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Myanmar: Lawyers Face Harassment, Arrests

Junta's Crackdown on Defense Counsel Reflects Broader Attack on Justice System
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- Lawyers in Myanmar defending anti-coup protesters and critics have faced threats, arrest, and prosecution by the military junta. Those detained have been tortured and mistreated.
- The military authorities impose systematic obstacles and restrictions on lawyers, impeding their work. The junta has created closed courts inside prisons that violate fair trial rights to fast-track politically sensitive cases.
- Myanmar's junta should urgently restore civilian democratic rule.



Lawyers in Myanmar protesting the military coup in Mandalay, February 15, 2021.

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Concerned governments should impose targeted sanctions against junta members implicated in abuses, seek referral of Myanmar to the International Criminal Court, and adopt a global arms embargo.

(Bangkok) – The Myanmar military junta has threatened and harassed lawyers trying to defend the rights of protesters and others arbitrarily detained since the February 1, 2021 coup, Human Rights Watch said in a report released today.

The 39-page report, “Our Numbers are Dwindling’: Myanmar’s Post-Coup Crackdown on Lawyers,” examines the junta authorities’ pattern of harassment, surveillance, arrests, and in some cases torture of lawyers since the coup, particularly those taking on political cases. At least 32 lawyers have been arrested and placed in pretrial detention with little evidence supporting the charges against them, according to the Assistance Association for Political Prisoners.

“At every turn, Myanmar’s lawyers have faced systematic, junta-imposed obstacles and restrictions impeding their work,” said Manny Maung, Myanmar researcher at Human Rights Watch. “The military authorities

should immediately release all those arbitrarily detained and stop harassing lawyers.”

Since the coup, the junta has arrested and detained thousands of anti-coup activists and critics and prosecuted many for incitement and terrorism in summary trials that do not meet international fair trial standards. Myanmar’s already tenuous justice system has declined drastically, failing to uphold basic due process rights. The junta has created “special courts,” closed courts inside prisons to fast-track political cases. Military tribunals hold summary trials in townships where martial law has been declared. Despite the systematic impediments imposed by the military authorities, lawyers still try to defend the human rights of those arrested.

Human Rights Watch interviewed 19 defense lawyers and 7 legal advisers to international nongovernmental organizations working inside the Myanmar military junta’s special courts system. All 19 lawyers said they had experienced intimidation and surveillance by junta authorities. In some cases, the junta authorities appear to have targeted lawyers in reprisal for representing activists charged with sedition, incitement, or terrorism.

Lawyers also reported ill treatment or torture of detained colleagues. Several sources familiar with the situation of Tin Win Aung, a high court lawyer from Mandalay Region, said he suffered a broken arm and leg, and had to have a feeding tube inserted into his stomach after beatings by security force personnel during pretrial detention.

One lawyer who spoke to Human Rights Watch shortly after her release from prison said police blindfolded her, placed her in stress positions, and deprived her of food and water during interrogation.

Inside special courts, lawyers and their clients face numerous problems, including being forbidden to privately communicate or discuss their cases prior to hearings. Lawyers said that junta officials frequently obstructed or prevented them from carrying out their professional duties, denying suspects their rights to due process and a fair trial.

In the 47 townships in which the junta has imposed martial law, military tribunals also adjudicate criminal cases involving civilian defendants. The military tribunals also typically operate in prisons. Suspects may not have access to a lawyer, and trials are summary and invariably result in convictions and heavier sentences.

The United Nations Basic Principles on the Role of Lawyers set out standards that governments should adopt in their national legislation and to ensure that lawyers can exercise their proper role. These principles address access to lawyers and legal services, special criminal justice safeguards, and lawyers’ freedom of expression and association. Myanmar junta authorities have routinely acted contrary to the Basic Principles.

The ability of lawyers to exercise their functions freely and independently is central to the capacity of the justice system to protect fair trial rights. Lawyers need confidential access to their clients to be able to provide prompt, unhindered, and accurate legal advice and ensure the right to a fair trial. Although Myanmar is not a

party to the International Covenant on Civil and Political Rights, the right to a fair trial is recognized as customary international law and a responsibility of Myanmar as a UN member state.

Foreign governments and regional organizations concerned about the disastrous human rights situation in Myanmar should adopt a range of measures against the military junta, including targeted sanctions against members implicated in abuses and military-linked companies, referring Myanmar to the International Criminal Court, and a global arms embargo.

In pressing for the release of political prisoners, all governments should raise the harassment and jailing of lawyers, and seek to improve their ability to defend those imprisoned, often for years, for peacefully protesting the junta's abuses.

"The junta authorities are making up the rules as they go, to subjugate and discredit the very people trying to protect the fundamental right to a fair trial," Maung said. "Concerned governments should act swiftly to ensure that the courageous remaining lawyers trying to protect those rights are not silenced."

"Our Numbers are Dwindling': Myanmar's Post-Coup Crackdown on Lawyers" is available at:
<https://www.hrw.org/report/2023/06/08/our-numbers-are-dwindling/myanmars-post-coup-crackdown-lawyers>

Selected Accounts

Lawyer from Yangon speaking to Human Rights Watch, October 2022:

"We are heavily surveilled; we're told [by the judges] that we can't ask witnesses certain questions; we receive threats from prison officials, intelligence units, and random people. They take down our names, take photos of us, come to our houses, and watch from outside. The lawyers who are going into the special courts inside the prisons are harassed the most. They have all our details so there is a constant threat hanging over us."

Lawyer describing to Human Rights Watch the torture and mistreatment of the senior lawyer, Tin Win Aung, during his detention at Mandalay's Oh-Bo prison, October 2022:

"His legs were stretched and cuffed in a wooden shackle. Then they would roll a heavy stick across his tibia, then they stand on his legs, so his tibia bones were fractured. They kicked his chest and back ... There were also injuries like being cut with knives. His leg bones were mostly fractured. From the impact of a kick into his chest and back, his lungs were damaged too."

Lawyer outside Yangon speaking to Human Rights Watch after her release, in April 2023:

"They blindfolded me and took me away, to what I assume was a police station. When we got there, I was ordered to kneel down and raise my head for a photograph – they kept my hands tied behind my back. They

kept me at the station for a while, then they came to take me to the interrogation place in blindfold ... I was still blindfolded and forced to kneel down with my arms tied behind my back and questioned like that for hours each time."

Lawyer speaking to Human Rights Watch in February 2023 shortly after she went into hiding to escape a junta-issued warrant for her arrest:

"In the courtroom, I now have to worry about not getting myself detained rather than speaking the truth. This is especially true when I have to represent political cases. Everyone at the court knows who I am, and the court has all my credentials and personal information. The junta can detain me at any time, and they can and will make up any reasons they want."

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