



Inter-Parliamentary Union
For democracy. For everyone.

Myanmar

*Decision adopted unanimously by the IPU Governing Council at its 212th session
(Luanda, 27 October 2023)*



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

Parliamentarians who were arbitrarily detained:

MMR-267 - Win Myint	MMR-318 - Ba Myo Thein
MMR-268 - Aung San Suu Kyi (Ms)	MMR-319 - Soe Win (a) Soe Lay
MMR-269 - Henry Van Thio	MMR-320 - U Mann Nyunt Thein
MMR-270 - Mann Win Khaing Than	MMR-321 - Khin Myat Thu
MMR-272 - Tun Hein	MMR-323 - Hung Naing
MMR-274 - Than Zin Maung	MMR-324 - Shwe Pon (Ms.)
MMR-275 - Dr. Win Myat Aye	MMR-325 - Wai Lin Aung
MMR-276 - Aung Myint	MMR-326 - Pyae Phyoo
MMR-277 - Ye Khaung Nyunt	MMR-327 - Mr. Lin Oo
MMR-278 - Dr. Myo Aung	MMR-328 - Kyaw Lin
MMR-280 - Win Mya (Ms.)	MMR-329 - Tin Htwe
MMR-281 - Kyaw Min Hlaing	MMR-330 - Aung Myint Shain
MMR-285 - Mya Thein	MMR-331 - Pital Aung
MMR-286 - Tint Soe	MMR-332 - Ohn Win
MMR-287 - Kyaw Thaung	MMR-333 - Ma Lay (Ms.)
MMR-309 - Aung Kyaw Oo	MMR-334 - Win
MMR-310 - Naung Na Jatan	MMR-335 - Hla Than
MMR-311 - Myint Oo	MMR-336 - Tun Wai
MMR-312 - Nan Mol Kham (Ms.)	MMR-337 - Win Myint Aung
MMR-313 - Thant Zin Tun	MMR-338 - Aung Lin
MMR-314 - Maung Swe	MMR-339 - Aung Min Tun
MMR-315 - Thein Tun	MMR-340 - Khin Sain Hlaing (Ms.)
MMR-316 - Than Htut	MMR-341 - Aung Sein
MMR-317 - Aung Oo	MMR-342 - Hla Moe

Parliamentarians who were subjected to threats and intimidation:

MMR-283 - Okka Min
MMR-291 - Htun Myint
MMR-292 - Naing Htoo Aung
MMR-293 - Dr. Wai Phyo Aung
MMR-298 - Nay Myo
MMR-299 - Zaw Min Thein
MMR-300 - Win Naing
MMR-301 - Zay Latt
MMR-302 - Myat Thida Htun (Ms.)
MMR-303 - Saw Shar Phaung Awar
MMR-304 - Robert Nyal Yal
MMR-305 - Lamin Tun (aka Aphyo)
MMR-306 - Aung Kyi Nyunt
MMR-307 - Lama Naw Aung
MMR-308 - Sithu Maung

Parliamentarians who died while avoiding arrest:

MMR-345 - Tin Ye (Ms)
MMR-346 - Htike Zaw
MMR-347 - Myint Win
MMR-348 - Saw Tin Win
MMR-349 - Thein Shwe

Parliamentarians who were arbitrarily stripped of their nationality:

MMR-289 - Phyu Thin (Ms.)
MMR-290 - Ye Mon (aka Tin Thit)
MMR-294 - Zin Mar Aung (Ms.)
MMR-295 - Lwin Ko Latt

Alleged human rights violations

- ✓ Murder
- ✓ 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
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Other violations: unlawful revocation of citizenship
- ✓ Other violations: right to health

A. Summary of the case¹

After refusing to recognize the results of the November 2020 parliamentary elections, the military declared a state of emergency and proceeded to seize power by force on 1 February 2021, the day that the new parliament was due to take office. The state of emergency was extended on 1 February 2023, effectively nullifying the promise to hold elections by August 2023. Although the military authorities allowed overwhelmingly peaceful protests to take place at first, the situation in Myanmar took a devastating turn for the worse in March 2021, with reports of live automatic ammunition and artillery 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. According to the Assistance

Case MMR-COLL-03

Myanmar: Parliament affiliated to the IPU

Victims: 72 parliamentarians from the opposition (62 male and 10 female)

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

Submission of complaint: March 2021

Recent IPU decision: October 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: August 2023
- Communication from the complainant: September 2023
- *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: October 2023
- Communication to the complainant: September 2023

¹ For the purposes of this decision, 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.

Association for Political Prisoners (AAPP), as of 29 September 2023, some 4,131 people have been killed and 24,858 have been arbitrarily arrested since the coup, while 19,286 remain in detention. In 2022, the AAPP published a report claiming that the widespread and systematic use of arbitrary detention without judicial control, accompanied by the concealment of the whereabouts of victims, amounted to enforced disappearances, which also falls under crimes against humanity.²

The complainant reports that the Speaker of the Parliament of Myanmar (*Pyidaungsu Hluttaw*), State Counsellor Aung San Suu Kyi and six other parliamentarians were placed under house arrest on the day of the coup, while 20 other members of parliament were arbitrarily arrested shortly thereafter. The violent arrest of Mr. Htay Min Thein on 4 April 2023 brought the total number of parliamentarians arbitrarily detained to 40, of whom 31 are still in detention. Of those detained, many are reportedly being held in secret locations 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. The complainant has also reported that five elected parliamentarians have died while avoiding arrest.

According to the complainant, on 4 February 2021, some 70 elected members of parliament 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). The CRPH is considered as a terrorist organization by the military-appointed State Administration Council. On 31 March 2021, the CRPH appointed a National Unity Government (NUG), which they see as the legitimate interim government. According to the complainant, the CRPH members have been forced into hiding, fearing reprisals because of their political activities, and four of them have been arbitrarily stripped of their nationality. In addition, 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, Ms. Aung San Suu Kyi and 15 other senior politicians were charged with election fraud during the 2022 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 27 years in prison. However, the complainant has confirmed that the military authorities have released eight members of parliament since the coup.

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 called for 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 reports.³ Meanwhile, the IPU Secretariat has received correspondence from the military authorities accusing the CRPH of choosing the path of confrontation and fostering terrorism and disorder, which has allegedly claimed over 1,000 lives. They also indicated a commitment to implementing the five-point consensus and the possibility of resuming dialogue, provided that trust and confidence-building measures are taken first.

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

² https://aappb.org/wp-content/uploads/2022/07/AAPP_Crimes-Against-Humanity-Report_8-Jul-2022-English.pdf.

³ 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>.

victims of enforced disappearance. This move followed the news that the *Tatmadaw* had 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.

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 Mr. Win, Mr. Htay Win Thein, Ms. Tin Ye, Ms. Htike Zaw, Mr. Myint Win, Mr. Saw Tin Win, and Mr. Thein Shwe; *notes* that the complaint is admissible, considering that: (i) it was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) it concerns an incumbent member of parliament at the time of the initial allegations; and (iii) it concerns allegations of murder, 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, failure to respect parliamentary immunity and violations of the right to health, allegations that fall under the Committee's mandate; *takes note* of the confirmation by the complainant that Mr. Kyaw Myint (MMR-279), Mr. Nay Lin Aung (MMR-322) and Mr. Zarni Min (MMR-284) have not been arbitrarily arrested, which corresponds to information received from the military authorities in the past; and *decides* to close the examination of their case as a result;
2. *Regrets* the lack of up-to-date 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 with regard to the concerns expressed in the present case, despite several letters submitted to it by the Committee;
3. *Is dismayed* to learn that five national parliamentarians have lost their lives as they attempted to avoid arbitrary arrest; *is appalled* by eye-witness reports that 31 parliamentarians are being held incommunicado in prisons where they reportedly face ill-treatment, torture and gender-based violence, and that they are being held in inhumane detention conditions with limited access to medical care or legal counsel; *is dismayed* by reports that their situation has deteriorated even further following a ban on all communications 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 appalled* 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 once again* that the military authorities release the parliamentarians without delay in light of the serious reports 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; *urges*, once again, the military authorities to allow the International Committee of the Red Cross (ICRC) access to visit parliamentarians in detention; and *demands* that the military authorities cease and desist from any attempts to arrest parliamentarians on political grounds and thus exposing them to the risk of death;
5. *Reiterates its belief* that the release of all detained parliamentarians is an essential step towards ending violence and building the trust that would allow for de-escalation and a return to dialogue, as prescribed by the five-point consensus brokered by ASEAN; *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 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 and Resolution 2669 of the United Nations Security Council; 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; and *stresses* that the widespread and systematic practice of enforced disappearance, imprisonment and torture constitutes a crime against humanity;
7. *Calls on* all IPU Member Parliaments to urge their relevant national authorities to exercise their jurisdiction by prosecuting any person responsible for this crime against humanity, in keeping with the principle of universal jurisdiction; *renews its call on* all IPU Member Parliaments and observers, in particular in Asia, 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; and *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.