



Advocacy Brief

UN Credentials Committee 2022: Time to Resolve Myanmar's Representation at the UN

Myanmar Accountability Project (MAP) September 2022

1. Introduction

In December 2021, the United Nations General Assembly (UNGA) adopted a resolution that deferred a decision on who should represent the State of Myanmar at the UN. The incumbent Ambassador of Myanmar in the UNGA, Kyaw Moe Tun, who represents the National Unity Government (NUG), has consequently been allowed to continue to make statements and vote during the proceedings of the UNGA. Based on legal and historical precedents the NUG should also have been able to represent Myanmar in all other UN bodies, however, this has not been the case. Instead, there have been serious inconsistencies in the handling of this issue by different UN bodies, with some allowing the military junta to represent Myanmar, while most have not allowed anyone to sit in Myanmar's seat. These institutional inconsistencies are denying the people of Myanmar a voice in UN bodies at the very time when they need it most, with violent repression and armed conflict in the country worsening each day causing a deepening humanitarian crisis.

The following advocacy brief has been produced by the Myanmar Accountability Project (MAP) to inform the deliberations of the UN Credentials Committee when it meets during the 77th session of the UNGA. It builds on a landmark [legal opinion](#) by a group of international legal scholars that MAP published in September 2021, which made the case, based on legal principles and historic precedents, for the Credentials Committee to accept the credentials of the NUG. It also reflects the outcomes of a [webinar](#) organised by MAP and the Asia Centre for the Responsibility to Protect on 28 June 2022, which made key recommendations to resolve the issue of Myanmar's representation at the UN.

2. Background

2.1 The Credentials Committee's 2021 decision – what should have happened

The Credentials Committee comprises nine UN Member States and is established at the beginning of every session of the UNGA which begins in mid-September every year. It meets at some point during

the session to review the “credentials” of representatives from each member state or to deal with any formal objections to credentials made during the session.¹ The principal task of the Credentials Committee is to make recommendations to the UNGA on which credentials member states should accept, which then facilitates “accreditation” to enable their participation in UNGA meetings. In 2021, there were competing credentials on Myanmar from the State Administrative Council (SAC) of the military junta that launched a failed illegal coup on 1 February 2021 and the NUG that is composed of elected parliamentarians that won national elections in November 2020 and the representatives of ethnic groups. The Credentials Committee effectively rejected the credentials of the military junta, but instead of accepting those of the NUG, it recommended deferring the decision of who should represent Myanmar at the UN.

This outcome was based on an informal deal made in September 2021 between the United States (US) and China, which meant that Myanmar’s incumbent Ambassador Kyaw Moe Tun was permitted to remain in his seat with the right to vote, speak, and circulate documents on behalf of Myanmar.² The report of the Credentials Committee in December 2021³ was approved by the UNGA in a resolution⁴, but neither the recommendation of the Credentials Committee or the UNGA resolution that adopted it included language (as has occurred in other similar cases) explicitly stating that the deferral was “on the understanding that the current incumbent remains in place with all the rights and privileges as all the others”. Nonetheless, Ambassador Kyaw Moe Tun has been able to continue to make statements and vote on matters in the UNGA on behalf of Myanmar.

As outlined in MAP’s previous [legal opinion](#) the UNGA should have accepted the credentials of the NUG, which is the democratically legitimate representative of the people of Myanmar. If the UNGA had accepted the credentials of the NUG, it would have sent a clear signal to the UN system as a whole regarding which authority should be permitted to represent Myanmar on the world stage. Nevertheless, even its deferral was a decision insofar as it allowed Ambassador Kyaw Moe Tun to represent Myanmar at the UNGA on behalf of the NUG. This is a point firmly endorsed in a new legal opinion commissioned by MAP with Dr Ralph Wilde of University College London’s law department in relation to the NUG’s Declaration to the International Criminal Court.⁵ It also should have allowed the NUG to represent Myanmar in the UNGA and all other UN bodies. This is because General Assembly Resolution 396(V) (1950) states that when the question of a State’s representation at the UN “becomes the subject of controversy ... the attitude adopted by the General Assembly [...] concerning any such question should be taken into account in other organs of the United Nations and in the specialised agencies”.⁶

The ‘attitude’ of the UNGA is clear, not only by the fact that the NUG has been represented in the UNGA by Ambassador Kyaw Moe Tun, but also by the resolution on Myanmar that it adopted in June 2021 calling on Myanmar’s armed forces to respect the results of the general election and to allow the “opening of the democratically elected parliament.”⁷ The NUG, however, has not been allowed to represent Myanmar in all other UN bodies. Instead, the handling of the issue has been characterised not just by inconsistencies, but a lack of respect for the purpose and principles of the UN Charter. It is incumbent on the UN Office of Legal Affairs (OLA) to provide guidance regarding Res 396(V), together with the UNGA’s decision to defer in 2021, and what this means for the issue of Myanmar’s

representation as well as how it should be handled by other parts of the UN, but this does not seem to have been the case as far as has been publicly revealed.

2.2 Developments on the ground in Myanmar

Since the UNGA deferred its decision last December on who should represent Myanmar at the UN, the situation in Myanmar has deteriorated significantly with increasing reports of atrocity crimes committed by the military junta, including the high-profile extrajudicial execution of four political prisoners on 25 July.⁸ At the same time, it has become increasingly clear that the NUG is the democratically legitimate representative of the state of Myanmar, which is supported by the vast majority of its people, and along with its allied ethnic revolutionary organisations commands significant territorial control of the country. Following its illegal attempt to seize power, the military junta has continued its violent repression in what UN human rights experts have called “a brute force terror campaign against its own people”.⁹ This has included extrajudicial killings, arbitrary detentions, and disproportionate use of force against peaceful protesters, including ill treatment in addition to torture in custody. According to the [Assistance Association for Political Prisoners \(AAPP\)](#), 2,174 people have been killed as of 10 August, with a further 15,079 detained. In its latest report to the Human Rights Council (HRC), the UN Office for the High Commissioner for Human Rights (OHCHR) reported that over 20 percent of fatalities occurred in custody, which is about 325 people including 16 children.¹⁰

Armed conflict has intensified across the country between the Myanmar Armed Forces (MAF) – the Tatmadaw – and the People's Defence Forces (PDFs)¹¹ that have established coalitions with ethnic revolutionary organisations against military rule. In September 2021, the NUG declared a “people's defensive war” against the military and called for a national uprising, with it increasing its command and control over the PDFs. Armed clashes and attacks are now occurring in each state, region, and union territory in around 220 out of 330 townships in Myanmar.¹² The Tatmadaw has adopted the same tactics as previous “clearance operations” including using airstrikes, helicopter gunships, artillery, and mortars to launch indiscriminate attacks in populated areas in flagrant disregard for human life and property. They have destroyed thousands of buildings including houses, churches, and food stores, as well as being responsible for attacks on schools and health facilities. Military authorities have also blocked humanitarian access to thousands of people in urgent need of humanitarian assistance. In May 2022, the UN reported that for the first time more than one million people were internally displaced in Myanmar with 700,000 people having been forced from their home since the failed coup.¹³

The HRC-mandated Independent Investigative Mechanisms for Myanmar (IIMM) has concluded, as part of its preliminary analysis, that there are reasonable grounds to believe that the Tatmadaw's actions have been carried out as part of a deliberate, widespread, and systematic attack directed against civilian populations, which would therefore amount to crimes against humanity.¹⁴ When linked to an armed conflict, some of these acts, as well as any deliberate attacks against civilians and civilian objects may also amount to war crimes. These findings are consistent with those reported by the UN



High Commissioner for Human Rights and the UN Special Rapporteur on the situation of human rights in Myanmar.

Rather than being considered a legitimate government, the military junta should be designated and treated as a terrorist organization because of its extreme acts of criminal violence against civilians according to the Special Advisory Council for Myanmar (SAC-M), an independent group of former UN human rights observers.¹⁵ By contrast, the NUG has been increasingly acting as a responsible democratic government by taking on key administrative and social tasks, representing the interests of its people in meetings with representatives from various governments, regional organisations, and UN representatives. It has also sought to engage with international human rights mechanisms and has made a Declaration under Article 12(3) of the International Criminal Court's (ICC) Rome Statute, accepting the Court's jurisdiction over the State of Myanmar.¹⁶

These developments described above provide further compelling reasons why the Credentials Committee should accept the credentials of the NUG.

3. Myanmar's representation in UN bodies – a complete mess!

As noted earlier, the UNGA's deferral of a decision on Myanmar's representation at the UN should have allowed the NUG to represent Myanmar in all other UN bodies. However, this has not happened over the preceding months. Instead, there have been inconsistencies in the way different UN bodies have addressed the issue, with some allowing the military junta to represent Myanmar, while others have left its seat empty. This complete mess has been a serious obstacle to finding a resolution to the crisis in Myanmar. This section provides an overview of the actions of the main UN bodies with respect to this question.

3.1 UN General Assembly – the NUG stands tall

While under the informal deal struck between the US and China Ambassador Kyaw Moe Tun was prevented from speaking at the general debate at the start of the 76th session of the UNGA in September 2021, he has subsequently been able to make statements and vote in the UNGA. The Permanent Mission of Myanmar to the UN in New York has been providing regular reports of the human rights concerns and deteriorating humanitarian crisis that are shared across the UN. However, this arrangement with Ambassador Kyaw Moe Tun at the UNGA is a highly precarious procedure given that his credentials can in theory be challenged at any moment. Furthermore, if the Ambassador were to be succeeded by someone else, there are no assurances about what position that person might take. Most concerning is that, in 2021, Ambassador Kyaw Moe Tun faced death threats, and while the assailants were arrested by the US authorities, they had suspected links with the military junta.¹⁷

The UNGA has held further sessions on Myanmar since the time of the last Credentials Committee report¹⁸ but has not adopted any further resolutions clarifying the position of the UN following the military junta's failed illegal coup in February 2021. In June 2021, the UNGA adopted a resolution which overwhelmingly called on the military junta to "respect the will of the people as freely expressed

by the results of the general election” and to allow “a sustained democratic transition.”¹⁹ However, it stopped short of declaring the NUG as the legitimate government of Myanmar that states should recognise, and for it to be allowed to represent Myanmar in all UN bodies. Separate from its decisions regarding credentials, the UNGA could resolve the issue by passing a further resolution explicitly expressing this view. There are historical precedents for the UNGA playing such a role in relation to Haiti and Honduras. For example, in June 2009, the UNGA adopted a resolution condemning a coup staged by the Honduran army by calling it “firmly and unequivocally upon States to recognize no Government other than that of the Constitutional President, Mr. José Manuel Zelaya Rosales” who had been deposed.²⁰ In December 2009, the General Assembly voted to accept the credentials of the constitutional government of Honduras and left the incumbent ambassador in the seat.²¹ The UNGA could take the same action on Myanmar now with respect to the NUG.

3.2 International Court of Justice (ICJ) – the junta gets away with it

In February 2022, the International Court of Justice (ICJ) - the principal judicial organ of the UN - held public hearings on the preliminary objections raised by Myanmar in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar). After the ICJ had ordered provisional measures against Myanmar on 23 January 2020²², both the military junta and the NUG transmitted biannual reports on their implementation in May 2021. Where the military junta made preliminary objections to the case at the ICJ,²³ the NUG submitted its withdrawal of the objections by saying that it accepted the jurisdiction of the court and asserted that the NUG should be regarded as the “proper representative of Myanmar”. The NUG added that, were the ICJ to accept the military junta as the representative Myanmar, it would “set a dangerous precedent and be inconsistent with the position of the UN General Assembly”.²⁴

However, in an astonishing move, it was the agents of the military junta that were the representatives of the State of Myanmar in the public hearings in February 2022. Continuing to allow the junta to represent Myanmar risked legitimising its attempted seizure of power and its subsequent brutal actions against its own people. Along with other human rights groups, MAP condemned the ICJ’s decision to engage with the military junta – a move completely contrary to UNGA resolution 396(V). Worse still, two people on the junta’s legal team - Attorney General Thida Oo, and the Minister for Planning, Finance, and Industry Win Shein - were under international sanctions as they were accused of committing serious human rights violations and subverting the rule of law.²⁵ In July 2022, however, the ICJ issued a ruling rejecting Myanmar’s preliminary objections, allowing the case to proceed.²⁶ As with others, MAP has called for the ICJ only to engage with the NUG in all further proceedings.

3.3 Human Rights Council – the empty seat

In the first session of the Human Rights Council (HRC) – its 49th which ran from 28 February to 1 April 2022 – after the UNGA deferral of the decision of Myanmar’s representation to the UN, the President of the HRC decided that neither the military junta nor the NUG should be allowed to represent Myanmar, leaving its seat empty. MAP condemned the decision which denied the people of Myanmar a voice in the HRC.²⁷ It meant that the “interactive dialogue” on the human rights situation in Myanmar

took place without anyone speaking for those whose rights were being discussed. While the military junta has sought to discredit the HRC's action on Myanmar, the NUG has effectively engaged with the UN's human rights body. Its Minister of Human Rights, U Aung Myo Min, has visited Geneva, making public statements each time that Myanmar has been discussed in the HRC to highlight the human rights concerns in the country, and the actions being taken by the NUG to address them. The Acting President of the NUG has also met with the UN High Commissioner for Human Rights. The NUG has repeatedly extended its cooperation to the HRC, expressing their support for its mechanisms.

On 13 June 2022, the HRC (at its 50th session) agreed to postpone the consideration and adoption of the report of the Universal Periodic Review (UPR) on Myanmar until the UNGA makes an official decision on the representation of Myanmar at the UNGA. Myanmar's third cycle UPR review was held on 25 January 2021 just before the failed coup, informing the Report of the Working Group on the UPR.²⁸ However, only a proportion of the recommendations presented by States during the UPR examination were accepted by Myanmar. Out of the 354 recommendations, 119 recommendations were supported, leaving 235 pending. With the close of the third cycle of the UPR approaching, it was decided that they leave the process incomplete in respect to Myanmar, with it being only partially finalised. This is the first time ever that a country has not completed its UPR since the mechanism was introduced in the HRC in 2006.²⁹ It is also unclear whether Myanmar will be able to participate in the next cycle of the UPR, which will further limit the means of holding those responsible for human rights violations accountable for their actions. Furthermore, the deferral of the UPR adoption raises questions and concerns regarding the provision of technical assistance in support of the implementation of the 'accepted' UPR recommendations.

3.4 Other UN bodies

Other UN bodies requiring member state representation such as the World Health Assembly, the International Labour Organisation and the General Conference of the UN Educational, Scientific and Cultural Organisation (UNESCO) have taken the same approach as the HRC and left Myanmar's seat empty. While each of these bodies have their own legal counsel which could have advised that they act in accordance with resolution 396(V) and be guided by the 'attitude' of the UNGA in order to allow the NUG to represent Myanmar, they have instead decided to have no one represent Myanmar pending guidance from the UNGA. From the research that MAP has conducted, there appears to be limited coordination between the legal counsels of these different UN bodies on how this issue should be resolved, with each seemingly preferring to leave it in a state of limbo. MAP is asking member states to write to OLA requesting that it clarifies the position on Myanmar's representation at all UN bodies.

3.5 UN agencies in Myanmar

Since the failed coup, the UN's agencies, funds, and programmes (UNAFPs) in Myanmar have continued to provide important assistance to the people of Myanmar, as years of development have been reversed and the country has faced a mounting humanitarian crisis. While they are not directly implicated by the UN Credentials Committee, their approach to the military junta and the NUG is

indirectly guided by how the UN system as a whole is addressing the issue. Following UN Secretary-General Antonio Guterres' condemnation of the failed coup and wider calls for it to be reversed, the UNAFPs working in the country developed the 'principles of engagement' to limit their interaction with the military junta unless absolutely necessary in order to implement humanitarian programmes, and to put in place due diligence procedures to prevent resources being directed to the junta. These principles were also aimed at ensuring that UNAFPs did not grant legitimacy to the illegal junta. In early 2022, new programmatic engagement guidelines were developed for the UN Country Team (UNCT).

One of the challenges to this approach is that UNAFPs must have letters of appointment, as well as their country plans submitted to and accepted by the military junta in order to implement their programmes. This has presented the dilemma of how to reconcile the UN's limited-engagement position with the need to carry on operations. In June 2022, UNICEF's country representative was photographed during a meeting with the Senior General Min Aung Hlaing to have his letter of appointment submitted,³⁰ making a mockery of the UN's purported principled position on this matter. In August 2022, the Representative of the UN Food and Agriculture (FAO) took the same action. There is a clear need for the UN to adopt a clear and consistent approach on this issue and to refrain from any actions that might be seen as legitimising the military junta.

4. Myanmar representation in international affairs – a matter of state recognition

Beyond the question of who should represent Myanmar at the UN lies the broader issue of state recognition, which is indirectly relevant to the Credentials Committee. Most countries publicly maintain that they recognise states, not governments. Practically speaking though, by their actions and statements, they engage with some governments and limit their contact with others. Following the failed coup, few governments around the world have engaged with the military junta, which is becoming increasingly isolated internationally. China, Russia, and India have been more vocal supporters being critical arm suppliers of the junta. At the same time, a series of countries including Canada, the US, the United Kingdom (UK), Australia, and the European Union (EU) have imposed sanctions on the military generals for their illegal attempt to seize power, subverting the democratic process and rule of law, and committing atrocity crimes.

4.1 ASEAN's flip-flopping

The position of the Association of Southeast Asian Nations (ASEAN) states has shifted with the regional bloc latterly taking a more robust approach with the military junta, and belatedly being prepared to engage with the NUG. On 24 April 2021, ASEAN adopted a Five-Point Consensus on Myanmar which prescribes a cessation of violence, the delivery of humanitarian aid, and dialogue between the parties, facilitated by the appointment of an ASEAN Special Envoy who was requested to visit the country. However, ASEAN has been lambasted for its lack of progress in implementing the Consensus. In October 2021, it took the unprecedented step – for a group that traditionally prefers consensus and shies away from “interference” in the domestic affairs of its members – of disinviting Senior General

Min Aung Hlaing from its summit of heads of state.³¹ The military junta's foreign minister U Wunna Maung Lwin has also been prohibited from attending ASEAN Foreign Ministers' retreats.³²

On assuming its chairmanship of the regional body in 2022, however, Cambodia backtracked on the agreed ASEAN approach, with its Prime Minister Hun Sen and other leaders meeting with Min Aung Hlaing and representatives of the SAC on several occasions, and refusing to meet any member of the NUG. Furthermore, the military junta's Defence Minister Mya Tun Oo was invited to the ASEAN Plus Defence Ministers meeting which he attended in June 2022. This led to the withdrawal of the US, Australia, and New Zealand to the ASEAN Plus counterterrorism meeting co-chaired by the junta and Russia³³ in July 2022 as called for by MAP and other civil society groups. More recently, though, Cambodia has acknowledged the need to meet with the NUG with its ASEAN special envoy making this clear as part of the outcomes of his visit to Myanmar in July 2022.³⁴ The execution of four political detainees on 25 July also led to a rebuke of the junta with Malaysia deciding to oppose the junta's presence in ASEAN ministerial meetings.³⁵ At their meeting in August 2022 ASEAN foreign ministers agreed to ban the military junta from attending the group's meetings until they make progress on the Five-Point Consensus. This step signified a further hardening of the position of ASEAN and rejection of the legitimacy of the military junta.³⁶

4.2 The NUG's increasing recognition by states

Beyond ASEAN there has been an increasing number of governments that have engaged diplomatically with NUG publicly meeting with its leaders and ministers on a range of different issues. The NUG has established representative offices in Australia, the Czech Republic, France, Japan, South Korea, Norway, and the UK.³⁷ NUG officials have publicly met with a growing list of countries including – for those that MAP is aware of – the UK, the US, Canada, Germany, France, Czech Republic, Austria, Sweden, Malaysia, Norway, Japan and South Korea. Both the French Senate³⁸ and the EU Parliament³⁹ have passed resolutions to formally recognise the NUG as the legitimate government of Myanmar. As the NUG is increasingly becoming the interlocutor for a growing list of governments – far surpassing that of the military junta – its claims to have its credentials accepted at the UN strengthens.

5. Key considerations for the Credentials Committee

It is anticipated that both the military junta and the NUG will again submit credentials for their representatives to be accredited for the 77th session of the UNGA when it starts on 13 September 2022. Myanmar is already scheduled to speak in the general debate on 26 September. There is no detailed guidance for how the situation of competing credentials should be addressed other than in UNGA Resolution 396 (V) which states that:

“Whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, the question should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case.”

However, as outlined in the legal opinion commissioned by MAP in September 2021 the historical precedents for how previous similar situations have been addressed provide an indication for how the case of Myanmar should be resolved. Since 1945, the criteria of effective territorial control, democratic legitimacy and respect for international human rights standards have all been important considerations of the UN Credentials Committee. However, since the 1990s the consideration of effective control of territory has not been the determinative factor with the Credentials Committee giving more weight to the importance of democratic legitimacy and respect for human rights. For example, the General Assembly has accepted the credentials of deposed civilian governments in Liberia, Haiti, Sierra Leone, and Honduras, despite those governments lacking effective or total territorial control. In situations of contested governance in Guinea, Madagascar, Afghanistan, Cambodia, and Guinea Bissau, it declined to recognise the credentials of regimes that won power by force – again, irrespective of the matter of effective control.

Based on these historical precedents, it is clear that the Credentials Committee should accept the credentials of the NUG. The NUG was established based on its members' win of the November 2020 elections by an overwhelming landslide victory. It has increasingly established itself as the legitimate representative of the people of Myanmar and has effectively engaged with international human rights and accountability mechanisms. By contrast, since the Committee met in 2021, the military junta has escalated its atrocities against civilians and lacks any claims to popular support from the people of Myanmar.

6. Conclusions and recommendations

When it meets in September 2022, the UN Credentials Committee should recommend to the UNGA that it accept the credentials of the NUG. The case was compelling in September 2021 and is even clearer now. If the UN Credentials Committee defers again a decision on who gets to represent Myanmar at the UN, it will deny the people of Myanmar an effective voice in the world body when they need it most and only contribute further to the military junta's repression. Acceptance of the NUG's credentials to the UNGA would also resolve the inconsistencies of Myanmar's representation in all UN bodies which, as shown in this advocacy brief, has been stuck in a state of limbo since last December, again denying different parts of the UN system the opportunity to effectively engage in developments in Myanmar. In view of the above MAP recommends that:

- The UN Credentials Committee should accept the credentials of the NUG and recommend this to the UNGA.
- In the event of a further deferral of the decision this should at least be “on the understanding that the current incumbent remains in place with all the rights and privileges as all the others” that should be explicitly included either in the report of the Credentials Committee or the UNGA resolution adopting its recommendations.

- The UN OLA should provide clear guidance – based on resolution 396 (V) – that the NUG should be able to represent Myanmar in all UN organs and agencies even in the event of deferral of a decision by the UNGA.
- The UN Human Rights Council should allow the NUG to represent Myanmar in all ‘interactive dialogues’ and to complete the Universal Periodic Review (UPR) for Myanmar to address all pending recommendations of the Working Group of the UPR that have not yet been adopted.
- The International Court of Justice (ICJ) should only deal with agents of the NUG in the genocide case of *The Gambia vs Myanmar*.
- The International Criminal Court (ICC) should accept the NUG’s Article 12(3) Declaration under the Rome Statute, which grants the ICC jurisdiction with respect to international crimes committed in Myanmar since 2002.
- The UNGA should adopt a resolution to take a series of measures to address the crisis in Myanmar and make clear – as in the case of Haiti and Honduras – that the NUG is the only government that states and the UN should legitimately engage with.

¹ In 2021, the Credentials Committee met just once on 1 December.

² See Colum Lynch, Robbie Gramer, and Jack Detsch, ‘U.S. and China Reach Deal to Block Myanmar’s Junta From U.N.’, *Foreign Policy*, 13 September 2021

³ UNGA Doc. A/C.3/76/L.30/Rev.1, 11 November 2021

⁴ UNGA Res A/Res/76/15, 7 December 2021

⁵ See Ralph Wilde, ‘In the matter of the statute of the International Criminal Court and in the matter of the declaration made by the National Unity Government as the Republic of the Union of Myanmar accepting the jurisdiction of the International Criminal Court under article 12(3) of the statute’ available at <https://the-world-is-watching.org/wp-content/uploads/2022/08/Wilde-Burma-ICC-opinion-15-Aug.pdf>

⁶ UN Doc. A/RES/396(V), 14 December 1950

⁷ See Rebecca Barber, ‘The People of Myanmar Need to Be Heard, Not Ostracized, on the International Stage’, *Just Security*, 29 March 2022

⁸ ‘World condemns Myanmar junta for ‘cruel’ execution of activists’, *Reuters*, 25 July 2022 available at <https://www.reuters.com/world/asia-pacific/myanmar-junta-execute-four-democracy-activists-state-media-2022-07-25/>

⁹ Special Rapporteur on the situation of human rights in Myanmar, ‘Myanmar: Human rights defenders under siege, say UN experts’, 19 July 2021, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27323&LangID=E>.

¹⁰ See ‘Situation of human rights in Myanmar since 1 February 2021:

Report of the United Nations High Commissioner for Human Rights’, 25 February 2022, A/HRC/49/72

¹¹ In May 2021, the NUG announced the formation of People’s Defence Forces (PDF) as forerunner to the ‘Federal Democratic Armed Forces’.

¹² See A/HRC/49/72 op cit

¹³ See UN OCHA Myanmar Humanitarian Update, 31 May 2022 available at

<https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-18-31-may-2022>

¹⁴ See UNHRC ‘Report for the Independent Investigative Mechanism for Myanmar’, 5 July 2021, A/HRC/48/18

¹⁵ See SAC Briefing Paper, ‘The Myanmar Military is a Terrorist Organization Under International Law’, 14 December 2021, available at <https://specialadvisorycouncil.org/2021/12/sac-m-the-illegal-junta-should-be-designated-a-terrorist-organisation/>

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- ¹⁶ On 19 August MAP organised a webinar on 'Why the International Criminal Court (ICC) Must Take Action to End Impunity in Myanmar' For more details see MAP website at <https://the-world-is-watching.org/>
- ¹⁷ See The Irrawaddy, 'Myanmar's UN Envoy Threatened in New York', 5 August 2021, available at <https://www.irrawaddy.com/news/burma/myanmars-un-envoy-threatened-in-new-york.html>
- ¹⁸ UN Doc. A/RES/76/180, 11 January 2022.
- ¹⁹ UN Doc. A/RES/76/180, 11 January 2022.
- ²⁰ UN Doc. A/RES/63/301, 30 June 2009.
- ²¹ UN Doc. A/64/571, 17 December 2009.
- ²² Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020, p. 3
- ²³ Case Concerning Application of the Convention on Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Preliminary Objections of The Gambia v. Myanmar, A/HRC/49/72e Republic of the Union of Myanmar, 20 January 2021
- ²⁴ See 'Announcement (2/2022) – Myanmar withdraws all preliminary objections to the International Court of Justice hearing on the genocide case', NUG, 1 February 2022
- ²⁵ See MAP Press Release, 'Myanmar Accountability Project: Myanmar Junta Nominates Sanctioned Officials to Defend it at the International Court of Justice, MAP Condemns it as a "mockery" of International Justice', 17 February 2022
- ²⁶ See ICJ press release No 2022/24, 22 July 2020
- ²⁷ See "'Myanmar's democrats must be allowed to attend the UN Human Rights Council'", Jakarta Post, 10 March 2022, available at <https://www.thejakartapost.com/opinion/2022/03/09/myanmars-democrats-must-be-allowed-to-attend-the-human-rights-council.html>
- ²⁸ 'Report of the Working Group on the Universal Periodic Review: Myanmar', 12 April 2021, A/HRC/47/13
- ²⁹ Israel has before chosen not to engage with the UPR, but this was the first time that a UPR was not completed because the HRC could not decide who should represent the concerned state.
- ³⁰ See 'Waging War on the Children of Myanmar', Progressive Voice, 27 June 2022 available at <https://progressivevoicemyanmar.org/2022/06/27/waging-war-on-the-children-of-myanmar/>
- ³¹ See 'ASEAN Excludes Myanmar Junta Leader from Summit in Rare Move', Reuters, 17 October 2021, available at <https://www.reuters.com/world/asia-pacific/asean-chair-brunei-confirms-junta-leader-not-invited-summit-2021-10-16/>
- ³² The Irrawaddy, 'Myanmar Junta Foreign Minister Barred from Upcoming ASEAN Meeting', 7 July 2022, available at <https://www.irrawaddy.com/news/burma/myanmar-junta-foreign-minister-barred-from-upcoming-asean-meeting.html>
- ³³ See 'US Withdraws from ASEAN counterterrorism meeting', Myanmar Now, 20 July 2022, available at <https://www.myanmar-now.org/en/news/us-withdraws-from-asean-counter-terrorism-meeting>
- ³⁴ See 'Outcomes of the Second Visit of the Special Envoy of the ASEAN Chair on Myanmar to the Republic of the Union of Myanmar', Cambodia Ministry of Foreign Affairs & International Cooperation, 4 July 2022, available at <https://www.mfaic.gov.kh/posts/2022-07-04-Press-Release-Outcomes-of-the-Second-Visit-of-the-Special-Envoy-of-the-ASEAN-Chair-on-Myanmar-to-the-Republic-of-t-17-42-34>
- ³⁵ See 'Saifuddin: Malaysia to block Myanmar leaders from ASEAN meets over killing activists', Malay Mail, 26 July 2022, <https://www.malaymail.com/news/malaysia/2022/07/26/saifuddin-malaysia-to-block-myanmar-leaders-from-asean-meets-over-killing-of-activists/19449>
- ³⁶ 'Myanmar generals banned from ASEAN until peace plan progress', Aljazeera, 6 August 2022 available at <https://www.aljazeera.com/news/2022/8/6/myanmar-generals-banned-from-asean-until-peace-plan-progress>
- ³⁷ See NUG Ministry of Foreign Affairs website at <https://mofa.nugmyanmar.org/mofa-nug-representatives/>
- ³⁸ French Senate, 'Résolution portant sur la nécessité de reconnaître le Gouvernement d'unité nationale de Birmanie', 5 October 2021
- ³⁹ European Parliament, B9-0148/2022, 8 March 2022, available at https://www.europarl.europa.eu/doceo/document/B-9-2022-0148_EN.html