

Presidium MUN 2021

UNITED NATIONS GENERAL ASSEMBLY DISARMAMENT AND INTERNATIONAL SECURITY

Agenda: Addressing the issue of Civilian Security amidst the Myanmar Coup d'etat.

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LETTER FROM THE EXECUTIVE BOARD

Greetings delegates,

Though we shall try our level best to give you all a very comprehensive guide, however, the responsibility of reading between the lines and joining the dots lies on you. We as moderators can just bring information on the table; it's on you how you wish to pursue that information as.

So, in this guide, we shall bring in a wide range of information to your notice, ranging from official statements to scholarly views however the responsibility of prioritizing what to focus on and not is totally yours. When we talk of prioritizing information, what we mean is not to prioritize information according to what you think should be focused, but prioritizing information according to what your country thinks should be focused. Before coming for the conference, it is very important to break the larger agenda into smaller subtopics and ask questions to yourself about the agenda.

It is also crucial to enhance your leadership skills and lobbying capacity since we would give equal importance to overall participation in committee.

We would take this opportunity to elaborate upon the criteria for judgment which we will follow in the committee:

Chits	Lobbying
Guidance of debate	Yields
Adherence to foreign policy	Documentation
Points	Verbatim

We shall, to the best of our abilities, ensure that a fair simulation is conducted and there is ample scope for fruitful and meaningful discussion which paves the way for a nuanced learning experience.

Regards,

Shikhar Tripathi
Chairperson
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Siddhant Magon
Vice-Chairperson

Aryan Lohchab
Rapporteur

IMPORTANT INTERNATIONAL DOCUMENTS

The following is a list of important International Documents the delegates must be thorough with so as to facilitate debate in any committee with agenda's under the ambit of UNSC. Kindly note that this list is not exhaustive and delegates are free to explore beyond these minimum requirements:

1. The UN Charter
2. All related covenants and international legal instruments

CREDIBLE SOURCES OF PROOF

1) News Sources

All the news sources shall have equally debatable credibility, where acceptance may vary from state to state.

2) Government Reports

These reports can be used in a similar way as the State Operated News Agencies reports and can, in all circumstances, be denied by another country. However, a nuance is that the Executive Board can still accept a report, as credible information, that is being denied by a certain country.

3) UN Reports

All UN Reports are considered as credible information or evidence.

NOTE: Under no circumstances will sources like Wikipedia, Amnesty International, Human Rights Watch, the Guardian etc. be accepted as **PROOF/EVIDENCE**. But they can be used for better understanding of any issue or even be brought up in debate if the information given in such sources is in line with the beliefs of a Government.

ABOUT UNGA-DISEC

The First Committee deals with disarmament, global challenges and threats to peace that affect the international community and seeks out solutions to the challenges in the international security regime.

It considers all disarmament and international security matters within the scope of the Charter or relating to the powers and functions of any other organ of the United Nations; the general principles of cooperation in the maintenance of international peace and security, as well as principles governing disarmament and the regulation. The committee works in close cooperation with the United Nations Disarmament Commission and the Geneva- based Conference on Disarmament. It is the only Main Committee of the General Assembly entitled to verbatim records coverage.

The First Committee Sessions are structured into three distinctive stages:

1. General debate
2. Thematic discussions
3. Action on Drafts

WORKING METHODS

Over the years, efforts have been made to rationalize the work of the Committee, concentrating on rearranging its agenda and improving its organization of work.

- During the 48th session of the Assembly, in 1993, the item entitled “Rationalization of the work and reform of the agenda of First Committee” was included in the agenda of the Assembly. Thereafter, the Assembly has focused on improving the effectiveness of the methods of work of the First Committee.
- During the 59th session, in response to a request of the Secretary- General to seek the views of Member States on improving the effectiveness of the methods of work of the First Committee, a report compiling those views was submitted by the Secretariat.
- Since the 60th session, under the item “Revitalization of the work of the General Assembly”, the committee has adopted its program of work and timetable for the forthcoming session.

ABOUT THE AGENDA

As per the report of the Special Rapporteur of the UNHRC, on 1st February 2021, the Myanmar military overthrew the civilian government in an illegal coup d'état. After declaring itself the "State Administrative Council" (SAC), it began committing human rights violations, including murder, arbitrary detention, beatings, and probable enforced disappearances. The SAC also instituted laws and policies to suppress freedom of expression, freedom of peaceful assembly and association, and the right to privacy. The coup completely overturned the rule of law in Myanmar. The military coup, initiated by Senior General Min Aung Hlaing and senior military officers, had an immediate impact on the political, social, and economic landscape in Myanmar and on fundamental human rights issues.

The coup d'état began when the democratically elected members of the country's ruling party, the National League for Democracy (NLD), were deposed by the Tatmadaw (Myanmar's military) which then vested power in a stratocracy. The Tatmadaw has proclaimed a year-long state of emergency and declared power has been transferred to Commander-in-Chief of Defence Services Min Aung Hlaing. It declared the results of the November 2020 general election invalid and stated its intent to hold a new election at the end of the state of emergency even though most of Myanmar's people are satisfied with the results of the election

Despite the Tatmadaw's threats, including a message delivered on national television that those participating in protests could "suffer loss of life," a nonviolent nationwide civil disobedience movement (CDM) emerged, transcending ethnicity, religion, and socioeconomic status. Millions have demonstrated in hundreds of townships opposing military rule.

Since 1 February, the Tatmadaw arbitrarily detained over 1,200 individuals and killed at least twenty-three people. At the time of writing, violent confrontations and arbitrary detentions are increasing at an alarming rate. Facing an economy shrivelling under the weight of a powerful civil disobedience movement, Min Aung Hlaing threatened striking civil servants with "disciplinary actions" if they failed to return to work. The people are undeterred.

In its previous meeting over the issue, the UNSC couldn't come to a consensus over relaying its stance for immediate restoration of democracy in Myanmar through a resolution, which finally resulted in the issuing of a Presidential Statement which not stern yet firmly talked in the same light. The lack of consensus definitely pointed towards vested interests as well as lack of interests.

STATEMENT BY THE PRESIDENT OF THE UNSC

On 10 March 2021, in connection with the Council's consideration of the item entitled "The situation in Myanmar", in accordance with the procedure agreed in light of the extraordinary circumstances caused by the COVID-19 pandemic and set out in S/2020/372, the President of the Security Council issued the following statement on behalf of the Council:

"The Security Council, recalling its Press Statement SC/14430 of 4 February 2021, reiterates its deep concern at developments in Myanmar following the declaration of the state of emergency imposed by the military on 1 February and the arbitrary detention of members of the Government, including State Counsellor Aung San Suu Kyi and President Win Myint and others. The Security Council reiterates its call for their immediate release.

"The Security Council strongly condemns the violence against peaceful protestors, including against women, youth and children. It expresses deep concern at restrictions on medical personnel, civil society, labour union members, journalists and media workers, and calls for the immediate release of all those detained arbitrarily. The Council calls for the military to exercise utmost restraint and emphasises that it is following the situation closely.

"The Security Council expresses its continued support for the democratic transition in Myanmar, and stresses the need to uphold democratic institutions and processes, refrain from violence, fully respect human rights and fundamental freedoms and uphold the rule of law. It encourages the pursuance of constructive dialogue and reconciliation in accordance with the will and interests of the people of Myanmar.

"The Security Council reiterates its strong support for regional organisations, in particular the Association of Southeast Asian Nations (ASEAN) and its readiness to assist Myanmar in a positive, peaceful and constructive manner. It commends ASEAN's continued efforts to engage with all relevant parties in Myanmar. The Council welcomes the recent informal ASEAN Ministerial meeting on 2 March, and the statements made by the ASEAN Chair on 2 March and 1 February, which recalled the purposes and principles of the ASEAN Charter, notably the principle of democracy, adherence to the rule of law, good governance, the protection of human rights and respect for fundamental freedoms, called on all parties to exercise utmost restraint and seek a peaceful solution through constructive dialogue and practical reconciliation in the interests of the people and their livelihood.

"The Security Council also reiterates its support to the Special Envoy of the Secretary-General on Myanmar for her good offices, encourages the Special Envoy to maintain communication and her efforts to engage intensively with all relevant parties in Myanmar, and to visit Myanmar as soon as possible.

“The Security Council continues to call for safe and unimpeded humanitarian access to all people in need, and highlights that the current situation has the potential to exacerbate existing challenges in Rakhine state and other regions. The Security Council expresses concern that recent developments pose particular serious challenges for the voluntary, safe, dignified, and sustainable return of Rohingya refugees and internally displaced persons. It is vital that the rights of minorities are fully protected.

“The Security Council reaffirms its support for the people of Myanmar and its strong commitment to the sovereignty, political independence, territorial integrity and unity of Myanmar.

“The Security Council remains seized of the matter.”

PUBLIC STANCE

The people of Myanmar have been united by the military coup d'état. The streets have been stormed by millions throughout the country to demand democracy and human rights and an immediate end to the Military takeover. Buddhist monks and Muslim clergy could be witnessed marching side-by-side; civil servants from various sectors; healthcare professionals, workers and trade unions, bankers and educators; all the ethnic groups; the very young as well as the very old- everyone stands shoulder to shoulder. The primary and foremost demand is the release of all the political prisoners. Another demand is that for a new constitution to remove the military from politics once and for all. The vast majority of the people of Myanmar are united in vehement opposition to the coup and embrace the Civil Disobedience Movement. Many ethnic-majority Burman protesters have also expressed regret over not previously recognizing the military's atrocity crimes against ethnic minorities, specifically referencing the Rohingya.

INTERNATIONAL STANCE

The International Community seems to stand divided on the issue. While the United States of America openly issued sanctions against the perpetrators of the coup, nations like New Zealand, Japan and South Korea have denounced ties with Myanmar, India, although extending help and support to the citizens still chose not to take any diplomatic or geopolitical stance against the nation as of yet, and nations like China, Russia and Thailand who have earlier been accused of supporting the army by means of provision of assets and arms have decided to deny claims, remain silent and sidelined, although the two formers did veto a proposed resolution in the UNSC that was meant to denounce the coup and take steps towards immediate restoration of democracy. Intergovernmental agencies including the UN, ASEAN and EU have all condemned the coup, with the EU even having passed a resolution to call for solution to the situation. Following the events, multiple nations have resorted to

evacuating their citizens from Myanmar, and have also gone ahead to issue public guidelines against travel to Myanmar.

LEGAL BACKGROUND OF THE SITUATION

Many legal scholars have been analysing and questioning the legality of the coup. It has been found that, by staging a coup, the military had violated Myanmar's constitution, since the declaration of a state of emergency in compliance with the Constitution was not justifiable on the grounds of election irregularities. Further, the fundamental rule of law principle was also violated by the actions of the military whilst the coup.

Articles 417 and 418 of the 2008 Constitution were invoked by the Tatmadaw as the legal basis for the military takeover, however, Article 417 of the Constitution assigns the power solely to a sitting president to declare a state of emergency, following 'consultation' with the National Defence and Security Council (NDSC). The incumbent civilian president Win Myint had not voluntarily ceded his role; instead, the state of emergency was unconstitutionally declared by vice-president Myint Swe.

The declaration of a state of emergency then transfers legislative, executive, and judicial authority to the Commander-in-Chief per Article 418. Half of the NDSC's members at the time of the coup were civilians, including the president, the civilian-elected second vice-president, and the speakers of the upper and lower houses, all of whom had been arrested by the military. The military claims that the NDSC was convened, chaired by Min Aung Hlaing, to invoke Articles 417 and 418. However, this session was held in the absence of the civilian members of the NDSC, and it is unclear whether the military had the constitutional authority to reconstitute a session of the NDSC, or to unilaterally declare a state of emergency through a vice-president, whose actions can very well be pictured under duress, since the Constitution grants the president, who at the time had not voluntarily vacated his role, the sole authority to declare a state of emergency.

On 23 March 2021, during a news conference in Naypyitaw, the Tatmadaw defended the reimposition of the takeover and claimed that ousted national leader Aung San Suu Kyi was corrupt, tantamount to graft. No supporting evidence for these allegations was offered outside of the taped testimony of a former colleague of Kyi, Phyo Min Thein, who has been detained by the military since the coup began.

VIOLATION OF RIGHTS

Murder: There have been multiple reports of killings at the hands of the military, mostly against peaceful protestors. The most recent killings demonstrate that Myanmar forces are now engaging in systematic murders throughout the country. Security forces in disparate locations are unlikely to have engaged in these murders on the same day without express approval of the senior-most leadership of the junta, including Min Aung Hlaing. As investigations are conducted, liability should extend to those highest in the chain of command in accordance with international law.

Disproportionate use of force: Myanmar security forces have been reported have been using excessive force, including brutally beating unarmed individuals, unlawfully using less-lethal weapons such as slingshots, rubber bullets, and water cannons, and shooting people with live ammunition while breaking up protests and detaining individuals. Military-backed counter-protest provocateurs have also engaged in attacks against protesters.

Arbitrary detention: At the time of writing of the report of the special rapporteur, the junta has arbitrarily detained over 1,200 people since the beginning of the coup. Political prisoners include members of the NLD, Members of Parliament, UEC officials, political activists, civil society members, civil servants, journalists, lawyers, teachers, medics, students, and celebrities. The junta issued arrest warrants for at least 32 others who reportedly went into hiding. At the time of writing, the authorities convicted at least four of the 900 detainees and sentenced them to prison terms ranging from seven days to two years. These mass arbitrary detentions violate Articles 9, 10, and 11 of the Universal Declaration of Human Rights, which, respectively, prohibit arbitrary arrest and detention; entitle everyone to a “fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”; and require everyone charged with a penal offence “the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.”

Legal restrictions on civil and political rights: Since the military unlawfully seized power, the SAC has issued draconian decrees by amending existing law, establishing new regulations, and imposing its will on telecommunications companies, all illegitimately and in violation of the people of Myanmar’s right to freedom of expression, freedom of peaceful assembly and association, and access to information. The SAC amended without authority the Penal Code in numerous ways to provide grave consequences to anyone who criticizes the junta or expresses views that the junta has announced to be untrue. The junta amended Sections 121, 124, and 505 (a) of the Penal Code, introducing harsh penalties and longer prison sentences for the following acts: (1) incitement or action against the “Defence Services or Law Enforcement agencies” (maximum twenty-year sentence); (2) intending to cause a government employee to “lose respect for the government” or to “hinder the

performance of their duty” (maximum seven- year sentence); (3) cause or intend to “cause fear to a group of citizens or to the public in general” (maximum three-year sentence); (4) cause or intend to “spread false news” (maximum three year sentence); (5) cause or intend to “commit or to agitate directly or indirectly criminal offence against a Government employee.” These new sections and amendments to the Penal Code stifle criticism of the junta and effectively criminalize the activities of protesters. Anyone who speaks out against the military junta can be held criminally liable. By design, changes to the code would capture civil servants who join the CDM, those who encourage civil servants to join, and those who provide support to them. All of this goes against Article 19 of the Universal Declaration of Human Rights which protects the right to freedom of expression. For restrictions on the right to freedom of expression to be lawful, they must be provided for in law, applied only in specific circumstances to protect the rights and reputation of others, or to ensure national security, public order, public health, or public morals, and be necessary and proportionate. Proportionality should be interpreted to mean, in part, the least restrictive means to achieve any of the above legitimate aims. The military began telecommunications disruptions early in the morning on 1 February, in conjunction with the coup maneuvers, and the Internet remained partially disrupted for most of the day. Subsequent directives from the Ministry of Transport and Communications (MoTC) instructed service providers to block Facebook, which in Myanmar functions as the Internet for much of the population. In the days that followed, other social media platforms, such as Instagram and Twitter, were blocked and the junta ordered nationwide Internet shutdowns. Law Protecting the Privacy and Security of Citizens Amendments: On 13 February, the SAC amended without proper authority the Law Protecting the Privacy and Security of Citizens, removing key provisions that provided, in theory if not always in practice, fundamental protections to the people of Myanmar from unreasonable searches, seizures, surveillance, and arbitrary and indefinite detention. With the removal of these protections, the junta gives security forces legal cover to: (1) detain people indefinitely without permission from a court (thereby suspending habeas corpus in Myanmar); (2) enter a person’s private residence for the purpose of search, seizure, or arrest; (3) surveil, spy upon, or investigate any citizen as they see fit; (4) intercept communications; (5) demand or obtain personal telephonic and electronic communications data from telecommunication operators; (6) open, search, seize or destroy a person’s private correspondence; (7) interfere with a person’s personal or family matters; and (8) seize or destroy a person’s property. The Myanmar Constitution and the Code of Criminal Procedure continue to prohibit many of these activities.

Armed conflict, protection of civilians, and displacement since the Coup: The Myanmar Army increased attacks on civilian-populated areas in Kayin (Karen) villages since the coup, and in the weeks before and since the coup, attacks forcibly displaced more than 7,000 civilians, including an estimated 5,000 in Butho, Dwe Lo, and Luthaw townships, Papun District and 1,500 in Mone and Ler Doh townships, Nyaunglebin District. Since the coup, the attacks by the Myanmar military have displaced an estimated 3,500 Kayin (Karen) civilians. Reportedly, frequent shelling

and the threat of being used as forced labor have caused civilians to flee. The Special Rapporteur received reports that the Myanmar military was building up troops and supplies in the area, with over 100 truckloads of supplies arriving in northern Kayin (Karen) State.

Impact on humanitarian access: The military coup has hindered the delivery of humanitarian aid in ethnic states in numerous ways. At the time of writing, the military had not yet issued new instructions or additional requirements for humanitarian access. However, pre-existing access challenges continue to exist. Additionally, the impact of the growing civil disobedience movement is widespread, including on humanitarian operations. Civil servants of key government departments and ministries have joined the movement, slowing administrative processes, including the review of travel authorizations, issuance of visas and entry permissions, or approval of the passenger list of relief flights. The Ministry of Health and Sports and many hospitals are functioning with limited staff. Disruptions in the banking sector have also resulted in a liquidity crisis for organizations' operations and programming.

QUESTIONS TO CONSIDER

1. What is the best possible approach towards defusing the current situation in Myanmar?
2. Considering the stance of the military, claiming the righteous approach towards announcement of emergency, and every further action taken in line with legal amendments, what is the scope of deference of claim of the current holders of power in Myanmar?
3. Can a responsibility for civilian security be established or urged, towards the global community considering the supposed internalisation of the current situation?
4. Peacebuilding, irrespective of the resolution approach will have to be kept on the centerstage, thus, what can be the proper mechanism to be adopted for the same, in Myanmar?
5. If any counter-action has to be taken against the perpetrators of the current situation, then who should be the one taking it and what should be the nature of the action?
6. Considering the recent calls for international intervention in the situation, is there enough ground for invocation of the responsibility to protect doctrine?