

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	677
Land:	Myanmar
Kilde:	Global Centre for the Responsibility to Protect (R2P)
Titel:	Monitor
Udgivet:	1. december 2023
Optaget på baggrundsmaterialet:	1.februar 2024

Myanmar (Burma)



Risk Level: Current Crisis

Populations in Myanmar are facing crimes against humanity and war crimes perpetrated by the military following the February 2021 coup.

BACKGROUND:

On 1 February 2021 Myanmar's (Burma) military – the Tatmadaw – led by Commander-in-Chief Min Aung Hlaing, overthrew the country's civilian-led government and declared a state of emergency. Since then, hundreds of thousands of people have participated in peaceful protests and strikes against the re-imposition of military rule, while numerous civilian militias – known as People's Defence Forces (PDFs) – have also formed as part of an armed resistance. Abuses committed by the military since the coup likely amount to crimes against humanity and war crimes. At least 4,177 people have been killed by security forces and anti-junta groups, while 1.7 million people have been displaced since the coup. On 1 August 2023 the Tatmadaw extended the state of emergency for another six months.

The Tatmadaw has increasingly targeted civilian areas with airstrikes, scorched earth campaigns and other attacks, particularly in the anti-military strongholds of Magway and Sagaing regions and Chin, Kachin, Shan, Kayah and Karen states. According to Data for Myanmar and the UN High Commissioner for Human Rights, 75,000 homes have been burned or destroyed since the coup, including 24,000 from January to July 2023 alone. Aerial bombardments have also indiscriminately targeted schools and monasteries. The Women's League of Burma has documented conflict-related sexual violence, including incidents where women have been gang-raped by soldiers and raped at checkpoints. The UN High Commissioner for Human Rights has documented the military's systematic denial of humanitarian aid to civilians and intentional blocking humanitarian access.

Since the coup the military has arbitrarily detained thousands of people involved in resisting the junta. The military has charged members of the National Unity Government (NUG) – a coalition of democratic opponents formed in opposition to military rule – with high treason and pronounced that the NUG and PDFs are terrorist organizations. Although the junta has announced several mass

prisoner releases, the Special Rapporteur on the situation of human rights in Myanmar has said that at least 19,000 people remain detained for resisting the coup. The junta has also taken steps to block and ban anti-military parties, including by effectively dissolving the previous government's National League for Democracy and nearly 40 other political parties in March 2023.

The Association of Southeast Asian Nations (ASEAN) agreed to a "Five-Point Consensus," which called for a cessation of hostilities, among other steps, in April 2021, but subsequent regional pressure has been limited. In December 2022 the UN Security Council (UNSC) passed a resolution condemning the human rights crisis, demanding an end to the violence and calling for political prisoners to be released. Numerous governments have attempted to restrict the junta's capacity to commit crimes through a variety of measures, including by imposing extensive targeted sanctions on its leaders, military-affiliated companies and others who enable their crimes. Some states have also suspended development funds, imposed arms embargos banned dual-use goods for the military and the supply of aviation fuel to Myanmar, among other measures.

Prior to the coup, in August 2017 the military launched so-called "clearance operations" in Rakhine State with the purported aim of confronting the Arakan Rohingya Salvation Army. During those operations the majority of Myanmar's Rohingya population were forced to flee, bringing the total number of Rohingya refugees in Bangladesh to over 900,000 people. In 2018 a UN Human Rights Council-mandated Fact-Finding Mission on Myanmar concluded that senior members of the military, including General Min Aung Hlaing, should be prosecuted for genocide against the Rohingya, as well as for crimes against humanity and war crimes in Kachin, Rakhine and Shan states. Despite ongoing risks underscored by the UN and international human rights organizations, the junta and Bangladesh have promoted a "pilot repatriation program" for Rohingya to return to Myanmar.

Several processes are underway to investigate and potentially hold perpetrators accountable for crimes against the Rohingya. This includes the UN Independent Investigative Mechanism for Myanmar, an International Criminal Court (ICC) investigation and a trial at the International Court of Justice (ICJ) initiated by The Gambia accusing Myanmar of violating its obligations under the Genocide Convention. Cases have also been brought forward under the principle of universal jurisdiction in Argentina, the Philippines and Türkiye.

RECENT DEVELOPMENTS:

On 19 September the UN High Commissioner for Human Rights, Volker Türk, released a report highlighting the sharp increase in abuses against civilians since April 2022, including a two-fold increase in junta airstrikes. The report documented various abuses by the junta, such as burning alive, dismembering, raping and beheading those unable to flee villages during attacks, including children, the disabled and elderly.

On 27 October a coalition of ethnic armed groups launched "Operation 1027" against the junta, capturing military outposts in Shan, Kachin, Sagaing, Magway and Kayah states. Other groups have subsequently increased attacks, including some PDFs and the Arakan Army in Rakhine State, breaking a year-long informal ceasefire with the junta. According to the UN Office for the Coordination of Humanitarian Affairs, the fighting has killed at least 200 civilians and displaced over 335,000 people.

On 31 October Canada, the United Kingdom (UK) and United States imposed a ban on financial transactions with state-owned Myanma Oil and Gas Enterprise, the military's largest source of revenue. Canada also expanded its prohibitions on the "export, sale, supply and shipment" of jet fuel to the junta.

On 16 November Canada, Denmark, France, Germany, the Netherlands, the UK and the Maldives filed declarations of intervention with the ongoing case against Myanmar at the ICJ.

ANALYSIS:

Impunity for past atrocities has enabled the military to continue committing widespread and systematic human rights violations and abuses against civilians, particularly those from ethnic minority populations. The risk of further war crimes and crimes against humanity remains high as the Tatmadaw continues to perpetrate indiscriminate aerial bombardments in civilian areas. Operation 1027 is the most significant challenge to the junta since the coup and may prompt an intensification of indiscriminate and disproportionate attacks, heightening the risks for civilians.

The Tatmadaw's reported use of surveillance technology and internet shutdowns appears to help facilitate the commission of atrocities and shield itself from accountability. Military forces perpetrated pervasive sexual and gender-based violence during the Rohingya clearance operations and appear to be continuing this pattern of abuse in their conduct against those perceived as resisting the junta.

Divisions within the UNSC and ASEAN have hampered the development of a coordinated international response to atrocities in Myanmar.

The coup, ongoing hostilities and a lack of trust complicate the prospects for the safe, dignified and voluntary repatriation of Rohingya refugees from Bangladesh.

RISK ASSESSMENT:

- Impunity for decades of atrocities perpetrated by the military.
- History of institutionalized persecution and discrimination against ethnic minority groups.
- The military's continued access to weapons, aviation fuel and money, providing the means to perpetrate atrocities.
- Indiscriminate attacks on civilian infrastructure while targeting anti-military strongholds.
- Increasing legal restrictions on anti-military voices, including dissolution of major political parties.

NECESSARY ACTION:

The UNSC should impose a comprehensive arms embargo and targeted sanctions on Myanmar and refer the situation to the ICC. China, Russia, India and others must halt weapons transfers to Myanmar's military. All UN member states, regional organizations and the UNSC should impose economic sanctions on Myanmar's oil and gas sector and block the military's access to aviation fuel. Foreign companies should immediately divest and sever ties with all businesses linked to the military.

The military junta should not be diplomatically recognized as the legitimate representatives of Myanmar. ASEAN member states should condemn the Tatmadaw and increasingly engage with the NUG.

More states should formally intervene in the ICJ case. All those responsible for atrocity crimes, including senior military leaders, should face international justice.