



Submission to the Senate Inquiry into Democracy and Human Rights in Myanmar

Submitted to: Australian Senate

Submitted by: CRPH/NUG Support Group (Australia)

This submission reflects the collective position of the CRPH/NUG Support Group (Australia), representing members of the Myanmar community and supporters of human rights and a federal democratic future for Myanmar, in close consultation with civil society partners and affected communities.

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Executive Summary

This submission is made by the CRPH/NUG Support Group (Australia) in response to the Senate inquiry into the state of democracy and human rights in Myanmar, with specific reference to the military's proposed phased elections commencing in December 2025 and the barriers to a return to an inclusive civilian democratic government. The submission draws on collective organisational experience, engagement with Myanmar civil society, ethnic communities, and humanitarian responders.

On 1 February 2021, Myanmar's military seized power in an unconstitutional coup, annulled the 2020 election results, and has since committed widespread human rights abuses that may amount to crimes against humanity and war crimes. Democratic institutions and freedoms have been dismantled, plunging the country into crisis. The junta's 2025–2026 elections are not a viable route back to civilian governance; they are designed to legitimize continued military rule within an increasingly authoritarian system that suppresses dissent and uses violence against civilians. The only path forward is inclusive federal democracy grounded in a new constitution.

1. State of Democracy in areas under military control

Over the past five years, the Myanmar military has systematically dismantled the core elements of democracy.

1.1 Unconstitutional seizure of national government institutions

In the November 2020 elections—widely seen as free and fair—the National League for Democracy (NLD) won 82% of elected seats, while the military-backed USDP secured just 6%. Despite this clear mandate, the military ousted the elected government and legislature on 1 February 2021. The junta’s declaration of a state of emergency violated their 2008 Constitution. The military’s claims of electoral fraud were unproven and did not meet the constitutional requirement of posing a threat to national unity or sovereignty. After detaining the President, the military-appointed Vice-President had no constitutional authority to declare a state of emergency. The coup thus broke the constitutional order and effectively nullified the 2008 Constitution, rendering all subsequent junta decisions and actions unconstitutionalⁱ.

After legislative, executive, and judicial powers were transferred to the Commander-in-Chief, he established the State Administrative Council (SAC) to exercise legislative and executive powers, with courts and key institutions placed under junta control through loyalist appointments. In July 2025, the military ended the state of emergency, dissolved the SAC, and replaced it with the State Security and Peace Commission (SSPC)—a largely cosmetic change aimed at creating a facade of legitimacy ahead of the 2025–2026 elections. On 1 August, the junta declared a new state of emergency and imposed martial law in 63 townships controlled by anti-junta forces.ⁱⁱ

1.2 Political pluralism eliminated

In January 2023 the junta enacted the restrictive *Political Parties Registration Law*ⁱⁱⁱ. The law bars anyone with a criminal conviction or prison sentence from joining political parties, effectively excluding key NLD leaders, including Aung San Suu Kyi and President Win Myint, imprisoned after the coup. Any group the junta deems an ‘unlawful association’ or ‘terrorist organization’ – i.e. all key stakeholders opposed to military rule - is also banned. The law also imposes steep membership and financial requirements far exceeding previous thresholds. These measures exclude most opposition, ethnic, and minority parties, rendering future elections lacking in credibility and serving primarily to legitimize continued military rule^{iv}. In March 2023, Myanmar's military junta dissolved over 40 political parties, including the NLD.

1.3 Civil liberties severely restricted

Since February 2021, the junta has relied on repressive laws and amendments to arrest, detain, and prosecute those who oppose military rule. Basic freedoms have been suppressed through warrantless arrests, household surveillance, martial law, curfews, bans on gatherings and movement, and digital repression such as internet shutdowns, social media blocks, and VPN bans. Courts remain under full military control and operate as sham judicial bodies^v.

The junta most frequently uses the Penal Code—particularly Section 505A—and the Counter-Terrorism Law to arrest civilians and journalists. These laws and their amendments are vaguely drafted and impose disproportionately harsh penalties^{vi}. The Assistance Association for Political Prisoners (AAPP) reports that between 1 February 2021 and 17 December 2024, at least 8,442 political prisoners were arrested under the Penal Code, mainly Section 505A, and at least 7,343 political prisoners were arrested under the Counter-

Terrorism Law^{vii}. The new **Section 505A** is used for silencing dissent or criticism of the junta via the media, social media, or protest and demonstration. It covers the offences of causing fear, spreading false news, and committing a criminal offence against a government employee, or *intending to do these things*^{viii}.

The Counter-Terrorism Law was amended in 2021 and 2024 significantly increasing penalties, especially under Section 3(b)(xv), which criminalizes activities such as propaganda, recruitment, or encouragement to join groups labelled as “terrorist.” Violations now carry three to seven years in prison plus fines. The National Unity Government (NUG), journalists, pro-democracy groups, human rights defenders, the Committee Representing Pyidaungsu Hluttaw (CRPH), the Civil Disobedience Movement, and People’s Defense Forces (PDFs) are deemed “terrorists.” Additional addendums give the military broad powers for surveillance, property seizure, cooperation with foreign governments for arrests and deportations, and freezing or confiscating assets. Chapter 14 requires telecom operators to block or intercept communications and track suspect locations on government orders. These measures are aimed at dismantling anti-coup resistance by cutting off support for the NUG, CRPH, PDFs, and ethnic armed organizations (EAOs)^{ix}.

1.4 Rule of Law deeply undermined

Over the past five years, the junta has deeply undermined the rule of law. It consolidated power by transferring legislative, executive, and judicial authority to Commander-in-Chief Min Aung Hlaing, while continually amending and creating laws to serve its interests. The regime has shielded itself from accountability. Even during Myanmar’s quasi-democratic period from 2011 to 2020, the military remained protected from accountability through constitutional control of key ministries, parliamentary veto powers, and a separate military justice system, which maintained impunity.

Judicial independence has been destroyed. For the past five years, Myanmar has been subject to widespread martial law, allowing military tribunals to hear many criminal cases, including those under the Penal Code and Counter-Terrorism Law - about 60% of all political prisoners have been detained under these two laws. Under martial law, even minor offenses can result in severe punishments. Cases outside military tribunals are handled by “special” closed courts inside prisons, while ordinary courts have only partially reopened for non-political matters. An OHCHR report found that former political detainees and lawyers described the judiciary as deeply complicit in human rights abuses. Judges routinely fail to act independently, convict people without evidence, and imprison civilians for political reasons. Defence lawyers also face constant threats and have no real chance of a fair trial^x.

The rapid growth of scam centres along Myanmar’s borders since 2021 highlights the collapse of the rule of law. The military helped create these criminal enclaves through its 2006 Border Guard Force (BGF) program, which offered splinter ethnic militias autonomy and freedom to run illegal economies in exchange for subordination. BGFs are now deeply involved in the transnational scam operations. These syndicates generate more than \$43.8 billion annually for Mekong states Myanmar, Cambodia, and Laos. A substantial portion of the profits flow to the Myanmar military and ruling elites in Cambodia and Laos^{xi}. The military also gains from BGFs’ frontline support in its conflict against resistance forces, particularly in securing key trade routes, giving the junta little reason to dismantle the scam economy. Even as regional governments and multilateral institutions try to crack down, scam centres have spread into central Myanmar, in areas directly controlled by the military including vacant buildings in Yangon and Mandalay. As long as the junta remains in power,

it has both the incentive and capacity to protect and profit from these operations, making their continued existence almost certain without a fundamental political change^{xii}.

2. State of democracy in areas under resistance control

While the international community often labels Myanmar's conflict as a "civil war" because of its intensity, they overlook the deeper political transformation underway. Myanmar is experiencing a significant and irreversible shift toward federal democracy. This is not a conventional peace process or negotiated settlement, but a violent, decentralized, bottom-up state-building movement rooted in rejection of the centralized, Bamar-dominated military system^{xiii}. A process of "bottom-up federalism," where inclusive federal governance is being constructed from local and state/region levels upward rather than imposed from the centre, is already happening^{xiv}.

At the local level, long-established governance structures run by EAOs, community-led bodies like the NUG's Township People's Administration Teams, and civil society groups are providing essential services. At the state and regional level, powerful EAOs have built functioning administrative systems, tax collection, independent justice systems, and defence forces. Regional consultative councils, such as the Interim Chin National Consultative Council and the Sagaing Federal Unit, are also emerging and developing interim governing functions. Nationally, a range of coordination bodies and processes are bringing together resistance stakeholders to work toward a federal transitional constitution^{xv}:

An OHCHR report in 2025 documents numerous local governance efforts, noting that in areas under its control the NUG has set up systems for law enforcement, justice, education, and healthcare. In 2024, these included 788 criminal and 350 civil cases handled under civilian oversight; 106 hospitals, 808 permanent clinics, and 192 mobile clinics providing medical care; education for over 800,000 students across 5,700 schools with more than 62,000 teachers; and tertiary degree programs managed by 198 interim university councils. The report gives an update on the Karenni State Interim Government. The Karenni State Interim Executive Council operates through a collective leadership of seven political, military, and civilian leaders (including two women), with governance structured into ten departments led by representatives from armed groups, civil servants, parliamentarians, and activists. The Council expanded its administration across 16 townships, delivering healthcare through over 100 clinics, and established nine local courts and more than a dozen police stations to provide civilian-led justice and democratic policing^{xvi}.

Regional, state, and ethnic consultative councils, created by local civil society and resistance groups through broad consultation and coalition-building, are central to the "bottom-up federalism" process. They will link horizontally with other councils and vertically with Union-level institutions, gradually forming a new inclusive civilian national system. These councils are being established and integrated at both regional and national levels simultaneously^{xvii}.

3. Human rights

Since the 2021 coup, the military junta has violently suppressed peaceful protests, detained more than 30,291 people for political reasons, and subjected detainees to torture and executions. It has killed 7,690 civilians, including 995 children, and repeatedly attacked civilians through airstrikes on towns, camps, schools, and medical facilities^{xviii}. These actions,

combined with obstructing humanitarian aid, have displaced over 3.5 million people and left nearly 20 million in need of assistance^{xix}. The military has also used landmines, planting them near homes, places of worship, food and water sources, and IDP routes after seizing villages. In 2024, more than 1,600 casualties from mines and unexploded ordnance were recorded—the highest globally for the second year running. Landmines not only cause death and injury but also spread fear, disrupt livelihoods, and worsen economic hardship^{xx}. These widespread and systematic abuses likely amount to war crimes and crimes against humanity under international law^{xxi}.

4. The Military's Sham Election

Myanmar has remained under extended states of emergency and martial law since 2021. The junta's 2025–2026 elections are highly restricted, covering under 40% of the country. At least 65 of 330 townships are completely excluded, and many village tracts and urban wards are left out even where voting was reported. Millions—including internally displaced persons, refugees, and people in ethnic and conflict-affected areas—are effectively denied the right to vote. Violence continues during the electoral period, with airstrikes and attacks killing and injuring civilians in areas outside junta control. Forced conscription is in effect. The elections are neither free nor fair: most parties that won seats in 2020 are barred from participating, and key leaders such as President Win Myint and Aung San Suu Kyi remain imprisoned. Freedoms of expression, association, and peaceful assembly are criminalized, independent media have been shut down, journalists detained, and internet access widely restricted. Even in junta-held areas, citizens face coercion, surveillance, and harsh punishments, including the death penalty, for dissent.

5. Barriers to a return to an inclusive civilian democratic government

Given the deep democratic backsliding, ongoing human rights crisis, and the junta's manipulation of the 2025–2026 elections, these elections are not a path to restoring civilian governance but a major obstacle to it. The military-backed Union Solidarity and Development Party (USDP) has already secured enough seats to form a government with the 166 military-appointed parliamentarians, even before the final election phase. This outcome makes Myanmar less democratic than after the 2015 election, when the NLD won a decisive victory and formed a civilian-led government. Even then, however, civilian authority was severely constrained by the 2008 Constitution, which guaranteed the military 25% of parliamentary seats and control of the key ministries of Defence, Home Affairs, and Border Affairs. Control of the General Administration Department (under the Ministry of Home Affairs) in particular, determined who wielded real power on the ground.

In contrast, the junta's rigged 2025–2026 elections ensure that the military will retain full control over the state wherever it still holds authority. Its “civilian” partner is the USDP, a party created and controlled by the military. Rather than enabling democratic transition, the elections serve as a procedural step to return the junta from the state of emergency to a constitutional framework while keeping power firmly in military hands. The junta's actions over the past five years show it has no intention of returning to the limited civilian democracy of the 2010s; instead, it is pursuing a clear authoritarian trajectory.

The resistance to military rule will persist and grow. The only viable path forward is inclusive federal democracy. A recent report by the *Special Advisory Council for Myanmar*,

based on extensive consultations across the resistance movement, found broad agreement on a shared vision^{xxii}:

A peaceful federal democratic union that ends military rule, guarantees equality and self-determination for all peoples, and upholds justice, human rights, and civilian governance.

This vision rests on three pillars:

1. A new constitutional order that permanently removes the military from political power and establishes civilian control over the armed forces.
2. Ethnic equality and self-determination, allowing all communities not only to participate in governance but to shape the state itself.
3. Justice, human rights, and fundamental freedoms, including gender equality as an essential component.

Recommendations to the Australian Government

In light of the Senate inquiry's terms of reference and Australia's international legal obligations, this submission respectfully recommends that the Australian Government:

1. Publicly and unequivocally refuse to recognise the results of the Myanmar military's 2025-26 elections, as they do not meet international standards for free, fair, and inclusive elections.
2. Decline to engage with, accredit, or provide legitimacy to any individuals or institutions appointed through the sham election process.
3. Demand the immediate and unconditional release of all political prisoners, including Daw Aung San Suu Kyi, President U Win Myint, and all those detained for exercising their fundamental rights.
4. Expand and strengthen targeted economic sanctions on Myanmar's state-owned banks and private Myanmar banks in coordination with other states to close all loopholes. Sanction all State-Owned Enterprises, and other key revenue streams, in coordination with like-minded international partners.
5. Significantly increase cross-border humanitarian assistance delivered through trusted local, ethnic, and community-based organisations, with a focus on internally displaced persons, women, children, and other vulnerable populations.
6. Formally engage with the National Unity Government and Ethnic Resistance Organisations as legitimate stakeholders in Myanmar's democratic transition.
7. Support the emerging state, regional, ethnic and local government structures emerging in areas liberated from military control. Support the national level processes and bodies focused on developing a federal transitional constitution.
8. Refer Myanmar to the International Criminal Court.
9. Take coordinated regional action to address transnational online scam operations linked to Myanmar, including through financial crime enforcement, anti-money laundering measures, and victim protection mechanisms.
10. Play a more proactive diplomatic role in advancing meaningful implementation of ASEAN's Five-Point Consensus, including consequences for continued non-compliance by the Myanmar military.

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