



Human Rights Now



NANCiS
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February 25, 2021

Foreign Minister Toshimitsu Motegi
Ministry of Foreign Affairs
2-2-1 Kasumigaseki, Chiyoda-ku
Tokyo 100-8919, Japan

Re: Myanmar Coup and Ongoing Rights Abuses

Dear Foreign Minister Motegi,

We, the undersigned civil society groups, urge you to take immediate and concrete steps to respond to the Myanmar military's coup of February 1, 2021. As you know, the military has detained the civilian leaders of the national and state governments and announced a one-year "state of emergency." If this coup is not reversed, it could set back the struggle for human rights and democracy in Myanmar for generations.

We call on the Japanese government to take joint action with concerned countries in the form of targeted economic sanctions against the Myanmar military, its leadership, and its vast economic holdings in the two military conglomerates, Myanmar Economic Holdings Ltd (MEHL) and Myanmar Economic Corporation (MEC). We urge the Japanese government to support a global arms embargo against the Myanmar military at the UN Security Council or via other appropriate forums, and to end their longstanding and ineffective attempts at soft, private diplomacy with the Myanmar military. Japan should instead speak clearly, consistently, and publicly about violations and the need to protect the rights of the Myanmar people.

Tatmadaw Coup

To justify its coup, the Myanmar military (known as the Tatmadaw) invoked an article of the military-drafted 2008 constitution that allows it to declare a state of emergency and take control of all three branches of government. The military named Vice-President Myint Swe, a member of the military-backed opposition party, as acting president. Myint Swe then signed the authorization for the declaration of the state of emergency, transferring power to the Tatmadaw commander-in-chief, Sr. Gen. Min Aung Hlaing. Concerned countries including Japan have already determined this seizure of power constituted a coup against a democratically elected government.

The Tatmadaw arrested State Counselor Aung San Suu Kyi, President Win Myint, and several dozen other senior National League for Democracy (NLD) party and government officials in early morning raids in the capital, Naypyidaw. The military has since brought ludicrous charges

against Aung San Suu Kyi for illegally importing walkie-talkies, while charging Win Myint with violating Covid-19 regulations by greeting supporters during the election campaign. However, the arrest, on clearly specious grounds, of President Win Myint does not make his office vacant, meaning the Tatmadaw [violated](#) article 73(a) of the Constitution, which states that the vice-president “who has won the second highest votes in the presidential election shall serve as acting president if the office of the president falls vacant due to his resignation, death, permanent disability or any other cause.” The Tatmadaw does not have the authority to reinterpret the Constitution; that duty falls to the Constitutional Tribunal.

By February 21, authorities had reportedly [arrested](#) a total of 640 people in connection with the coup, with 593 still in custody, including NLD officials and civil society activists around the country. During the coup, the military cut internet and phone lines across large parts of the country and throttled other communications such as 3G mobile networks prior to the military’s announcements on Myanmar state media. Authorities also blocked social media such as Facebook and Twitter, and have resorted to a series of so far temporary cuts in telecommunications and the internet.

The coup came after the military repeatedly alleged without evidence that there were widespread election irregularities during the November 2020 elections. It claimed that the Union Election Commission (UEC) and the NLD failed to address the concerns of opposition political parties, ethnic groups, and the military, and failed to “properly perform their duties but also neglected to conduct a free, fair and transparent election.” Although some voting irregularities were noted early in the process, domestic election observers in a joint statement on January 29 said the “results of the election were credible and reflected the will of the majority of the voters.” The military has now replaced the UEC with handpicked commissioners, raising concerns about the independence or impartiality of a future investigation of election irregularities and results.

Ongoing Rights Abuses

The Tatmadaw has been responsible over many years for systematic and grave violations of human rights. It has committed war crimes against the country’s ethnic minority populations. These abuses include the August 2017 campaign of ethnic cleansing against the ethnic Rohingya population in Rakhine State, including acts of genocide, killings, sexual violence, and forced removal that amount to crimes against humanity.

In Rakhine State, the military and police keep an estimated 600,000 Rohingya confined to camps and villages without freedom of movement, cut off from access to adequate food, health care, education, and livelihoods. Approximately 130,000 have been held since 2012 in open-air detention camps. Human Rights Watch [found](#) that the squalid and oppressive conditions imposed on the Rohingya amount to the crimes against humanity of persecution, apartheid, and severe deprivation of liberty.

Japan’s Diplomacy Towards Myanmar

For [decades](#), Japan's foreign policy towards Myanmar has operated primarily on the basis of quiet, behind-the-scenes diplomacy. Officials often explain that this approach is more successful than putting public pressure on the military and government. They also argue that they [see](#) Myanmar as a key country in a larger regional strategy to push back against China's growing influence, which requires them to engage in friendly diplomacy despite egregious rights abuses.

Because of this approach, Japan has failed its international responsibility to defend human rights by refraining from openly and clearly criticizing the grave violations of human rights perpetrated by the Myanmar government or Tatmadaw, fearing that any criticism would push Myanmar into the arms of the Chinese government, ignoring that this kind of competition with China is both unethical and unwinnable. For instance, Japan abstained from all Myanmar-related resolutions at the Human Rights Council and the UN General Assembly since 2017. It [refrains](#) from using the term "Rohingya" in deference to the Myanmar government's racist preferences. In one particularly shocking and unacceptable incident, Ichiro Maruyama, Japan's current ambassador to Myanmar, claimed he "[prayed](#)" for the International Court of Justice to side with Myanmar and rule that genocide had not occurred against the Rohingya.

In parallel with the Japanese government's often "values-free" diplomacy, Japan's private sector has also been increasingly investing in Myanmar, at times without adequately respecting the framework laid out in the UN Guiding Principles on Business and Human Rights including conducting human rights due diligence. Even after the 2017 atrocities against the Rohingya, in October 2019 State Counsellor Aung San Suu Kyi visited Japan to [promote](#) investment and business opportunities at a conference sponsored by the foreign ministry among others.

Japan has significant political and economic influence in Myanmar, as it is a major donor. As of 2017 (the most recent figures available), Japan has [provided](#) more than a total of 1 trillion yen (US\$9.5 billion) in loan assistance, and more than 300 billion yen (US\$ 2.8 million) in grant aid, and 88 billion yen (US\$834,000) in technical assistance. By 2017, Japan ranked [first](#) among member countries and institutions of the OECD's development cooperation directorate.

Japan suspended economic assistance to Myanmar after the military took power in 1988. After the release of Aung San Suu Kyi and other "positive moves," in 1995 Japan "[decided](#) to consider and implement suspended ongoing projects and projects that would directly benefit the people of Myanmar by addressing their basic human needs, on a case-by-case basis meanwhile monitoring democratization and the improvement of human rights." However, Japan suspended large-scale aid to the government once again after Suu Kyi was placed under house arrest in 2003. From April 2012, the Japanese government resumed its economic cooperation scheme, which now includes loans. When Aung San Suu Kyi visited Japan in November 2016, Japan announced its public and private sectors would "contribute" 800 billion yen (US\$7.6 billion) to Myanmar over a five-year period.

In 2019 the United Nations-backed Fact-Finding Mission on Myanmar concluded that "any foreign business activity" involving Myanmar's military and its conglomerates Myanmar

Economic Holdings Ltd. (MEHL) and Myanmar Economic Corporation (MEC) pose “a high risk of contributing to or being linked to, violations of human rights law and international humanitarian law. At a minimum, these foreign companies are contributing to supporting the Tatmadaw’s financial capacity.” The Fact-Finding Mission advocated the “financial isolation” of the military to deter violations of international human rights and humanitarian law.

Recommendations for the Japanese Government

Working with other governments, we urge the Japanese government to use the tools at its disposal to pressure the junta to reverse the coup and restore the democratically elected government.

We welcome Japan’s request for the release of those arbitrarily detained by the Myanmar military, its recognition of the situation in Myanmar as a coup, as well as its participation in the G7 statement. As recognized by Japan’s foreign minister and his [G7 counterparts](#), the coup represents a grave threat to “the people of Myanmar who want to see a democratic future.”

The destruction of Myanmar’s fragile democracy demands a global response that includes the full support of Japan. Japan is well-placed to use its influence to work with other concerned governments toward the restoration of Myanmar’s democratically elected leaders and the protection of the rights of its people.

Specifically, we recommend that the Japanese government:

- Continue to call for the unconditional release of all those arbitrarily detained and the restoration of democratic institutions and the lower and upper houses of parliament democratically elected by the people of Myanmar in November 2020. Failure to urgently reverse the repressive measures since February 1 should trigger coordinated escalations of sanctions.
- Engage its embassies and offices and offer any and all diplomatic support and protection to people at risk from persecution (including where necessary by providing safe haven at embassies), and facilitating entry for asylum or temporary refuge.
- Participate in the coordination and execution of multilateral actions involving concerned governments, including targeted economic sanctions on the military itself, its leadership, and its vast economic holdings, which provide the military with a major source of its revenue, as well as embargoes on military arms and equipment. In particular, such sanctions should target:
 - The leadership of the Myanmar military;
 - All members of the cabinet and State Administrative Council who are current or former officers in the military;
 - Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC);
 - All MEC and MEHL subsidiaries;
 - All directors and senior leadership of MEC, MEHL, and its subsidiaries; and
 - Blocking travel and banking in Japan of sanctioned personnel.

- Assist Japanese companies with direct or indirect ties to the Myanmar military in terminating their business relationships responsibly, urgently prioritizing key extractive ventures in oil, gas, timber, and jade and gemstones.
- Trigger human rights-based conditionality enshrined in its Official Development Assistance programs and charter, which [stipulates](#) that “Japan will pay adequate attention to the situation in the recipient countries regarding the process of democratization, the rule of law and the protection of basic human rights, with a view to promoting the consolidation of democratization, the rule of law and the respect for basic human rights.” Humanitarian aid should be maintained and even increased where necessary, but development aid should be reviewed to ensure it is not delivered via the Myanmar government. Japanese aid should be directed only towards basic human needs and where possible delivered through independent civil society organizations.
- Support immediate imposition of a global arms embargo on the Tatmadaw, and demand governments providing arms and materiel to Myanmar to immediately halt such activities.
- Support efforts at the UN Human Rights Council and elsewhere to support the monitoring of the rights crisis in Myanmar and enhanced regular reporting on the human rights situation to the council and other relevant bodies.

Thank you for your consideration and we look forward to discussing these matters further with your staff.

Sincerely,

Human Rights Now
Human Rights Watch
Japan International Volunteer Center
Japan NGO Action Network for Civic Space
Justice For Myanmar