



ASEAN Secretariat
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23 April 2021

Index: ASA 16/4014/2021
TG. Ref: ASA/2021.001

OPEN LETTER: STOP THE ONGOING HUMAN RIGHTS VIOLATIONS IN MYANMAR

To the Association of Southeast Asian Nations (ASEAN) and its Member States

Hundreds of people have been killed and thousands have been detained in Myanmar since the 1 February 2021 military coup. The Myanmar military remains unmoved by the various calls from the international community and civil society organizations. There are fears that the country may face a full-blown civil war and the people of Myanmar will as a consequence suffer more human rights abuses and crimes under international law. The situation in Myanmar is not merely an internal matter, it is a major human rights and humanitarian crisis which is impacting the entire region and beyond. The situation in Myanmar is cause for grave concern and warrants a swift and decisive regional and global response. We believe the ASEAN has a pivotal role to play in addressing this ongoing crisis. Amnesty International urges the ASEAN and its Member States to work together and take immediate action to protect the people of Myanmar. Any measures that the ASEAN and its Member States take after this emergency summit must comply with international law, fulfil their international and regional commitments, and protect the human rights of the people of Myanmar.

ASEAN Member States must abide by the Charter of the Association of South East Asian Nations (ASEAN Charter), in particular Article 1, which lists among the ASEAN "Principles and Purposes" the duty "to promote and protect human rights and fundamental freedoms" (Article 1(7)).

NOT A MATTER OF MYANMAR'S INTERNAL AFFAIRS

Amnesty International is aware that one of the core principles in the ASEAN Charter is the principle of non-interference in the internal affairs of its Member States. What the ASEAN is facing now, however, is clearly not a matter of Myanmar's internal affairs.

The Myanmar military appears to be operating with the assumption of total impunity. It is the view of Amnesty International that the situation today is the direct result of a broader failure by the international community, including the ASEAN, to hold the Myanmar military to account for its past crimes. If not stopped, the violations committed by the Myanmar military will result in escalating violence and conflict, worsening inequality, hunger and mass displacement, including into ASEAN Member States.

We also note that the manner by which ASEAN Member States invoke the principle of non-interference is out of step with the long held understanding of this principle within the international community. It is now the well-established principle that the protection and overall realization of human rights is not exclusively a matter of internal affairs of States, but the international community has an interest, including a legal interest in its realization. This is clearly expressed in paragraph 4 of the 1993 Vienna Declaration and Programme of Action (VDPA), which provides that the protection of all human rights is a legitimate concern of the international community and is further elaborated on in

paragraphs 138 and 139 of the 2005 World Summit Outcome Document which provides that the international community has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

ONGOING HUMAN RIGHTS VIOLATIONS

As mentioned earlier, at least 700 people have been killed by security forces since the 1 February 2021 military coup¹. While many of those killed were exercising their rights to freedom of expression and peaceful assembly, there have also been instances when bystanders were killed by security forces. Dozens of children have also been killed by security forces² including one six-year-old girl who was shot dead in her home.³

On 10 March 2021, after examining over 50 clips from the ongoing crackdown, Amnesty International found that the Myanmar military is using increasingly lethal tactics and weapons normally seen on the battlefield against peaceful protesters and bystanders across the country. Myanmar military authorities had previously denied that they had any role in the killing of people participating in peaceful protests, claiming that “unscrupulous persons [might be] behind these cases.” However, Amnesty International has confirmed that security forces appear to be implementing planned, systematic strategies including the ramped-up use of lethal force, using weapons completely inappropriate for policing protests, such as Chinese RPD light machine guns, MA-S sniper rifles, MA-1 semi-automatic rifles, and other arms manufactured in Myanmar. Many of these killings of peaceful protesters and bystanders documented by Amnesty International amount to extrajudicial executions. The footage examined by Amnesty International clearly showed Myanmar military troops engaging in reckless behaviour, including spraying of live ammunition in urban areas.⁴

Amnesty International has also received reports that more than 3,000 individuals have been detained by the military. Among those detained are over 100 prominent critics of the Military who have been charged for “incitement” under Section 505 (a) of Myanmar’s Penal Code.

Activists, human rights defenders, journalists, and other individuals opposed to the military’s brutal crackdown have been arrested and charged on spurious grounds. There are allegations of those arrested and detained being denied the rights to prompt access to legal counsel of their own choice and other fair trial rights. Those detained are also allegedly being denied access to healthcare and the medications on which they are reliant.

Amnesty International has also received credible reports of ill-treatment and torture, including at least two deaths in custody. We have also received reports that those arrested are brought to military and police facilities for prolonged periods before officially entering the prison system.

An untold number of people have been injured and denied access to medical care. Medical workers have been attacked and targeted by the military, in violation of the principles of medical neutrality.

ESCALATING VIOLENCE AND ARMED CONFLICT

Amnesty International is concerned that the deepening crisis in the country may potentially mean the large-scale resumption of conflict in most or all ethnic states, which – given the military’s deplorable record – would be catastrophic for civilians. Armed conflict between ethnic armed organizations (EAOs) and the Myanmar military has already displaced over 20,000 since the coup – particularly in Karen, Kachin, and northern Shan States, and eastern

¹ Assistance Association for Political Prisoners – Burma: Daily Briefing In Relation to the Military Coup, 2021 <https://aappb.org/?cat=109>

² Save The Children: Myanmar: 43 children killed by armed forces, 2021 www.savethechildren.net/news/myanmar-43-children-killed-armed-forces-just-two-months-coup-began

³ BBC: Myanmar coup: Six-year-old shot 'as she ran into father's arms', 2021 <https://www.bbc.co.uk/news/world-asia-56501871>

⁴ Amnesty International: Myanmar: Amid surging death toll, end use of lethal force immediately, 2021 www.amnesty.org/en/latest/news/2021/03/myanmar-surg-ing-death-toll/

Bago Region. The military has launched airstrikes and used heavy artillery in civilian-populated areas of Kachin and Karen States⁵, causing the deaths of civilians.

Amnesty International remains seriously concerned about the likely impact of a potential resumption of hostilities in Rakhine and Chin States, which had been the site of heavy fighting between the Myanmar military and the Arakan Army, an ethnic Rakhine armed group, since 2019. Currently there are around 350,000 internally displaced persons across Myanmar as a result of armed conflicts⁶. For years, the Rakhine State's Rohingya population has been subjected to a campaign of killings, sexual violence and arson, resulting in over 740,000 people fleeing to neighbouring Bangladesh. The Rohingya remaining inside Myanmar continue to live under a regime of apartheid, denied access to education, healthcare and freedom of movement because of their ethnicity.⁷

HOLDING PERPETRATORS ACCOUNTABLE FOR CRIMES AGAINST HUMANITY

In 2018, Amnesty International released a report containing extensive and credible evidence implicating Senior General Min Aung Hlaing and 12 other named individuals in crimes against humanity committed during the ethnic cleansing of the Rohingya population in northern Rakhine State. The report documented the widespread and systematic attack on the Rohingya population, including in large-scale massacres in three townships – in the villages of Chut Pyin, Min Gyi and Maung Nu. Thousands of Rohingya women, men and children were murdered – bound and summarily executed; shot and killed while running away; or burned to death inside their homes. Rohingya women and girls were raped in their villages and as they fled to Bangladesh.

The research of Amnesty International showed that top military commanders, including Senior General Min Aung Hlaing, knew or should have known that crimes against humanity were being committed. Senior General Ming Aung Hlaing, as well as other top military commanders, traveled to northern Rakhine State directly before or during the ethnic cleansing campaign to oversee parts of the operation.

Amnesty International continues to call on all States, including ASEAN Member States, to exercise universal and other forms of jurisdiction to investigate any person who may reasonably be suspected of responsibility for crimes against humanity, war crimes or other crimes under international law in Myanmar. The ASEAN and its Member States must not shield perpetrators from accountability and must cooperate to investigate and prosecute suspected perpetrators in the Myanmar military.

CONCLUSION

The ASEAN should use the emergency summit on 24 April 2021 as an opportunity to demonstrate to the international community that it will prioritise the human rights of people in Myanmar. It should prevail upon the Myanmar military to stop committing human rights violations in the country and make clear that those responsible for crimes under international law will be held accountable. Unless the ASEAN and its Member States act decisively to help prevent the crisis in Myanmar developing into a full-blown catastrophe, there will be unthinkable suffering in Myanmar, and serious repercussions for the entire region and beyond.

RECOMMENDATIONS

Amnesty International urges the ASEAN to:

- Unequivocally condemn all human rights violations in Myanmar and continue to call for the release of all individuals who are arbitrarily detained, and the end of the use of lethal force against children, peaceful protesters and bystanders.

⁵ Karen Women's Organization, 2021 www.karenwomen.files.wordpress.com/2021/03/kwo-statement-regarding-the-attack-on-karen-civilians-27th-march-2021-eng-final.pdf

⁶ <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-5-25-march-2021>

⁷ Amnesty International: Caged Without a Roof, 2019 www.amnesty.org.uk/files/CagedwithoutaRoof-ApartheidMyanmar-AIreport.pdf

- Direct the ASEAN Intergovernmental Commission on Human Rights (AICHR) to develop a common approach to ensure that all engagement with Myanmar takes into account and addresses human rights concerns, in accordance with the AICHR's mandate in Section 4.11 of its Terms of Reference. This common approach shall be adopted by the ASEAN and shall guide the regional body in all of its engagement in Myanmar, including in relation to the situation in Rakhine State and to repression of opposition to the military coup.
- Support the work of independent international mechanisms, the Office of the High Commissioner for Human Rights, and the UN Special Rapporteur on the situation of human rights in Myanmar to investigate human rights violations in Myanmar.
- Urge the United Nations Security Council to refer the situation in Myanmar as a whole to the International Criminal Court
- Support the call for the UN Security Council to impose a comprehensive global arms embargo against Myanmar.
- Support the call for the UN Security Council to impose targeted financial sanctions against officials suspected of responsibility for crimes under international law and serious violations, including in the context of the repression of opposition to the 1 February coup.

Amnesty International urges ASEAN Member States to:

- Refrain from returning any person to Myanmar under the current circumstances, regardless of their immigration status, and continue to halt all deportations and returns until human rights protections can be guaranteed. Returning any person under the current circumstances would constitute a breach of the [principle of non-refoulement](#), which, as part of customary human rights law, prohibits the return of any person, irrespective of migration status, to a state where there are substantial grounds to believe they would face irreparable harm upon return due to serious human rights violations.
- Ensure that any future repatriations or returns of refugees are only conducted when safe, voluntary, and dignified, with explicit human rights protections in place, including the right to citizenship. States should provide an individual assessment for each person to evaluate needs for international protection.
- Exercise universal and other forms of jurisdiction to investigate Senior General Min Aung Hlaing for allegations of committing crimes against humanity, war crimes or other crimes under international law in Myanmar.

Yours sincerely,

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