

Open Letter to Heads of United Nations Delegations by Eleven Eminent International Law Scholars Concerning Myanmar's Credentials at the UN

The UN General Assembly is due to consider an issue in the coming weeks that will profoundly affect the lives of 55 million people in Myanmar.

Its Credentials Committee will debate whether to accept the credentials of the junta which seized power on 1 February, or those of the National Unity Government, made up of elected representatives whose parties won a landslide victory in elections last November.

We, the undersigned legal scholars recommend that the junta's credentials be rejected.

The junta has inflicted on its own people what the UN Special Rapporteur on the situation of human rights in Myanmar has called "a brute force reign of terror", likely amounting to crimes against humanity.

Over one thousand people have been killed and over six thousand have been arbitrarily detained, including elected parliamentarians, with many tortured to death in detention.

The country is now experiencing a major humanitarian crisis, exacerbated by the Covid pandemic.

Accepting the military junta's credentials would entrench the regime further, giving a green light for continued repression and potentially undermining international and regional mediation efforts.

Conversely, accepting the NUG's credentials would send a powerful signal that the United Nations stands firmly in support of democracy and human rights, and efforts to resolve Myanmar's crisis through peaceful dialogue.

It would also be consistent with the resolution adopted overwhelmingly by the General Assembly in June, condemning the coup and calling on the Myanmar military to "respect the people's will". There is a sound legal case for the General Assembly to take this course of action, based on historical precedents.

In the last three decades, the General Assembly has consistently refused to accept the credentials of regimes that have come to power by overthrowing democratically elected governments, as the military junta has in Myanmar.

The General Assembly has increasingly been willing to approve the credentials of governments and groups even where they lacked effective control of the entire territory of the state, for example Libya in 2011.

Neither the NUG nor the junta is in effective control of all Myanmar, though the NUG, supported by ethnic nationalities' parties, is in effective control of more territory than the regime.

In the General Assembly, respect for international human rights standards and the extent to which states represent the will of the people have also been important considerations.

For example, in the case of Haiti, despite the military junta wielding effective control, in 1991, 1992 and 1993 the General Assembly accepted without objection the credentials submitted by the representative of the ousted government of Jean Bertrand Aristide.

There were similar examples in Sierra Leone (1996/7), Honduras (2009) and Guinea-Bissau (2012). We believe there are compelling legal arguments to accept the credentials of the NUG

It is appointed by members of parliament decisively elected in elections last November. The NUG's founding document, the Federal Democracy Charter, lays out a roadmap for a democratic government, and commits the NUG to diversity and the inclusion of all ethnic nationality groups.

Accepting the NUG's credentials gives the UNGA an historic opportunity to act decisively in support of the founding principles of the United Nations.

Moreover, a vote for the NUG would send a powerful signal to the people of Myanmar that UN member states have not forgotten their plight and stand with them.

Signed

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