread, arbitrary detentions to repress resistance to the coup and to silence criticism, with more than 15,000 people arrested since February 2021. While arrests initially mainly targeted political figures, authorities have since more broadly targeted anti-coup protesters, healthcare and education workers, journalists, and others perceived to be opposing the junta.⁶³ Authorities routinely flout detainees' rights, including by denying them access to family members or lawyers, failing to inform them of the charges they are facing, keeping them in prolonged pre-trial detention, or using torture and other forms of ill-treatment (see below). In addition, the junta has established special courts in prison compounds and made use of military tribunals in townships under martial law, further subverting justice.⁶⁴

The military regime has relied on a range of repressive laws that were already on the books before the coup to facilitate these arrests, including the Telecommunications Law, the Official Secrets Act, the Unlawful Associations Act and Section 505(B) of the Penal Code, which criminalizes speech that “is likely to cause fear or alarm in the public”. In addition, the junta has revised the legal framework to criminalize peaceful protest and facilitate the detention of anti-coup activists. For example, on 14 February 2021, Section 505(A) of the Penal Code was amended to punish criticism of the military regime with up to three years in prison.⁶⁵ According to OHCHR, the legal amendments have given security forces “unchecked powers of arrest and detention”.⁶⁶

63 AAPP data on arrests by the junta since the coup, available at: https://airtable.com/shr9w3z7dyl0qdUv4?fbclid=IwAR3fjURjggKSG_KPfh9IaXnndAKwgyC2hdualM6cnYe5c-yKoUaM1FXLIS4

64 OHCHR, “Myanmar: UN report urges immediate, concerted effort by international community to stem violence, hold military accountable”, 15 March 2022.

65 OHCHR, *Written updates of the Office of the United Nations High Commissioner for Human Rights on the Situation of human rights in Myanmar* (A/HRC/48/67), p. 3, 16 September 2021.

66 OHCHR, “Myanmar: UN report urges immediate, concerted effort by international community to stem violence, hold military accountable”, 15 March 2022.

Torture and ill-treatment in detention

The junta has made routine use of torture and other forms of cruel and inhumane treatment against those arrested since February 2021. Torture has been used to extract confessions, punish or humiliate detainees, and is frequently used during interrogation. According to Amnesty International, prison officials would kick and slap prisoners, and beat them with rifle butts and electrical wires, while also using sexual violence through rape threats or by conducting humiliating and invasive body searches.⁶⁷ Manny Maung, Myanmar Researcher for Human Rights Watch, told the IPI that the junta seems to have given a “green light” to use any type of violence against pro-democracy activists in detention.⁶⁸

According to AAPP, at least 73 people have died in police or military custody in police stations, military interrogation centers, and prisons since the coup. OHCHR, however, puts the figure even higher, at 325 deaths (including 16 children) in military custody during the first year since the coup.⁶⁹ While the junta has only recognised a handful of deaths in custody and blamed them on illness or old age, human rights organizations have documented cases of detainees dying from torture or other forms of ill-treatment.⁷⁰

On 25 July 2022 the junta furthermore executed four men who had been arrested after the coup, the country’s first judicial executions since 1988. Among those executed were a former lawmaker and a former student protest leader.⁷¹ More than 70 people remain on death row in Myanmar while a further 41 have been sentenced to death in absentia, according to AAPP.

Freedom of expression and association

The junta has launched a far-reaching crackdown on the freedoms of expression and association since the coup, repressing independent media and civil society. Less than a week after the coup, on 8 February 2021, the junta revoked the licenses of several independent media outlets, including Mizzima, Democratic Voice of Burma (DVB), Khit Thit Media, and Myanmar Now. Since then, the military has carried out raids on several media outlets to confiscate computers and other sensitive equipment, while also imposing sweeping censorship on online media and social media platforms.⁷² The junta has targeted journalists and civil society activists for arrest, and harassed family members of those they have been unable to detain. Since the coup, at least 160 media workers and 109 NGO workers have been arrested.⁷³ In February 2022, the junta furthermore presented a draft new cyber security law that would impose sweeping restrictions on freedom of expression online if enacted, including by banning the use of virtual private networks (VPNs).⁷⁴

67 Amnesty International, *15 days felt like 15 years: Torture in detention since the Myanmar coup*, 2 August 2022.

68 Manny Maung’s intervention at IPI Oral Hearing 3, 6 July 2022. Available at: <https://www.youtube.com/watch?v=IFPptxrzew>

69 OHCHR, “Interactive dialogue on the situation of human rights in Myanmar at the 49th Session of the Human Rights Council”, 21 March 2022, available at: <https://www.ohchr.org/en/statements-and-speeches/2022/03/interactive-dialogue-situation-human-rights-myanmar>

70 Human Rights Watch, “Myanmar: Death of Activists in Custody”, 13 September 2022.

71 Death Penalty Information Center, “Myanmar executes former lawmaker, political prisoners in ‘blatant attempts to extinguish democracy’”, 26 July 2022.

72 Written submission by Free Expression Myanmar to the IPI, 1 August 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Free-Expression-Myanmar-Written-Submission-for-IPI-APHR.pdf>

73 Article 19, “Myanmar: Ongoing mass detentions and surveillance of civil society”, 24 September 2021.

74 Human Rights Watch, “Myanmar: Scrap Draconian Cybersecurity Bill”, 15 February 2022.

Human rights organizations have also accused the junta of using internet shutdowns to cover up abuses by security forces. In the Sagaing region, for example, internet, mobile and landline networks have been shut down since 2021 in several townships where security forces have reportedly burned down thousands of buildings.⁷⁵ Apart from being violations to the right to freedom of expression, the internet shutdowns have disrupted the livelihoods of ordinary people and complicated the work of humanitarian agencies.⁷⁶

The human rights situation of women and girls since the coup

In its submission to the IPI, the Women's League of Burma and the Women's Advocacy Coalition highlighted the increasingly fraught human rights situation facing women and girls across Myanmar since the coup. The collapsing economy and increased economic hardships have meant that more women have become prey for human trafficking networks.

The levels of sexual and gender-based violence and conflict-related sexual violence have also increased since the coup, while the collapsed domestic justice system has meant that few survivors have been able to obtain justice or reparations for such crimes.⁷⁷ Security forces have reportedly used rape and sexual violence against women and girls in conflict-affected areas. According to media reports, soldiers gang raped a woman in front of her husband in Chin State in November 2021.⁷⁸ Thinzar Shunlei Yi, of Sisters To Sisters Myanmar, said that the military had long used sexual violence as a tactic in armed conflict, a practice that has only intensified since the coup.⁷⁹

Among the more than 15,780 people detained since the coup, some 3,300 have been women or girls.⁸⁰ Female detainees have been subjected to torture, including sexual violence, and gendered humiliating treatment in detention, in particular during interrogations.⁸¹ Female detainees also face particular violations, such as a lack of access to sanitary products.⁸²

The situation of the Rohingya minority

The situation for the mainly Muslim Rohingya minority in Rakhine State has remained desperate since the coup. The military junta has done nothing to dismantle or reform the complex web of laws and policies that have placed severe restrictions on the freedom of movement of the Rohingya for decades, as well as their ability to access education,

75 Article 19, "Myanmar: Internet shutdowns shrouding torchings and killings", 23 June 2022

76 Radio Free Asia, "Nearly Two Dozen Townships in Myanmar Without Internet as Military Tightens Restrictions", 24 September 2021.

77 Written submission by the Women's League of Burma and the Women's Advocacy Coalition to the IPI, 20 July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Womens-League-of-Burma-Written-Submission-for-IPI-APHR.pdf>

78 The Irrawaddy, "Myanmar Junta Troops Rape Chin Mother: Media", 15 November 2021. For the situation in Chin State, see also Salai Za Uk Ling's intervention at Hearing 4, 20 July 2022. Available at: <https://www.youtube.com/watch?v=Px7NFY0Oqo0&t>

79 Thinzar Shunlei Yi intervention IPI Oral Hearing 1.

80 AAPP data on arrests by the junta since the coup, available at: https://airtable.com/shr9w3z7dyloqdUv4?fbclid=IwAR3fjURjggKSG_KPfh9JaXnndAKwgyC2hdualM6cnYe5c-yKoUaM1FXLIS4

81 Amnesty International, Annual Report 2021: Myanmar, available at: <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/myanmar/report-myanmar>; Lara Owen and Ko Ko Aung, "Myanmar coup: The women abused and tortured in detention", BBC, 9 December 2021.

82 Manny Maung, "Rights of Women Violated in Myanmar Prisons", Human Rights Watch, 8 June 2021.

healthcare, and employment. Media reports have highlighted how some restrictions have even intensified since the coup, while Rohingya fear becoming victims in renewed violence between the military and the Arakan Army.⁸³ The Burmese Rohingya Organization UK has furthermore highlighted how the junta has ignored provisional measures imposed by the International Court of Justice, ordering Myanmar to end genocidal practices against the Rohingya.⁸⁴

3. The humanitarian situation

A country facing economic ruin

The Myanmar economy has been pushed to the brink of collapse since the coup. The junta's mismanagement and escalating conflicts have taken a heavy toll on the country's finances, as have the combined effects of international sanctions, a reduction in foreign aid and investment, as well as the CDM's general strike that has ground much commercial activity to a halt. The economy contracted by a massive 18% in 2021, and is only projected to grow by 3% in 2022. The World Bank, while noting some signs of stabilization in 2022, has labeled the Myanmar economy "critically weak" and estimates that it is currently around 30% smaller than it would have been without the impact of the coup or the pandemic.⁸⁵ The Bank notes that 40% of people are living below the national poverty line in 2022, a development that has unwound "nearly a decade of progress on poverty reduction".⁸⁶

The Myanmar kyat, the national currency, was in September 2022 trading at one-third of its pre-coup value.⁸⁷ The collapse of the kyat has led to severe shortages of imported goods, such as medicines, cooking oil and petrol. The price increases of such goods, combined with rocketing food costs, in part due to rising inflation, have taken a particular toll on the poorest and most vulnerable in Myanmar.⁸⁸ Many have been forced to take on debts or sell off assets to cover their needs. According to OCHA, the cost of an average food basket in Myanmar has increased by 35% during the year as of July 2022.⁸⁹ Some 13 million people are estimated to be food insecure in Myanmar in 2022. The International Labor Organization has furthermore estimated that some 1.2 million jobs were lost in Myanmar in the second quarter of 2021 alone, in both the formal and informal sectors.⁹⁰

The junta has attempted to stabilize the economy by selling off foreign reserves and by promoting domestic industries. Senior General Min Aung Hlaing has also urged people to eat less rice and avoid using too much cooking oil or petrol, to help stave off economic

83 Al Jazeera, "Myanmar's military coup prolongs misery for Rohingya in Rakhine", 6 January 2022.

84 Burmese Rohingya Organisation UK, *Ongoing Rohingya Genocide – Myanmar Military Defies Provisional Measures Ordered By International Court Of Justice*, 22 November 2021.

85 World Bank, "Economic Activity in Myanmar to Remain at Low Levels, with the Overall Outlook Bleak", 26 January 2022.

86 World Bank, "Myanmar economy remains fragile, with reform reversals weakening the outlook", 21 July 2022.

87 The Economist, "An economically illiterate junta is running Myanmar into the ground", 15 September 2022.

88 Nikkei Asia Review, "Myanmar inflation crushing consumers since military takeover", 26 August 2022.

89 World Food Program, "Myanmar Emergency", available at: <https://www.wfp.org/emergencies/myanmar-emergency>.

90 Deutsche Welle, "Myanmar on brink of economic collapse one year after military coup", 1 February 2022.

collapse.⁹¹ Such policies, however, have had limited effect. The World Bank estimates that a return to pre-pandemic levels of economic activity is unlikely in the near term, unlike in the wider region where the GDPs of most countries are expected to have returned to 2019 levels by 2023.⁹²

Unprecedented humanitarian crisis

Myanmar has seen an unprecedented humanitarian crisis since the coup, triggered by the collapsing economy, intensifying conflict and other factors. Some 14.4 million people across the country were in need of humanitarian assistance in September 2022 according to OCHA, a dramatic increase from one million people in January 2021, the month before the coup.⁹³ At the same time, only one-fifth of the Myanmar humanitarian appeal had been funded by the time of publication of this report (20.4%, or US\$168.3mn out of US\$825.7mn).⁹⁴

Escalating armed conflict has triggered mass displacement across the country. More than 1.3 million people were internally displaced on 1 October 2022, of whom more than one million had been forced to flee their homes since the coup. The northwestern state of Chin, and the regions of Magway and Sagaing, have seen particular spikes in internal displacement in recent months, as the military has relied on artillery fire, aerial bombings and other indiscriminate tactics. Some 545,200 people have been displaced in Sagaing region alone since February 2021.⁹⁵ Karen (Kayin), Karenni (Kayah) and Southern Shan State have also seen significant levels of internal displacement since the coup, largely due to fighting between the Myanmar armed forces and EAOs. In Rakhine State, some 148,000 mainly Rohingya have remained in squalid conditions in internal displacement camps since before the coup.⁹⁶

The humanitarian crisis has made it more complicated for people in affected regions to access services, including education and health care. The health sector in particular has been stretched to the point of collapse since the coup, including due to a limited availability of staff and medical supplies. With many medical personnel joining the CDM, the military's attacks on health facilities have also escalated. Between January 2021 and June 2022, 46 medical staff were killed in Myanmar, amounting to 10% of all such killings globally.⁹⁷

Despite the escalating needs, humanitarian actors have struggled to reach vulnerable and remote populations. According to the 2022 Myanmar Humanitarian Response Plan (HRP), assistance is primarily reaching urban areas rather than parts of the country that have seen most of the conflict and displacement. Access has been further limited by bureaucratic and other restrictions imposed by the junta (see below).

91 The Chindwin, "Myanmar military council's leader, Min Aung Hlaing urges citizens to reduce oil and rice consumption", 2 November 2021.

92 World Bank, "Myanmar economy remains fragile, with reform reversals weakening the outlook", 21 July 2022.

93 OCHA, *Myanmar Humanitarian Response Plan 2021*, 27 January 2021; OCHA, *Myanmar Humanitarian Response Plan 2022 Mid-Year Report (1 January to June 30)*, 2 September 2022.

94 Financial Tracking Services, "Myanmar Humanitarian Response Plan 2022: Appeal Summary", accessed on 13 October 2022.

95 OCHA, "Myanmar Humanitarian Update No. 22", 1 October 2022.

96 UN News, "Number of internally displaced in Myanmar doubles, to 800,000", 11 February 2022.

97 Physicians for Human Rights, "Our Health Workers Are Working in Fear": After Myanmar's Military Coup, One Year of Targeted Violence against Health Care, 26 January 2022.

These severe access constraints have increased the importance of local humanitarian actors, many of whom are present in regions where needs are the highest. Local CSOs and community based organizations (CBOs) have played key parts in aid delivery inside Myanmar, including in the conflict-ridden border regions. Aid has also crossed into Myanmar from India and Thailand through informal channels (see below). Despite the vital work of local actors and the HRP's stated commitment to localisation, international donors have still heavily concentrated aid to the UN and larger INGOs. In its submission to the IPI, the Karen Human Rights Group (KHRG) stressed the limited availability of funding to local CSOs and CBOs, and how donors' reporting requirements and bureaucratic red tape often strain the capacities of such organizations, even when funding is available.⁹⁸

Several participants in IPI hearings urged international donors, ASEAN, UN agencies and INGOs to significantly scale up their collaborations with local CSOs and CBOs in Myanmar, and to as far as possible avoid channeling aid through the junta. Khin Omar, President of the NGO Progressive Voice, stressed the need to facilitate cross-border aid through local actors immediately, since "time is not on our side" when it comes to the humanitarian situation.⁹⁹

It is estimated that some 30,000 people have fled across the Myanmar border into Thailand since February 2022.¹⁰⁰ Thai authorities, however, have denied those fleeing access to formal refugee camps, and instead largely have confined them to temporary shelters along the border, to which access for humanitarian groups is restricted. Despite public assurances by the Government of Thailand not to push refugees back, human rights groups have on several occasions documented refoulements by Thai border guards and other authorities.¹⁰¹ Furthermore, the Thai government has officially barred aid deliveries from Thailand into Myanmar. Despite this, NGOs estimate that some US\$10 million worth of humanitarian aid has been delivered across the border from Thailand since the coup through informal networks.¹⁰² In addition, up to 7,000 pro-democracy activists are believed to have fled into Thailand. Many live in border towns in hiding without official documentation, and at constant risk of arrest.¹⁰³

In India, Myanmar refugees have been able to access informal aid and support from the local government and other actors in Mizoram state, despite the Indian national government continuing to place restrictions on aid. Salai Za Uk Ling, Deputy Executive Director of the Chin Human Rights Organization, told the IPI that people and local authorities in India had been "very kind and welcoming" to Chin refugees, who have fled abuses and "collective punishment" by the military.¹⁰⁴ Multiple actors stressed to the IPI the need for the governments of Thailand and India to open their borders to Myanmar refugees, allow the delivery of aid, and refrain from illegal pushbacks.

98 Written submission by KHRG to the IPI, 31 July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/KHRG-Written-Submission-for-IPI-APHR.pdf>

99 Khin Ohmar's intervention at IPI Oral Hearing 1, 22 June 2022. Available at: <https://www.youtube.com/watch?v=JDuwux7D9tA>

100 Confidential submission to the IPI, on file with APHR.

101 Fortify Rights, "Thailand: Provide Official Protective Status to Myanmar Refugees, Prevent Forced Returns", 6 May 2022.

102 Refugees international, *Paths of Assistance: Opportunities for Aid and Protection along the Thailand-Myanmar Border*, 12 July 2022.

103 Confidential submission to the IPI, on file with APHR.

104 Salai Za Uk Ling's intervention at IPI Oral Hearing 4.

Humanitarian aid restrictions by the junta

While humanitarian access has always been a challenge in many parts of Myanmar, the situation has worsened since the coup. According to OCHA, heavy access constraints imposed by the junta are “limiting the ability of humanitarians to reach the most vulnerable people and provide life-saving assistance”. These include increasingly slow bureaucratic procedures, such as delayed or blocked visas and travel permits.¹⁰⁵ UNICEF has said that the need to obtain travel authorization is a “high constraint factor” to reach people in need.¹⁰⁶ Furthermore, roadblocks and other closures of transport routes have significantly hampered aid delivery to people in need, including the internally displaced. In September 2021, for example, the military blocked access to areas of Chin state, leaving some 50,000 displaced people without access to supplies of food, water and other necessities.¹⁰⁷

At the same time, Human Rights Watch and the UN Special Rapporteur on human rights in Myanmar have documented how soldiers have turned back aid convoys and even arrested those suspected of being involved in aid deliveries.¹⁰⁸ Tom Andrews, the UN Special Rapporteur on human rights in Myanmar, told the IPI that the junta had “weaponized humanitarian aid”, and had systematically prevented aid from reaching those most in need.¹⁰⁹ Increasing restrictions on access have furthermore increased the reliance on local aid organizations to reach people in need, further putting them at risk of conflict-related violence or retaliation by the junta.

105 OCHA, *Myanmar Humanitarian Response Plan 2022 Mid-Year Report (1 January to June 30)*, 2 September 2022.

106 UNICEF Myanmar, “Humanitarian Situation Report No. 7”, 28 October 2021, available at: <https://www.unicef.org/media/109596/file/UNICEF%20Myanmar%20Humanitarian%20Situation%20Report%20No.%207%20-%2028%20October%202021.pdf>

107 Radio Free Asia, “Myanmar’s Military Blocks Supply Routes to 50,000 Refugees in Chin State Amid Renewed Fighting”, 8 September 2021.

108 Human Rights Watch, “Myanmar: Junta Blocks Lifesaving Aid”, 13 December 2021; UN, Note by the Secretary General on the situation of human rights in Myanmar, to the 76th session of the General Assembly, 2 September 2021, available at: <https://undocs.org/A/76/314>

109 Tom Andrews’ intervention at IPI Oral Hearing 3, 6 July 2022. Available at: <https://www.youtube.com/watch?v=PYXOx1libE&t>



Photo: The Chairman of United Nations (UN) fact-finding mission on Myanmar, Marzuki Darusman (L) of Indonesia talks to the media as he is accompanied by the mission expert Christopher Sidoti (R) of Australia, during a press conference at the UN office in Jakarta, Indonesia, 05 August 2019. © EPA-EFE.

Chapter 03: The International Response

As the situation in Myanmar has deteriorated since the coup, the collective efforts of international institutions and governments have demonstrated a glaring inability to address the growing, multi-faceted crisis. Key to this failure has been the reality that international allies of the junta have proven more committed to defending, legitimizing, and shoring up its failed rule than supporters of democracy have in strengthening the prospects of the democratic forces organized to challenge it.

Ultimately, the international community's collective response has fallen far short of the Myanmar people's expectations and of international obligations and standards. There is legitimate concern that the international community's failure to respond effectively emboldens not only the military junta in Myanmar, but also other regimes, which may be led to believe that gross violations of human rights and humanitarian norms might occur with impunity.

The sections below outline the actions taken by key international governments, including both allies of the junta and supporters of democracy, as well as an assessment of the collective international response through the United Nations.

1. The friends of the Junta

Since staging its coup in February 2021, the junta has received significant material, rhetorical, and moral backing from its foreign allies. Most prominent among them are Russia, China, and, to a lesser extent, India. The support and legitimation granted by these governments have enabled the junta to sustain itself and carry out its numerous human rights violations and abuses, despite its failure to consolidate its coup. This support has intensified in 2022, as junta allies increasingly see their interests in Myanmar tied to the SAC's success.

RUSSIA

Russia remains one of the Myanmar military's most prominent backers, and Moscow has been instrumental in lending the junta both material resources, including weapons, and international legitimacy. While the Russian government did not explicitly endorse the coup in its immediate aftermath,¹¹⁰ its actions in the subsequent weeks sent strong signals of support for the junta and a willingness to legitimize it. Russia was one of only a handful of countries to send an official representative to the junta's celebration of Armed Forces Day held in Naypyitaw on 27 March 2021, as the military massacred protesters, and the only one to send a high-profile dignitary.¹¹¹ Two days later, the Russian government issued a statement that expressed a desire to deepen military cooperation, calling Myanmar "a reliable ally and strategic partner."¹¹² While Russian economic investment in Myanmar remains limited, particularly compared with other junta backers like China, its weapons and especially moral support have been critical to shoring up the junta's unstable rule.

Russia constitutes one of Myanmar's top arms suppliers, and it has signed several new agreements for additional weapons sales since the coup.¹¹³ Russia has supplied the military with weapons and training since the early 2000s, but this relationship has intensified in recent years, particularly after the brutal "clearance operations" against the Rohingya in 2017.¹¹⁴ Russian exports have included fighter jets and helicopter gunships, as well as armored vehicles and surface-to-air missiles. The UN Special Rapporteur on the situation of human rights in Myanmar reported in February 2022 that Russian-supplied weapons have been used to attack civilians, in violation of international law.¹¹⁵

Moscow has also been a critical source of legitimacy for the junta and helped to shield it from international accountability, as Khin Ohmar, Chair of Progressive Voice, denounced in one of the IPI oral hearings.¹¹⁶ Along with China, Russia has blocked any substantive action at the UN Security Council (see section 3.3). Junta leader Sr. Gen. Min Aung Hlaing has visited Russia on at least three occasions since the coup, receiving a warm welcome from officials, including Defense Minister Sergei Shoigu, with whom he maintains a close relationship,¹¹⁷

110 International Crisis Group, *Coming to Terms with Myanmar's Russia Embrace*, 4 August 2022.

111 Radio Free Europe/Radio Liberty, "Top Russian Defense Official Seeks Closer Burma Ties As Junta Kills Scores Of Protesters In 'Shocking Violence'", 27 March 2021.

112 International Crisis Group, *Coming to Terms with Myanmar's Russia Embrace*, 4 August 2022.

113 UN Special Rapporteur on the situation of human rights in Myanmar, *Enabling Atrocities: UN Member States' Arms Transfers to the Myanmar Military* (A/HRC/49/CRP.1), 22 February 2022.

114 International Crisis Group, *Coming to Terms with Myanmar's Russia Embrace*, 4 August 2022.

115 UN Special Rapporteur on the situation of human rights in Myanmar, *Enabling Atrocities: UN Member States' Arms Transfers to the Myanmar Military* (A/HRC/49/CRP.1), 22 February 2022.

116 Khin Ohmar's intervention at IPI Oral Hearing 1, 22 June 2022. Available at: <https://www.youtube.com/watch?v=JDuwux7D9tA&t>

117 International Crisis Group, *Coming to Terms with Myanmar's Russia Embrace*, 4 August 2022.

as well as President Vladimir Putin himself, on Min Aung Hlaing's most recent visit in September 2022.¹¹⁸ On 3 August 2022, Russian Foreign Minister Sergei Lavrov traveled to Naypyitaw in a high-profile visit that demonstrated the extent to which Moscow prioritizes its ties with the SAC.¹¹⁹ The visit was hailed in junta-controlled state media as evidence of international support,¹²⁰ despite the reality of an international community that has largely shunned the military.

Following Russia's invasion of Ukraine and the subsequent international efforts to isolate Moscow, the importance of its relationship with the Myanmar military increased. Flouting international law and norms, junta leaders have lent vocal support to Russia's invasion, reciprocating Russian backing for its actions.¹²¹ Moscow clearly believes that its strategic interests would be bolstered were the Myanmar military to gain control. Nevertheless, the war in Ukraine also has implications for the support that Russia will be able to provide Myanmar going forward, particularly on supplying weapons, and it remains unclear whether Moscow has the capacity to continue to deliver levels of material support that the junta desires.¹²²

CHINA

While Moscow has exhibited strong support for the SAC since its inception, Beijing's approach has shifted since early 2021. In the immediate aftermath of the coup, Chinese government statements were cautious. While Beijing refused to condemn the coup outright and blocked substantive action at the UN Security Council,¹²³ it was not an enthusiastic supporter of the junta initially, due in part to a complicated history with the Myanmar military. The United States Institute of Peace's Jason Tower told the IPI that there exists "no inherent love or predisposition toward Min Aung Hlaing's regime on the part of the Chinese."¹²⁴ Beijing's relationship with the Myanmar military has long been rocky and riven by mutual mistrust. The military and its aligned Union Solidarity and Development Party (USDP) took measures that Beijing viewed as violating its interests in the past, for instance a 2011 decision to suspend the construction of the Myitsone Dam in Kachin State.¹²⁵

China's largely positive relationship with the NLD, on the other hand, may have been influential in Beijing's decision to afford some recognition to the party after the coup and its continued pursuit of engagement with NLD members.¹²⁶ Despite this initial openness, however, Beijing's approach has shifted over time, and China has emerged as one of the junta's most potent enablers. Despite this initial openness, however, Beijing's approach has shifted over time, and China has emerged as one of the junta's most potent enablers.

118 Al Jazeera, "Myanmar's Min Aung Hlaing meets Putin for first time since coup", 7 September 2022.

119 Al Jazeera, "Russian FM Lavrov on visit to 'long-standing partner' Myanmar", 3 August 2022.

120 Global New Light of Myanmar, "State Administration Council Chairman Prime Minister Senior General Min Aung Hlaing holds talks with Minister of Foreign Affairs of the Russian Federation Mr Sergey Lavrov", 4 August 2022.

121 Voice of America, "Myanmar's Military Council Supports Russia's Invasion of Ukraine", 25 February 2022.

122 Bertil Lintner, "Russia's war means fewer arms for Myanmar", Asia Times, 22 March 2022.

123 Chris Barrett, "'A bloodbath is imminent' in Myanmar but China blocks UN sanctions", Sydney Morning Herald, 1 April 2021.

124 Jason Tower's intervention at IPI Oral Hearing 5, 4 August 2022. Available at: <https://www.youtube.com/watch?v=W78PHF1J6Dc>

125 Thomas Fuller, "Myanmar Backs Down, Suspending Dam Project", New York Times, 30 September 2021.

126 Jason Tower's intervention at IPI Hearing 5.

By September 2021, Beijing was already exhibiting a propensity toward pushing for the SAC's consolidation of control. It urged the NLD leadership that remained out of jail to disavow the NUG and began branding the pro-democracy forces as "extremists", in line with pronouncements by the junta.¹²⁷ In April 2022, Wunna Muang Lwin, the junta's foreign minister, traveled to Beijing, on a visit that constituted the culmination of this shift. There, he met with Chinese Foreign Minister Wang Yi, who announced that his government planned to support the SAC "no matter how the situation changes."¹²⁸ Since then, China has become more assertive in its backing of the junta, pushing other regional partners to make similar moves.

China has historically been one of the chief sources of weapons for the Myanmar military, accounting for around half of all arms imports between 2014 and 2019.¹²⁹ According to the UN Special Rapporteur on the situation of human rights in Myanmar, this support has continued since the coup, and Chinese-supplied weapons have been used to perpetrate human rights violations.¹³⁰ More importantly, however, China has also afforded the junta a crucial lifeline in terms of legitimacy. Its inclusion of junta officials in a number of formal meetings and engagements since late-2021 has enabled the SAC to claim desperately needed international recognition. For example, China has involved junta officials in meetings of the Lancang-Mekong Cooperation Forum, an organization which Justice for Myanmar highlighted to the IPI for its "complicity" in the SAC's grave abuses.¹³¹ Several witnesses also argued that Beijing's increasingly steadfast support for the junta has undermined ASEAN's ability to contribute to a resolution of the crisis.¹³² By giving the junta a blank check, China has diminished ASEAN and its members' abilities to make inroads and push for dialogue (see Chapter 4).

Ultimately, the Chinese government has decided it would prefer to move forward with business as usual with the SAC and has sought to shield the junta from international accountability in the interest of maintaining its economic and strategic interests in Myanmar. Since mid-2021, Beijing has understood those interests to be closely aligned with the junta's success. Beijing's belief that the junta is on the path toward consolidating control – informed by local government and business leaders in China's southwest border regions – critically influences its position.¹³³ The junta's international isolation also leaves it in a particularly weak bargaining position, giving Beijing additional leverage to secure its economic and geopolitical goals. According to Jason Tower, "China sees a weak SAC as a business partner, a strategic partner, and keeping Western stakeholders out."¹³⁴

This assessment may ultimately prove to be mistaken, however. The military's profound inability to consolidate control, ensure security, promote stability, or halt the country's precipitous economic decline all threaten Beijing's key economic and strategic interests in

127 Jason Tower's intervention at IPI Oral Hearing 5.

128 Associated Press, "China to back Myanmar 'no matter how the situation changes'", 2 April 2022.

129 Nikkei Asia Review, "Myanmar embraces Russian arms to offset China's influence", 9 February 2021.

130 UN Special Rapporteur on the situation of human rights in Myanmar, *Enabling Atrocities: UN Member States' Arms Transfers to the Myanmar Military* (A/HRC/49/CRP.1), 22 February 2022.

131 Written submission by Justice for Myanmar to the IPI, 1 August 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Justice-For-Myanmar-Written-Submission-for-IPI-APHR.pdf>

132 Jason Tower's intervention at IPI Oral Hearing 5.

133 *Idem.*

134 *Idem.*

Myanmar and the region. Witnesses suggested that coming to terms with this reality will be critical to any decision by Beijing to back away from its growing support for the SAC.¹³⁵

INDIA

Despite representing the largest democracy in the world and a neighbor with substantial exposure to the broader regional consequences of the SAC's failed coup, India has emerged as yet another junta enabler. India abstained from the UNGA resolution 75/287, which condemned the coup (see section 3.3),¹³⁶ and authorized the export of an air defense weapon station to Myanmar in July 2021.¹³⁷ But New Delhi's main contributions to the junta have come in the form of recognition and pursuit of a business-as-usual approach to cross-border relations. Like China, Myanmar's neighbor to the west has moved toward a more deliberate embrace of the junta over time, apparently viewing the military's takeover as a *fait accompli*. Indian officials have defended the government's approach, arguing that it has its own unique interests to protect as Myanmar's neighbor.¹³⁸

2. The friends of democracy

While the junta's international allies have steadfastly backed it, the response of professed supporters of democracy in Myanmar has not matched their fervor. Potential partners with a great deal to offer have failed to rise to the challenge. Written and oral testimony received by the IPI highlighted two main areas of contribution for the international community: 1) sanctions and other forms of pressure aimed at isolating and undermining the SAC, and 2) recognition of and engagement with the NUG and other pro-democracy actors.

Sanctions, Pressure, and Isolation of the Junta

Key supporters of democracy, including the European Union and the United States, have imposed several rounds of sanctions since the coup. These have included targeted sanctions against military officials and their "cronies," as well as the freezing of Myanmar's central bank assets by the United States.¹³⁹ While these efforts represent steps in the right direction, in the assessment of multiple witnesses, they have ultimately been piecemeal and incomplete.¹⁴⁰ In its written submission, Justice for Myanmar told the IPI that existing targeted sanctions have been "uncoordinated and unsystematic,"¹⁴¹ reflecting broader concerns expressed throughout the IPI hearings. Furthermore, sanctions targeting members of the SAC are limited in their ability to shape the military's behavior since these individuals' foreign exposure is limited, particularly in Western countries like the United States and EU member states.¹⁴²

135 Ídem

136 Press Trust India, "India abstains on U.N. resolution on Myanmar", 19 June 2021.

137 UN Special Rapporteur on the situation of human rights in Myanmar, *Enabling Atrocities: UN Member States' Arms Transfers to the Myanmar Military* (A/HRC/49/CRP.1), 22 February 2022.

138 Associated France Press, "Indian Foreign Minister Defends Ties With Myanmar Junta", 19 August 2022.

139 Tom Andrews' intervention at IPI Oral Hearing 3, 7 July 2022.

Available at: <https://www.youtube.com/watch?v=PYXOxllibE>

140 Written submission by Justice for Myanmar to the IPI, July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Justice-For-Myanmar-Written-Submission-for-IPI-APHR.pdf>

141 Ídem.

142 Keel Dietz's intervention at IPI Oral Hearing 5, 4 August 2022. Available at: <https://www.youtube.com/watch?v=wA9p0PNaPBO>

Arms embargoes have been similarly uncoordinated. While individual states have banned weapons sales to the junta, the lack of a global arms embargo, as well as the lack of sufficient enforcement capacity, particularly against companies that attempt to bypass restrictions, undermines the effectiveness of such measures.¹⁴³ The difficulty of identifying individuals and companies facilitating arms purchases has further hampered the practical impact of these policies.¹⁴⁴

State-owned enterprises have also come under scrutiny, particularly the Myanmar Oil and Gas Enterprise (MOGE). Prior to the coup, the Myanmar government earned more than US\$1.5 billion per year from oil and gas, and revenues from MOGE represented almost half of Myanmar's foreign income. Between April and July 2022 alone, the junta claimed US\$800 million in revenue from these exports.¹⁴⁵ Meanwhile, unlike other Myanmar businesses, MOGE has significant exposure to the U.S. financial system. As a result, targeting MOGE represents a prime opportunity for governments with significant "scope for impact."¹⁴⁶ The European Union took the step to sanction MOGE in February 2022, acceding to calls from Myanmar and international activists and civil society.¹⁴⁷ The United States government, however, has thus far been reluctant to follow suit, expressing concerns about the broader implications of doing so. Ultimately, without the United States coming on board, efforts to sanction MOGE by the EU and others lack bite since the architecture of the international financial system requires the United States to force banks to block payments going to MOGE.¹⁴⁸ Professed concerns about harm to the Myanmar public through the imposition of sanctions on MOGE appear to be misplaced. According to Keel Deetz, researcher for Global Witness, "MOGE sanctions are one of the least likely sanctions to cause broader harm," since the oil and gas industry does not employ many Myanmar people and the junta would be unlikely to stop oil production altogether even if sanctions were imposed.¹⁴⁹ Furthermore, he explained to the IPI that, "the decision not to sanction MOGE is not a value-neutral one," since the junta uses revenues from MOGE to fund abuses.¹⁵⁰

Other opportunities for action remain outstanding as well. For instance, the U.S. Congress has yet to pass the Burma Act, which would represent an important step toward increasing pressure on the junta. The act would provide the Biden administration with further flexibility in applying sanctions and authorize hundreds of millions of dollars for civil society, media, and humanitarian efforts.¹⁵¹ Despite its passing in the House of Representatives in April 2022,¹⁵² the bill has languished in the Senate, undermining the United States' contribution to efforts to isolate the junta and aid pro-democracy forces and the people of Myanmar.

The sanctions that the United States has imposed on state-owned enterprises beyond MOGE, such as the Myanmar Timber Enterprise and Myanmar Gems Enterprise, have lacked sufficient enforcement capacity.¹⁵³ Other governments have struggled with sanctions enforcement as well. Written testimony reviewed by the IPI suggests that the government

143 Written submission by Justice for Myanmar to the IPI; IPI Oral Hearing 3; IPI Oral Hearing 5.

144 Keel Dietz's intervention at IPI Oral Hearing 5.

145 Reuters, "Myanmar brings in \$800 mln from April-July gas exports", 25 August 2022.

146 Keel Dietz's intervention at IPI Oral Hearing 5.

147 Al Jazeera, "New EU sanctions target Myanmar military's lucrative gas firm", 22 February 2022; Myanmar Now, "Pressure grows for sanctions against junta's oil and gas interests", 5 June 2021.

148 Keel Dietz's intervention at IPI Oral Hearing 5

149 *Ídem.*

150 *Ídem.*

151 *Ídem.*

152 United States Congress, "BURMA Act of 2021" (H.R.5497), 21 October 2021.

153 Tom Andrews' intervention at IPI Oral Hearing 3.

of South Korea, while having taken some positive steps, including suspending development aid to the junta, has failed to take action to prevent South Korean companies from providing financial support to the junta.¹⁵⁴ Other potential allies, such as Japan, have been slow to act. In September 2022, the Japanese government announced that it would stop inviting members of the Myanmar military to training courses at its National Defense Academy and other military schools.¹⁵⁵ The action came after months of domestic and international pressure to do so.

Most recently, the Financial Action Task Force (FATF), an inter-governmental body tasked with counter global money laundering and terrorist financing with headquarters in Paris, included Myanmar on its blacklist, alongside Iran and North Korea, mainly as a consequence of concerns over Myanmar's casinos and illicit cross-border trade, which has increased since the coup. In a huge blow to the SAC, the "FATF calls on countries to apply enhanced due diligence to business relations and transactions in relation to Myanmar," according to its President, Raja Kumar, who also warned that, "this enhanced due diligence must not negatively impact humanitarian assistance. Countries must ensure there are no blanket measures that disrupt the flow of humanitarian funds or remittances, or harm funding for legitimate NPO [nonprofit organization] activity."¹⁵⁶

Tom Andrews, the UN Special Rapporteur on human rights in Myanmar, told the IPI that, "the people of Myanmar are disappointed by the failure of the international community to come to their aid." He noted that sanctions on the Myanmar junta have come "first and foremost from the people themselves" through actions like the CDM, and he called on the international community to "heed their call and follow their leadership."¹⁵⁷ Multiple witnesses told the IPI that the international community's lack of a unified strategy for applying pressure and isolating the junta has undermined its efforts to support democracy and promote peace.¹⁵⁸ In his testimony to the IPI, Myanmar's Ambassador to the UN Kyaw Moe Tun emphasized the urgent need for "a unified and decisive coordinated regional and international response."¹⁵⁹

154 Written Submission by Korean Civil Society in Support of Democracy in Myanmar (and Justice for Myanmar) to the IPI, 10 August 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Korean-Civil-Society-Justice-for-Myanmar-Written-Submission-for-APHR.pdf>

155 OVD, "Japan Will Stop Accepting Military Students from Myanmar", 26 September 2022.

156 Thompson Chau and Dominic Oo, "Myanmar blacklisted by FATF for terrorism and crime finance," Nikkei Asian Review, 22 October 2022.

157 Tom Andrews' intervention at IPI Oral Hearing 3.

158 Written submission by Justice for Myanmar to the IPI; Tom Andrews' intervention at IPI Oral Hearing 3.

159 Kyaw Moe Tun's intervention at IPI Oral Hearing 2, 1 July 2022. Available at: <https://www.youtube.com/watch?v=zW6mUAQmfnU&t>

Support for the pro-democracy movement

Multiple witnesses told the IPI that more active engagement, recognition, and support for pro-democracy forces, including the National Unity Government (NUG) and National Unity Coordination Council (NUCC), are critical.¹⁶⁰ The UN Special Rapporteur Tom Andrews called the NUG “an important asset and resource for the international community,”¹⁶¹ and other witnesses recommended additional funding and support for the NUG.¹⁶² To their credit, international governments, including the United States and members of the European Union and ASEAN (see Chapter 4), have been working to engage the NUG.¹⁶³ Witnesses encouraged more of this engagement and urged governments to make such meetings public.¹⁶⁴

Nevertheless, while some governments have demonstrated openness to engagement, few have recognized the NUG outright. The NUG has set up representative offices in Australia, the Czech Republic, France, Japan, South Korea, Norway, and the UK, though these states have stopped short of formal recognition.¹⁶⁵ Similarly, while the European Union has acknowledged that, “dialogue with all parties, including the NUG and National League for Democracy (NLD) (the legitimate democratic opposition) [...] is essential in restoring the path to democracy,”¹⁶⁶ this has not led to the formalization of diplomatic relations.

In contrast with their governments, parliaments have led the way in calling for formal recognition of the NUG, particularly in Europe. The French Senate passed a resolution to recognize the NUG on 5 October 2021.¹⁶⁷ The European Parliament passed a similar resolution two days later, recognizing the NUG and CRPH as “the only legitimate representatives of the democratic wishes of the people of Myanmar.”¹⁶⁸

The NUG remains the legitimate representative of the Myanmar people and a crucial target for engagement. But it is also important for international partners to engage ethnic

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- 160 Written submission by Justice for Myanmar to the IPI; Written submission by the Myanmar Accountability Project to the IPI, July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Myanmar-Accountability-Project-Written-Submission-for-IPI-APHR.pdf>; Written submission by U.S. Campaign for Burma to the IPI, 18 July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/U.S.-Campaign-for-Burma-Written-Submission-for-IPI-APHR.pdf>; Written submission by Women’s League of Burma (WLB) and Women’s Advocacy Coalition (WAC-M) to the IPI, 20 July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Womens-League-of-Burma-Written-Submission-for-IPI-APHR.pdf>; Chris Sidoti’s intervention at IPI Oral Hearing 3, 7 July 2022. Available at: <https://www.youtube.com/watch?v=jxvZ-iWhzIo>; Luiz Kiadtikhunphaibun’s intervention at IPI Oral Hearing 6, 19 August 2022. Available at: <https://www.youtube.com/watch?v=zKBlj9cTgXo>
- 161 Tom Andrews’ intervention at IPI Oral Hearing 3.
- 162 Scot Marciel’s IPI Special Oral Hearing, 25 July 2022. Available at: <https://www.youtube.com/watch?v=vzAWgX8IFDM&t>
- 163 Jason Tower, “Myanmar’s Unity Government Meets with NSA Sullivan, Gains Further Traction”, US Institute for Peace, 28 October 2021.
- 164 Scot Marciel’s IPI Special Oral Hearing.
- 165 See: <https://mofa.nugmyanmar.org/mofa-nug-representatives/>
- 166 Written submission by the EU Delegation to ASEAN to the IPI, 9 August 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/EU-delegation-to-ASEAN-Written-Submission-to-IPI-APHR.pdf>
- 167 Résolution portant sur la nécessité de reconnaître le Gouvernement d’unité nationale de Birmanie (Sénat : 647 (2020-2021)), 5 October 2022.
- 168 European Parliament resolution on the human rights situation in Myanmar, including the situation of religious and ethnic groups (2021/2905(RSP)), 7 October 2021. Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0417_EN.html

armed organizations (EAOs) in this process as well, the IPI was told.¹⁶⁹ Formal international engagement with these entities has thus far been limited, but they play a critical role in Myanmar and will be central to any future peaceful arrangement in the country.

3. The Role of the United Nations

Despite a call from UN Secretary-General Antonio Guterres for “a unified international response” to the crisis,¹⁷⁰ action at the United Nations has been plagued by indecision, inaction, and contradictions. Hampered by disagreements among member states, the UN Security Council has failed to take up the issue in a substantive way, and the UN has struggled to project influence in Myanmar or serve as a force for positive change.

UN Resolutions and Debates

Despite issuing several statements in response to developments in Myanmar in the months following the coup, the UN Security Council has failed to take substantive, enforceable action in response to the escalating crisis. The Council’s first statement, issued on 5 February 2021, expressed “deep concern” over the military’s “declaration of the state of emergency” and called for the release of Aung San Suu Kyi and other members of the government, but notably did not refer to the military’s takeover as a “coup.”¹⁷¹ Since then, the Council has remained deadlocked, with junta allies and permanent members Russia and China watering down subsequent statements and threatening to veto proposed resolutions on Myanmar.

Amidst inaction at the Security Council, the General Assembly overwhelmingly approved a resolution in June 2021 condemning the coup, which urged all states to “prevent the flow of arms” into the country.¹⁷² A similar resolution was approved by the UN Human Rights Council, which included calls for the release of political prisoners.¹⁷³ These represented important moral victories for the forces of democracy, but their final texts were watered down versions of early drafts, which included more robust calls for arms embargoes and other measures.¹⁷⁴ Furthermore, without the enforcement power of the Security Council, they remain largely symbolic gestures.

UN Representation

One tentative bright spot in the UN’s approach relates to the status of Myanmar’s representation at the United Nations. Following the coup in February 2021, sitting Myanmar Ambassador Kyaw Moe Tun denounced the junta and publicly declared his support for the pro-democracy forces,¹⁷⁵ later explicitly allying himself with the NUG once formed. In December 2021, the UN Credentials Committee, the body that oversees state representation, recommended that the General Assembly defer a decision on Myanmar’s representation,

169 Ashley South’s intervention at IPI Oral Hearing 4, 21 July 2022. Available at: <https://www.youtube.com/watch?v=oLP4NEnA3Uo&t=614s>

170 UN, “Secretary-General Strongly Condemns Continuing Violence by Myanmar Military as ‘Utterly Unacceptable’, Urging Unified International Response”, 19 March 2021.

171 UN, Security Council Press Statement on the Situation in Myanmar, 4 February 2021.

172 UN General Assembly Resolution on the situation in Myanmar (A/75/L.85/Rev.1), 14 June 2021.

173 UN Human Rights Council Resolution on the Human rights implications of the crisis in Myanmar (A/HRC/RES/S-29/1), 12 February 2021.

174 Jamey Keaten, “U.N. rights body adopts watered-down text on Myanmar coup”, Associated Press, 12 February 2022.

175 UN News, “Myanmar Ambassador to UN denounces military coup, as envoy warns democratic processes have been ‘pushed aside’”, 26 February 2021.

leaving Kyaw Moe Tun's position intact and allowing him to continue in his post.¹⁷⁶ The move represented a compromise between advocates of democracy and friends of the junta, who were pushing for its representative to be recognized. Nevertheless, it has helped to forestall the junta's ability to advance its claims of international recognition and provided a glimmer of hope for the people of Myanmar at the international level. The status of Myanmar's seat at the UN has been taken to the Credentials Committee once again in 2022, with a decision expected in December.

The status quo represents an important victory on the international stage for pro-democracy forces, but the recognition they are afforded can and should go further, according to witnesses who provided testimony to the IPI.¹⁷⁷ As of the time of writing, despite being allowed to continue in his role, Kyaw Moe Tun's status is precarious. His credentials rest on a shaky détente between friends of the junta and friends of democracy. Furthermore, the choice to defer a decision, rather than formally recognize the credentials of Kyaw Moe Tun, has implications across the UN system. Without formal recognition, UN agencies and affiliated institutions are left without clear directives on whom to engage, and some have moved toward de facto recognition of the junta.

UN Special Envoys, Agencies, and Humanitarian Assistance

The UN faces a difficult balancing act in Myanmar, as it seeks to maintain a presence in the country. While the UN overall has avoided publicly recognizing the SAC, including through its decision to continue to recognize Ambassador Kyaw Moe Tun, individual UN agencies have taken steps that have unfortunately bestowed dubious legitimacy upon the junta. In particular, representatives from several UN agencies in Myanmar, including the Office for the Coordination of Humanitarian Affairs (OCHA), United Nations Children's Fund (UNICEF), Food and Agriculture Organization (FAO), and International Organization for Migration (IOM), have presented official credentials to the SAC, to the dismay of many members of civil society.¹⁷⁸ The junta has subsequently broadcasted these actions in state-controlled media outlets, projecting the perception that the UN endorses its attempted rule.¹⁷⁹ A visit by UN Special Envoy Noeleen Heyzer in August 2022 was similarly instrumentalized by the junta in order to bolster its own legitimacy.¹⁸⁰

176 UN News, "General Assembly defers decision on Afghanistan and Myanmar seats", 6 December 2021. UN General Assembly, Report of the Credentials Committee : General Assembly, 76th session (A/76/550), 1 December 2021.

177 Written submission by Justice for Myanmar to the IPI; Written submission by the Myanmar Accountability Project to the IPI, 14 July 2022. Available at: <https://aseanmp.org/wp-content/uploads/2022/10/Myanmar-Accountability-Project-Written-Submission-for-IPI-APHR.pdf>

178 See: "Letter to the UN Secretary-General on UN agencies engagement with the Myanmar junta", 23 September 2022.

179 See, for example: *Global New Light of Myanmar*, "FAO Representative to Myanmar presents her Credentials to Union Minister for Foreign Affairs", 31 August 2022; *Global New Light of Myanmar*, "IOM Chief of Mission for Myanmar presents his Accreditation Letter to Union Minister for Foreign Affairs", 10 September 2022.

180 *The Irrawaddy*, "Myanmar Junta Uses UN Envoy for What It Craves: Legitimacy", 17 August 2022; Radio Free Asia, "UN faces heat over envoy's trip to Myanmar", 23 August 2022.

4. Accountability Initiatives

The IPI also received testimony on the issue of accountability and potential legal pathways to achieving it.¹⁸¹ Three legal cases are ongoing, at the International Criminal Court (ICC),¹⁸² the International Court of Justice (ICJ),¹⁸³ and national courts in Argentina,¹⁸⁴ thanks to its liberal universal jurisdiction statutes. All three cases were initiated in relation to atrocities committed against the Rohingya in 2017, but given its mandate, the ICC's investigation and proceedings may also include crimes committed since the 2021 coup. Additional international mechanisms, including the Independent Investigative Mechanism for Myanmar (IIMM), focus on collecting evidence of the most serious international crimes and preparing aimed at expediting criminal prosecution.¹⁸⁵ Although these remain outside the scope of this report, the IPI believes that these represent important potential pathways for accountability in the long run and should be fully supported by the international friends of democracy in Myanmar.

181 Nicholas Koumjian's intervention at IPI Oral Hearing 5, 4 August 2022. Available at: <https://www.youtube.com/watch?v=0regwNft70Y>

182 ICC-01/19, Bangladesh/Myanmar. See: <https://www.icc-cpi.int/bangladesh-myanmar>.

183 See: "Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)". Available at: <https://www.icj-cij.org/en/case/178>.

184 See: *The Guardian*, "Argentina court to investigate Myanmar war crimes against Rohingya Muslims", 23 September 2022.

185 Nicholas Koumjian's intervention at IPI Oral Hearing 5.



Photo: The 16th ASEAN Defence Ministers' Meeting in Cambodia © EPA-EFE.

Chapter 04: The role of ASEAN

Since the beginning of the crisis, many in the international community have looked to ASEAN for leadership. Representing Myanmar and many of its neighbors, ASEAN has a significant stake in the outcome of the crisis and strong incentives to help resolve the situation and prevent the regional destabilization that could result from it. Nevertheless, ASEAN has, thus far, struggled to respond effectively, hampered by internal divisions and a naïve adherence to a framework that was described as “dead on arrival” by multiple witnesses before the IPI.

1. The Five-Point Consensus

ASEAN’s main mode of engagement thus far has been through the framework of the so-called “Five-Point Consensus.” Signed at a special summit in Jakarta in April 2021, the Consensus lays out a set of immediate steps to help resolve the situation, including a halt to violence and inclusive dialogue with all parties.¹⁸⁶

More than 18 months after its signing, however, it is clear that the Five-Point Consensus has failed, and a new mode of engagement is needed in its place. This was the clear takeaway from the testimony of multiple witnesses before the IPI, including Malaysian Foreign Minister Saifuddin Abdullah, who has called for more direct engagement with the NUG and other pro-democracy forces.¹⁸⁷ Other witnesses emphasized the need to move toward

186 Chairman’s Statement on the ASEAN Leaders’ Meeting, 24 April 2021. Available at: <https://asean.org/wp-content/uploads/Chairmans-Statement-on-ALM-Five-Point-Consensus-24-April-2021-FINAL-a-1.pdf>.

187 Saifuddin Abdullah’s intervention at IPI Oral Hearing 2, 1 July 2022. Available at: <https://www.youtube.com/watch?v=GLCWj9AKSxY>

something more inclusive and comprehensive.¹⁸⁸ One of them noted that, from the start, it was “thoroughly clear that Min Aung Hlaing was insincere in signing it and had no intention of following it.”¹⁸⁹ At this point, the five points “just don’t fit with the reality in the country,” according to testimony from Scot Marciel, former U.S. Ambassador to Myanmar.¹⁹⁰

The junta’s refusal to cooperate in the implementation of any of the Consensus’ points led ASEAN to exclude its leaders from high-level summits and meetings, an important and unprecedented step.¹⁹¹ Nevertheless, the exclusion of the junta, while positive, remains limited and incommensurate with the scope of the challenge that Myanmar presents. Gaps in the policy also exist. For example, despite excluding leading junta officials from top level meetings, such as ministerial summits, representatives of the junta are still invited to participate in events at the working level.¹⁹²

2. Lack of Progress

ASEAN’s first point on reduction of violence has been a non-starter. Since inking the Consensus, violence has not decreased. ASEAN’s commitment to addressing the violence is also undermined by its refusal to coordinate with other international mechanisms, such as the Independent Investigative Mechanism for Myanmar.¹⁹³ ASEAN’s professed intention to provide humanitarian aid has similarly been stymied by a lack of resources and genuine commitment. The ASEAN Coordinating Center for Humanitarian Assistance (AHA Center), designated as the primary body responsible for overseeing aid delivery in the aftermath of natural disasters, remains ill-equipped to address the escalating humanitarian emergency in an armed conflict.¹⁹⁴ Meanwhile, Thailand’s limitations on cross-border aid imperil civilians that remain in Myanmar.¹⁹⁵

The ASEAN Special Envoy position—intended to help improve ASEAN’s response—has done little to advance the core principles of the Five-Point Consensus or the bloc’s ability to address the crisis. Multiple witnesses criticized the rotating nature of the Special Envoy position, which changes along with the ASEAN Chair, and suggested that, for such a position to be effective, a permanent office and staff must be established to support it. The first Special Envoy, Erywan Yusof, appointed by Brunei, was hobbled from the start, limited in his access to all parties, as required by the Consensus. He canceled a planned visit to Myanmar after the junta refused to allow him to meet with Aung San Suu Kyi and other imprisoned government officials.¹⁹⁶ Cambodian Foreign Minister Prak Sokhonn took over the role in 2022, and his tenure has been particularly damaging. Lacking adherence to

188 Scot Marciel’s intervention at IPI Special Oral Hearing, 25 July 2022. Available at <https://www.youtube.com/watch?v=yzAWgX8lFDM&t>

189 Testimony from confidential witness.

190 Scot Marciel’s IPI Special Oral Hearing.

191 Saifuddin Abdullah’s intervention at IPI Oral Hearing 2.

192 Ídem.

193 Nicholas Koumjian’s intervention at IPI Oral Hearing 5, 4 August 2022. Available at: <https://www.youtube.com/watch?v=0regwNft70Y&t>

194 Adelina Kamal’s intervention at IPI Oral Hearing 4, 20 July 2022. Available at: <https://www.youtube.com/watch?v=JT3rtvGFVMo>

195 Ashley South’s intervention at IPI Oral Hearing 4, 21 July 2022. Available at: <https://www.youtube.com/watch?v=oLP4NEnA3Uo&t>

196 Associated Press, “Envoy aborts visit to Myanmar, straining ASEAN relations”, 14 October 2021.

the core of the Consensus, he has chosen to pursue unconditional visits to Naypyitaw, bestowing undue legitimacy on the junta without any associated access to key opposition figures or any progress to speak of.¹⁹⁷

The “dialogue process” that the Consensus envisioned was dead on arrival. The junta quickly made it clear that it did not intend to engage in any kind of dialogue with opposition forces, and it has pursued a scorched earth strategy in its pursuit of control over the country. As witnesses emphasized, the window for dialogue is all but lost, foreclosed particularly when the junta took the unprecedented step of executing four pro-democracy activists, including one member of parliament, on 25 July 2022.¹⁹⁸ Ultimately, the Consensus framework has failed to advance the potential for dialogue on any front, instead giving leeway to the junta to continue its crimes.

3. Divisions within the Bloc

ASEAN remains divided on how to approach the crisis in Myanmar. While states like Malaysia and Indonesia have pushed for greater engagement with the NUG and pro-democracy forces, others have been more inclined to back the junta. Indonesia was instrumental in convening the special summit in Jakarta in April 2021, in which the Five-Point Consensus was adopted. Since then, it has engaged the NUG informally, viewing such measures as an important component of the effort to resolve the crisis.

Meanwhile, Malaysia has emerged as a regional leader in this regard. The Malaysian government has been at the forefront of encouraging engagement with the NUG and other pro-democracy actors. Malaysian Foreign Minister Saifuddin Abdullah met with NUG and NUCC officials on September 20, 2022, on the sidelines of the UN General Assembly.¹⁹⁹ While the Philippines initially leaned more toward this camp—voting in favor of the June 2021 UN General Assembly resolution, for instance (see Chapter 3)—new President Ferdinand Marcos, Jr., elected in May 2022, has floated a proposal for more direct engagement with the junta, suggesting a potential foreign policy shift.²⁰⁰

Thailand has been a prominent force on shielding the junta from scrutiny and accountability. Partially driven by a historical affinity between the Myanmar and Thai armies, both heavily involved in the political lives of their countries, Bangkok’s gamble appears to be similar to Beijing’s (see Chapter 3)—that dealing with the junta and supporting its consolidation of control is in line with Thai interests. But as researcher at Chiang Mai University, Ashley South told the IPI, the SAC is “not a reliable partner for Thailand,” and the Thai government’s association with the junta is “serving to undermine Thailand’s credibility.”²⁰¹ Cambodia and Laos have been similarly unwilling to criticize the junta. Like Thailand, both abstained

197 Scot Marciel’s intervention at IPI Special Oral Hearing.

198 Tom Andrews’ intervention at IPI Oral Hearing 3, 7 July 2022. Available at: <https://www.youtube.com/watch?v=PYXOsx1libE>; Scot Marciel’s intervention at IPI Special Oral Hearing; David Rising, “Myanmar executes ex-lawmaker, 3 other political prisoners”, Associated Press, 25 July 2022.

199 Reuters, “Malaysia foreign minister meets counterpart from Myanmar shadow government in Washington”, 15 May 2022; ASEAN Parliamentarians for Human Rights, “Malaysian Foreign Minister and international parliamentarians demand stronger action on Myanmar”, 19 September 2022.

200 Reuters, “Philippines’ Marcos open to buying Russian fuel, proposes new Myanmar approach”, 5 October 2022.

201 Ashley South’s intervention at IPI Hearing 4.

from the June 2021 UN General Assembly resolution condemning the coup. The vote on the resolution highlighted the divisions within ASEAN: Brunei joined the group abstaining, while the remaining members voted in favor.²⁰²

Meanwhile, Singapore, for decades a haven for Myanmar businessmen known to have links with the military and a conduit for military supplies to the country, has criticized the coup, has demanded banks to increase their scrutiny of financial flows going to Myanmar, and stopped authorizations to transfer items that may be used for military purposes. Nevertheless, these measures have been insufficient so far, and “cronies” such as the infamous Tay Za, who has been sanctioned by the United States, continue to operate freely in the city-state.²⁰³

This division within ASEAN has undermined not only its response but also that of the international community more broadly. The failure of the Five-Point Consensus is magnified by the fact that many international allies of democracy have deferred to ASEAN to take leadership and cited the Consensus as a framework for doing so. ASEAN’s lack of progress is therefore the world’s as well. Scot Marciel told the IPI that continuing to push the Five-Point Consensus as the framework for engagement is “harmful” since “it creates the illusion that there is a process underway that’s working,” freeing governments from “doing any hard or creative thinking.”²⁰⁴

202 Oren Samet, “There is No ASEAN Consensus on Myanmar”, *The Diplomat*, 22 June 2022.

203 Chanyaporn Chanjaroen, “Sanctioned Myanmar Tycoons Find Shelter in Singapore,” Bloomberg, 18 October 2022.

204 Scot Marciel’s intervention at IPI Special Oral Hearing.

Conclusion

The *military coup d'état* on 1 February 2021 opened up the latest chapter in Myanmar's tragic recent history. As highlighted in this report, based on the work of the International Parliamentary Inquiry into the global response to the crisis in Myanmar, the junta has committed a range of human rights violations, triggered an unprecedented humanitarian crisis, and driven the country to the brink of economic collapse. Soldiers, police and their proxies have killed more than 2,300 people, arrested more than 15,000, made systematic use of torture in detention, and swiftly moved to silence independent media and other real or perceived critics.

The Myanmar kyat has collapsed since the coup, leading to sharp increases in the cost of food and basic commodities, and the loss of millions of jobs. These developments have invariably hit the most vulnerable in society the hardest, with poverty rates rocketing. At the same time, more than one million people have been internally displaced, adding to an unprecedented humanitarian crisis. Aid agencies find it increasingly difficult to reach those in need amid intensifying conflict and restrictions imposed by the junta, while the national healthcare system has all but collapsed.

As made clear in the course of the IPI's investigation, the military that seized power in 2021 is the same institution that has been at the heart of most of Myanmar's problems over several decades. Myanmar has been under military rule for most of its history since independence in 1948, and even the brief, quasi-democratic interlude from 2011 took place under a system tightly controlled by the military, although it did give people across Myanmar a taste of freedom that they are now unwilling to renounce. The military's intransigence has led to a state of permanent conflict with ethnic armed organisations in Myanmar's border areas. Some of these wars have intensified after the coup, as some ethnic groups resist the junta, and the military is responding with its usual brutality.

Yet, despite the bleak situation, there is cause for hope. The most recent coup in Myanmar has, paradoxically, also brought about a vision for a new, genuinely inclusive and democratic country. This is the only possible solution to address the root cause of most of Myanmar's troubles since independence: a failed project of nation-building dictated by the Bamar majority, carried out while rarely listening to the voices of ethnic minorities. The level of unity among different ethnic groups joining forces in the struggle against the military seen since the coup is unprecedented in the country's history. The CRPH's and the NUG's inclusion of representatives from ethnic minorities offers the most inclusive attempt at governance yet in Myanmar's history. Their policy commitments to a federal state with respect for human rights for all, including the Rohingya minority, would have been unthinkable under the previous civilian government.

While not all groups have formally allied themselves to the NUG, this sense of unity in diversity must form the basis for a new Myanmar. The ethnic organizations are key and legitimate actors in their own right, having provided aid and services to the populations in the territories they control for decades. Some distrust the National League for Democracy (NLD), which forms the nucleus of the NUG, since their government showed little

inclination to accommodate the demands of the minorities for autonomy. Despite this, some ethnic organizations have provided NUG members with safe haven and protection in their territories. In many ways, these organizations hold the keys to Myanmar's future, and should be engaged and supported as much as the NUG.

The IPI was set up not only to document the horrific situation in Myanmar since the coup, but also to develop a roadmap for the international community to support those fighting to establish an inclusive and democratic nation. A broad range of actors took part in IPI hearings or made written submissions, including, but not limited to, members of the NUG, former ASEAN officials, ethnic minority representatives, human rights defenders and civil society activists. They all mostly expressed similar views on what a future Myanmar should be based on: an end to violence and human rights violations, a military under civilian control, a commitment to justice and human rights for all ethnic groups, and a federal, democratic system.

These are all objectives with which the IPI Committee Members wholeheartedly agree. Ultimately, it is the Myanmar people who have to find their way to accomplish them, but we believe that the international community should provide as much help and support as possible in their endeavors. It is in this spirit that the IPI has set out some detailed recommendations in the final chapter of this report. They focus on the urgent need to increase humanitarian assistance to Myanmar, and as much as possible work directly with local, community-based aid groups, and not with the junta. Pressure on the junta must also be increased, through coordinated and genuinely impactful sanctions. At the same time, Myanmar's pro-democracy forces – including the NUG and ethnic organizations– should be recognized and given the political and financial support they need.

As outlined above, international governments – whether Western donor countries or ASEAN Member States – have largely failed in their response to the coup. The UN Security Council and ASEAN have both remained paralyzed, while sanctions have been piecemeal and have had limited impact. It is particularly disappointing that those countries supporting the junta, such as China and Russia, have been able to offer much more concrete aid than the supposed allies of Myanmar's democratic forces. It is time to change course and provide the Myanmar people with the assistance they need.

Recommendations

Those countries and international institutions that claim to support democracy in Myanmar should step up. If they are serious about helping the Myanmar people in their hour of direst need, they must pursue creative and effective policies to provide support and pave the way for a better future for the country. Min Aung Hlaing's junta has failed to gain control over the country, but pro-democracy forces cannot expel the military from Myanmar's political life on their own. The forces fighting for a federal democracy need all the help they can get from allies in the global community.

The following are the IPI's recommendations on what friends of democracy in Myanmar can do now:

1. Humanitarian assistance

The UN, donor countries, and ASEAN should:

1. Significantly increase the funding and resources allocated to humanitarian assistance in Myanmar.
2. Work with Myanmar's civil society as much as possible. In areas not controlled by the junta, particularly along the Thai and Indian borders, aid should be channeled through local civil society organizations (CSOs) and ethnic armed organizations (EAOs).
3. Provide security, as well as logistical and economic support, to local CSOs and EAOs so they can ramp up their activities.
4. Put pressure on, and offer incentives to, neighboring countries (particularly Thailand, India, and Bangladesh), to encourage them to allow an increase in the delivery of cross-border humanitarian assistance. The UN Secretary General, Antonio Guterres, should visit these countries to help persuade them.
5. Welcome refugees from Myanmar and help neighboring countries that take them in with financial and logistical assistance. Streamline and facilitate the resettlement of Myanmar refugees to third countries.

2. Pressure on Min Aung Hlaing's junta:

The UN, donor countries, and ASEAN should:

1. Isolate the SAC diplomatically by keeping any and all junta representatives out of all high-level official meetings, including at the UN and ASEAN.
2. Suspend any and all military-to-military cooperation with the Myanmar military.
3. Impose coordinated and targeted sanctions on the junta:

Call on governments that have not yet sanctioned the Myanmar Oil and Gas Enterprise (MOGE), particularly the US, to do so as soon as possible.

Improve international coordination in sanctioning the junta. A multinational task-force could be created to that effect.

3. Support for pro-democracy forces

The UN, donor countries, and ASEAN should:

1. Acknowledge the NUG as the legitimate authority in Myanmar and the representative of the democratically elected government.
2. Provide funding to the NUG, and those EAOs opposing the junta (such as the KNU or the KIO).
3. Allow free movement to representatives from the NUG and EAOs, as well as other pro-democracy activists, by issuing visas and special passports if necessary, so they can travel to lobby for their cause.
4. Allow the NUG to open delegations in other countries and international organizations, such as the EU and ASEAN, and use those delegations as conduits for EAO leaders to engage foreign countries in dual-track diplomacy.
5. Encourage and facilitate the dialogue between the NUG and EAOs in order to negotiate a future arrangement for a federal democracy in Myanmar, if necessary by offering venues abroad to hold meetings and forums. The NUG should be strongly encouraged to unconditionally restore the citizenship of the Rohingya and accept the return of those who have taken refuge in Bangladesh over the years.
6. Support the CDM movement's young activists with scholarships in universities in the region or online education programs.
7. Provide the pro-democracy forces, including the NUG, with capacity building on governance, political science, international relations, and federalism.

4. Recommendations to ASEAN

ASEAN and ASEAN member states should:

1. Acknowledge that the Five-Point Consensus has failed and that Min Aung Hlaing's junta is not a reliable partner. ASEAN should abandon the Five Point Consensus in its present form and:

Negotiate a new agreement on the crisis in Myanmar with the NUG and representatives of EAOs. Provide that new agreement with enforcement mechanisms.

2. Review the mandate of the AHA Center, in order to make it effective in conflict situations. Also:

Reinforce its funding and logistical capacities.

Include pro-democracy forces in its deliberations and work with them in delivering humanitarian assistance.

3. Change the mandate and appointment mechanism for the Special Envoy to Myanmar, so:

It is a full time position.

The Special Envoy is appointed by all ASEAN members, rather than by the rotating ASEAN Chair.

The Special Envoy should represent, and be accountable to, ASEAN as a whole, not just the Chair.

4. Grant asylum and give legal protection to refugees fleeing Myanmar, including the Rohingya and members of other ethnic groups who fled before the coup.

“Time is not on our side”:

**The failed international response
to the Myanmar coup**

Final report by the International
Parliamentary Inquiry into the
global response to the crisis in
Myanmar (IPI)

November 2022

