



Republic of the Union of Myanmar
National Unity Government
Ministry of Human Rights



UNITED NATIONS HUMAN RIGHTS COUNCIL
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Statement on the adoption of the resolution on the Situation of human rights in Myanmar

MYANMAR

2 April 2022

The Republic of the Union of Myanmar welcomes the adoption of the resolution on the Situation of human rights in Myanmar by the Human Rights Council, and extends its appreciation to the European Union and to cosponsors.

The resolution condemns in the strongest terms the unlawful actions of the illegal military junta. It catalogues junta crimes that include deliberate killings, abductions and enforced disappearances, arbitrary arrest, torture and other ill-treatment, sexual and gender-based violence, forced displacement of civilians including Rohingya and other persons belonging to minorities, forced labour, the destruction and burning of homes, continued attacks on medical and humanitarian relief personnel, the use of facilities functioning as schools, hospitals and houses of worship for military purposes, the use of landmines, and the severe curtailment of fundamental freedoms including opinion and expression, peaceful assembly and association.

Myanmar also welcomes the resolution's:

- call for respect for the democratic will of the people as expressed by the results of the general elections of 8 November 2020, and its full support for the Myanmar people's aspirations for democracy and civilian government
- demand for the release of all persons arbitrarily detained, for all perpetrators of violations and abuses to be held accountable, and for the provision of justice and reparations to victims and survivors
- renewal of the mandate of the Special Rapporteur on the situation of human rights in Myanmar.

Yet the resolution represents a series of missed opportunities to sharpen the Council's responses to the illegal junta. Where the text condemns the junta's use of air strikes and shelling against civilians, it stops short of calling on States to cease the direct and indirect supply, sale or transfer of weapons, munitions, military equipment and materials to the junta and its forces and representatives. This is a clear failure to act on the significant findings of the Special Rapporteur's Conference Room Paper on 'UN Member States' Arms Transfers to the Myanmar Military'.¹

The text also falls short in its push for accountability. While continued monitoring and reporting on the human rights situation in Myanmar is essential, there is already ample evidence.

In September 2018, the Independent International Fact-Finding Mission on Myanmar called for the now junta leader Min Aung Hlaing to be investigated and prosecuted for genocide, crimes against

¹ A/HRC/49/CRP.1

humanity and war crimes, including against the Rohingya.² In September 2021, the Head of the Independent Investigative Mechanism for Myanmar (IIMM) said that collected materials indicated that the military junta's crimes were 'widespread and systematic in nature'.³

Findings are piled high, now justice is needed. The IIMM's intensive efforts must lead to prosecutions and if appropriate jurisdictions cannot be identified then one must be created in the absence of a referral to the International Criminal Court (ICC).

The resolution also relies too heavily on previously agreed language, with many asks rendered unrealistic since the failed coup d'état of 1 February 2021 or having already been met by Myanmar. For instance, Myanmar as represented by the National Unity Government lodged an Article 12(3) Declaration with the Registrar of the ICC in July 2021, accepting the Court's jurisdiction with respect to international crimes committed in Myanmar since 1 July 2002.

Myanmar, consistent with the Council's expression of support for the people's democratic aspirations, reads many of the resolution's asks as directed to the National Unity Government – the legitimate representative of the people. Accordingly, Myanmar will:

- progressively repeal or amend laws that have historically been applied to curb the exercise of fundamental freedoms and to target dissent. This includes provisions of the Penal Code, the Unlawful Associations Act, the Official Secrets Act, and the Telecommunications Law to bring them into line with international human rights standards
- take legislative and policy steps to protect and to ensure equal treatment of and opportunities for ethnic and religious minorities, including the Rohingya. This includes repeal of the Race and Religion Protection Laws of 2015 to ensure freedom of religious belief
- take continuing steps to secure the voluntary, safe, and dignified repatriation to Myanmar of Rohingya who were forced to flee Rakhine State to neighbouring countries on account of military atrocities. Myanmar will also replace the Citizenship Law of 1982 with a law that bases citizenship on birth in Myanmar or birth anywhere as a child of Myanmar citizens
- take continuing steps to prevent the recruitment and use of children in armed conflict and to eliminate child and forced labour
- accede to the Rome Statute of the ICC, further to its Article 12(3) Declaration
- fully cooperate with the Special Rapporteur on Myanmar and other Special Procedures mandate-holders
- support the Office of the High Commissioner for Human Rights to establish a country presence in Myanmar
- continue to cooperate with the IIMM and international and regional courts, tribunals and human rights bodies
- continue to engage with the Special Envoy of the Secretary-General on Myanmar in support of the fulfilment of her mandate.

Myanmar will also continue to partner with the UN Country Team and with individual UN agencies, funds and programmes, particularly in securing humanitarian access and providing humanitarian assistance. Myanmar however remains deeply disappointed by the Secretary-General's report on 'progress made in the implementation of follow-up action to the recommendations' set out in the Rosenthal Report.⁴

² <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575>.

³ <https://iimm.un.org/statement-to-the-human-rights-council-by-mr-nicholas-koumjian-head-of-the-independent-investigative-mechanism-for-myanmar-on-the-48th-regular-session-of-the-human-rights-council/>.

⁴ A/HRC/49/73.

The resolution's corresponding 'invitation' to the Secretary-General to offer 'relevant recommendations to enable more effective work in the future' and to 'strengthen the prevention capacity' of the UN system is vague and insufficient.

Myanmar therefore repeats its calls for an independent and wide-ranging inquiry led by international experts into the UN's progress in implementing follow-up actions to the Rosenthal Report, with an added focus on the UN's response since 1 February 2021. The inquiry should produce and deliver to the Human Rights Council a comprehensive public report with findings and recommendations.