

## Myanmar

*Decision adopted unanimously by the IPU Governing Council at its 210<sup>th</sup> session  
(Kigali, 15 October 2022)*



Prison officials stand outside the Insein prison in Yangon on 12 February 2022.  
STRINGER/AFP

- |                                  |                                 |
|----------------------------------|---------------------------------|
| MMR-267 - Win Myint              | MMR-303 - Saw Shar Phaung Awar  |
| MMR-268 - Aung San Suu Kyi (Ms.) | MMR-304 - Robert Nyal Yal       |
| MMR-269 - Henry Van Thio         | MMR-305 - Lamin Tun (aka Aphyo) |
| MMR-270 - Mann Win Khaing Than   | MMR-306 - Aung Kyi Nyunt        |
| MMR-271 - T Khun Myat            | MMR-307 - Lama Naw Aung         |
| MMR-272 - Tun Tun Hein           | MMR-308 - Sithu Maung           |
| MMR-274 - Than Zin Maung         | MMR-309 - Aung Kyaw Oo          |
| MMR-275 - Dr. Win Myat Aye       | MMR-310 - Naung Na Jatan        |
| MMR-276 - Aung Myint             | MMR-311 - Myint Oo              |
| MMR-277 - Ye Khaung Nyunt        | MMR-312 - Nan Mol Kham (Ms.)    |
| MMR-278 - Dr. Myo Aung           | MMR-313 - Thant Zin Tun         |
| MMR-279 - Kyaw Myint             | MMR-314 - Maung Maung Swe       |
| MMR-280 - Win Mya Mya (Ms.)      | MMR-315 - Thein Tun             |
| MMR-281 - Kyaw Min Hlaing        | MMR-316 - Than Htut             |
| MMR-283 - Okka Min               | MMR-317 - Aung Aung Oo          |
| MMR-284 - Zarni Min              | MMR-318 - Ba Myo Thein          |
| MMR-285 - Mya Thein              | MMR-319 - Soe Win (a) Soe Lay   |
| MMR-286 - Tint Soe               | MMR-320 - U Mann Nyunt Thein    |
| MMR-287 - Kyaw Thaung            | MMR-321 - Khin Myat Thu         |
| MMR-289 - Phyu Phyu Thin (Ms.)   | MMR-322 - Nay Lin Aung          |
| MMR-290 - Ye Mon (aka Tin Thit)  | MMR-323 - Hung Naing            |
| MMR-291 - Htun Myint             | MMR-324 - Shwe Pon (Ms.)        |
| MMR-292 - Naing Htoo Aung        | MMR-325 - Wai Lin Aung          |
| MMR-293 - Dr. Wai Phyo Aung      | MMR-326 - Pyae Phyo             |
| MMR-294 - Zin Mar Aung (Ms.)     | MMR-327 - Mr. Lin Lin Oo        |
| MMR-295 - Lwin Ko Latt           | MMR-328 - Kyaw Lin              |
| MMR-297 - Win Naing              | MMR-329 - Tin Htwe              |
| MMR-298 - Nay Myo                | MMR-330 - Aung Myint Shain      |
| MMR-299 - Zaw Min Thein          | MMR-331 - Pital Aung            |
| MMR-300 - Win Naing              | MMR-332 - Ohn Win               |
| MMR-301 - Zay Latt               | MMR-333 - Ma Ma Lay (Ms.)       |
| MMR-302 - Myat Thida Htun (Ms.)  |                                 |

## Alleged human rights violations

- ✓ Abduction
- ✓ Enforced disappearance
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity
- ✓ Other violations: unlawful revocation of citizenship
- ✓ Other violations: crimes against humanity

### A. Summary of the case<sup>4</sup>

After refusing to recognize the results of the November 2020 parliamentary elections, the military declared a state of emergency that would last for a year, and proceeded to seize power by force on 1 February 2021, the day that the new parliament was due to take office. This state of emergency was extended on 31 January 2022, with a promise to hold elections by August 2023. Although the military authorities allowed overwhelmingly peaceful protests to take place in the first few weeks, the situation in Myanmar took a devastating turn for the worse in March 2021, with reports of live automatic ammunition and explosive weapons used against civilians. The United Nations Special Rapporteur has recognized the widespread and systematic nature of the violations carried out by the military (known as the “*Tatmadaw*”) and declared that their scale met the threshold of crimes against humanity.

The complainant reports that the Speaker of the Parliament of Myanmar (*Pyidaungsu Hluttaw*), State Counsellor Aung San Suu Kyi and six other parliamentarians of the majority National League for Democracy (NLD) were placed under house arrest while 20 other members of parliament were arbitrarily arrested shortly after the coup. The arrest of Ms. Ma Ma Lay on 14 May 2022 brought the total number of parliamentarians who were arbitrarily detained to 31, of which 27 are still in detention. Of those detained, many are reportedly being held incommunicado in overcrowded prisons, where they are facing mistreatment and torture, with little or no access to medical care or legal counsel, a fate that is shared by thousands of arbitrarily detained citizens according to human rights reports. According to the Assistance Association for Political Prisoners (AAPP), 15,592 people have been arbitrarily arrested since the coup, and 12,456 remain in detention. On 1 July 2022, the AAPP published a report on crimes against humanity committed by the military authorities, claiming that the widespread and systematic use of arbitrary detention without judicial control, accompanied by the concealment of the whereabouts of victims, also amounts to crimes against humanity.<sup>5</sup>

According to the complainant, on 4 February 2021, some 70 elected members of parliament from the NLD met in the capital Naypyidaw and took an oath of office pledging to abide by the mandate granted to them by the people. On 5 February, 300 members of parliament met online and established the Committee Representing the *Pyidaungsu Hluttaw* (CRPH), composed of 20 members of parliament. The CRPH is considered illegal by the military regime, while the CRPH have labelled the military-appointed State Administration Council a terrorist organization. On 31 March 2021, the CRPH appointed a National Unity Government (NUG), which they see as the legitimate interim government.

### Case MMR-COLL-03

**Myanmar:** Parliament affiliated to the IPU

**Victims:** 63 parliamentarians from the opposition (55 male and 8 female)

**Qualified complainant(s):** Section I.1(a) of the Committee Procedure (Annex I)

**Submission of complaint:** March 2021

**Recent IPU decision:** March 2022

**Recent IPU Mission(s):** - - -

**Recent Committee hearing:** Hearing with the United Nations Special Rapporteur on the situation of human rights in Myanmar (March 2022)

#### Recent follow-up:

- *Note verbale* from the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other international organizations in Geneva: February 2022
- Communication from the complainant: August 2022
- *Note verbale* to the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other international organizations in Geneva: September 2022
- Communication to the complainant: August 2022

<sup>4</sup> For the purposes of this report, the term “opposition” relates to members of parliament from political groups or parties whose decision-making power is limited and who are opposed to the ruling power.

<sup>5</sup> [https://aappb.org/wp-content/uploads/2022/07/AAPP\\_Crimes-Against-Humanity-Report\\_8-Jul-2022-English.pdf](https://aappb.org/wp-content/uploads/2022/07/AAPP_Crimes-Against-Humanity-Report_8-Jul-2022-English.pdf).

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According to the complainant, the CRPH members have been forced into hiding, fearing reprisals because of their political activities. The relatives of the CRPH members have allegedly been repeatedly subjected to harassment and abuse by the military, with the father of Mr. Sithu Maung allegedly being tortured to death after his arrest. The former Speaker of the upper house of parliament and Prime Minister of the NUG, Mr. Mann Win Khaing Than, has reportedly been charged with high treason, while several other members of parliament face criminal charges for inciting civil disobedience and other charges carrying heavy penalties.

On 16 November 2021, State Counsellor Aung San Suu Kyi and 15 other senior politicians were charged with election fraud during the November elections, and on 5 December 2021 she was found guilty and convicted to four years in prison, which was followed by another conviction on 10 January 2022 on three separate charges. Altogether she has been sentenced to 20 years in prison, with more charges pending against her. In addition, according to information provided by the complainant, Mr. Yee Mon (aka Tin Thit), the Hon. Mr. Lwin Ko Latt, the Hon. Ms. Zin Mar Aung and Ms. Phyu Phyu Thin were stripped of their citizenship for allegedly “harming the interests of Myanmar”.

On 24 April 2021, the Association of Southeast Asian Nations (ASEAN) held a leaders’ meeting, inviting a representative from the military authorities of Myanmar to attend. This meeting led to the adoption of a five-point consensus on Myanmar, calling for the immediate cessation of violence and the nomination of a special envoy to Myanmar to visit the country to meet with all parties concerned. As the military authorities showed no willingness to implement the five-point consensus, they have been excluded from ASEAN meetings as of October 2021.

At a hearing with the IPU Committee on the Human Rights of Parliamentarians in March 2022, the UN Special Rapporteur reported that over 1,600 civilians have been killed by the *Tatmadaw*. The Special Rapporteur called for greater and more concerted pressure on the military authorities by the entire international community. He also renewed his call to halt the flow of arms towards the military, which had reportedly received weapons that were used against the civilian population from a limited number of countries well after the coup d’état, as described in one of his latest reports.<sup>6</sup> Meanwhile, the IPU Secretariat has received correspondence from the military authorities accusing the NUG of fostering terrorism and disorder, which has allegedly claimed over 1,000 lives, while indicating a commitment to implementing the five-point consensus and the possibility of resuming dialogue provided that trust and confidence-building measures are taken first.

However, the military authorities have not written to the IPU Committee Secretariat since then, despite repeated requests for detailed information on the status of detained members of parliament. In July 2022, the complainant communicated that the situation of detained members of parliament had deteriorated further, as the military authorities had banned all visits and communication with detained members of parliament, who have reportedly been transported to secret locations. The whereabouts of some members of parliament has been hidden by the authorities, prompting fears that they may be victims of enforced disappearance. This move followed the news that the *Tatmadaw* executed four democracy activists – including former member of parliament Mr. Phyo Zayar Thaw – which provoked consternation and unrest among prisoners; some have reportedly gone on hunger strike. After the first executions in three decades, the *Tatmadaw* claimed that more would follow; the IPU adopted a statement calling on the parliamentary community to act to safeguard the lives and uphold the rights of the imprisoned members of parliament.<sup>7</sup>

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the current case also includes a new complaint regarding the situation of Ms. Ma Ma Lay; *notes* that the complaint is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1.(a) of the Procedure for the examination

6 Report by the United Nations Special Rapporteur on the situation of human rights in Myanmar – *Enabling Atrocities: UN Member States’ Arms Transfers to the Myanmar Military*. Available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Myanmar.pdf>.

7 <https://www.ipu.org/news/statements/2022-08/ipu-calls-respect-rights-detained-mps-in-myanmar>.

- and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns an incumbent member of parliament at the time of the initial allegations; and (iii) concerns allegations of enforced disappearance, torture, ill-treatment and other acts of violence, arbitrary arrest and detention, inhumane conditions of detention, lack of fair trial proceedings, violation of freedom of opinion and expression, violation of freedom of assembly and association and failure to respect parliamentary immunity, allegations that fall under the Committee's mandate;
2. *Regrets* the lack of information provided by the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other international organizations in Geneva since February 2022, despite several letters submitted to it by the Committee;
  3. *Is appalled* that 27 parliamentarians are being held incommunicado in prisons where they allegedly face ill-treatment, torture and gender-based violence, and that they are being held in inhumane detention conditions with limited or no access to medical care or legal counsel; *is dismayed* by reports that their situation has deteriorated even further following a ban on all communication and visits enforced by the military authorities after the execution of four men by hanging on 23 July 2022, including former parliamentarian Mr. Phyo Zayar Thaw; and *is shocked* by official declarations that following these first executions in 30 years, more executions would follow, indicating that the lives of detained parliamentarians are threatened;
  4. *Demands* that the military authorities release the parliamentarians forthwith in light of the serious allegations of ill-treatment and poor prison conditions and in the absence of any concrete evidence showing that the parliamentarians have done anything other than merely exercise their basic human rights; *urges* the military authorities, for as long as the parliamentarians' release fails to materialize, to provide specific information on each detained parliamentarian, including on their location, state of health and access to humane and safe detention conditions, family visits and confidential meetings with their lawyers, as well as on the trial of each detained parliamentarian; and *urges*, once again, the military authorities to allow access to the International Committee of the Red Cross in order to visit parliamentarians in detention;
  5. *Believes* that the release of all detained parliamentarians is also an essential step towards ending violence and building the trust that would allow a de-escalation of violence and a return to dialogue, as prescribed by the five-point consensus; *calls on* the military authorities to protect the lives and respect the rights of all members of parliament elected in November 2020 and hence to allow them to associate, assemble, express their views, receive and impart information and move about without fear of reprisals; *urges* the military authorities to refrain from taking physical or legal action against the 20 members of the Committee Representing the *Pyidaungsu Hluttaw* (CRPH), and any other person elected in November 2020, in connection with their parliamentary activities; *wishes* to receive, as a matter of urgency, specific information on these points from the military authorities; and *urges* the military authorities also to honour their commitment by: implementing in earnest the five-point consensus brokered by ASEAN; immediately ceasing the use of lethal force against non-combatants and employing genuine restraint against those exercising their human rights; and abiding by the international principles of human rights and international humanitarian law;
  6. *Considers* that the silence of the military authorities gives serious weight to reports of the widespread use of torture, rape, enforced disappearance and extrajudicial killings against political prisoners, including elected legislators; *recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious human rights violations – even more so when leading figures of parliament are targeted in the context of a broader pattern of repression, as in the present case; and *stresses* that the widespread and systematic practice of enforced disappearance, imprisonment and torture constitute a crime against humanity;
  7. *Calls on* all IPU Member Parliaments to exhort the relevant authorities to exercise their jurisdiction by prosecuting any person responsible for this crime against humanity if they are present in their territory, in keeping with the principle of universal jurisdiction reflected in the Rome Statute, which sets out that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes; *renews its call on* all IPU Member Parliaments

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and observers, in particular the ASEAN Inter-Parliamentary Assembly, to press for respect for human rights and democratic principles in Myanmar and to show solidarity with the members of parliament who were elected in 2020, including members of the CRPH; *welcomes* the actions taken thus far and *calls on* IPU Member Parliaments to do more, including by raising the case publicly; *hopes* to be able to rely on the assistance of all relevant regional and international organizations, including ASEAN, to ensure that justice is done in this case; and *calls on* all IPU Member Parliaments and observers to support the International Parliamentarians Alliance for Myanmar and the United Nations Special Rapporteur on the situation of human rights in Myanmar to that end;

8. *Requests* the Secretary General to convey this decision to the military authorities, the complainant and any third party likely to be in a position to supply relevant information; also *requests* the Secretary General to explore all other possibilities for the concerns and requests for information raised in this decision to be effectively addressed;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.