



Governing Body

342nd Session, Geneva, June 2021

Institutional Section

INS

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Update on the situation in Myanmar and on additional measures to promote the restoration of workers' rights

▶ Introduction

1. At its 341st Session (March 2021), having considered the progress report and addendum ¹ submitted by the Director-General on the follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the International Labour Conference at its 102nd Session (2013), the Governing Body:
 - (a) endorsed the statements of the Director-General on 10 and 23 February 2021 calling for the restoration of democratic order and civilian rule in Myanmar, for workers, including civil servants, and employers to be able to exercise their right to peaceful assembly, and for a halt to the intimidation of workers;
 - (b) expressed profound concern about developments particularly since 1 February and called on the military authorities to respect the will of the people, respect democratic institutions and processes, and restore the democratically elected Government;
 - (c) expressed its grave concern about the arrest, intimidation, threats and acts of violence against trade unionists, as well as the declaration that 16 labour

¹ GB.341/INS/17 and GB.341/INS/17(Add.1).

organizations were illegal, and called on the military authorities to immediately cease such activities, and to release from detention and drop any charges against trade unionists who have peacefully participated in protest activities;

- (d) expressed its grave concern about measures or orders issued curtailing freedom of expression and freedom of peaceful assembly, recalling that freedom of peaceful assembly and freedom of opinion and expression are essential for the exercise of freedom of association. It called for the immediate repeal of such measures or orders and for guarantees of the freedom of the social partners to undertake their functions without threat of intimidation or harm;
- (e) reaffirmed that all Member States have an obligation to apply fully, in law and in practice, the Conventions that they have voluntarily ratified and that Myanmar therefore has an obligation to comply fully with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). It urged Myanmar to uphold its obligations under Convention No. 87 and to ensure that workers and employers are able to exercise their freedom of association rights in a climate of freedom and security, free from violence, arbitrary arrest, and detention;
- (f) called for the Civil Services Personnel Law, the Settlement of Labour Disputes Law, and the Labour Organization Law to be amended without delay, once the democratically elected government has been restored, consistent with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- (g) urged Myanmar to respect and protect the status of the ILO Liaison Office in Myanmar and all ILO staff in Myanmar and to refrain from undue interference in its operations in keeping with the principles of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947;
- (h) requested the Office to report to the Governing Body on what additional measures the ILO can take to promote a restoration of worker rights; and
- (i) requested the Director-General to report to the 342nd Session (June 2021) of the Governing Body on developments in Myanmar.²

▶ General developments

2. This document provides an overview of developments in Myanmar since the Office reported in March 2021. The Office will provide further information orally to the Governing Body on subsequent developments.
3. Since the previous report, the overall human rights situation in Myanmar has deteriorated. While protest action and demonstrations have continued across the country, violence and intimidation perpetrated by security forces against the civilian population have escalated. This includes shootings; attacks on homes, businesses and healthcare facilities; house-to-house searches; attacks on medical personnel attending to the wounded; destruction of personal property; arson; raids on civil society organizations and confiscation of their property; and arbitrary detentions. Cases of torture of detainees have also been reported. In addition, there are reports that relatives of individuals who oppose the military authorities are being detained where the

² GB.341/INS/17(Add.1)/Decision.

individuals themselves cannot be found. The imprisoned State Counsellor, Aung San Suu Kyi, attended a court hearing on 6 May, reportedly without access to legal representation.

4. Multiple sources indicate that as of 8 May, security forces have killed at least 774 people, including at least 53 children. A further 3,740 people have been arrested or detained, including trade unionists, journalists, civil servants, charity workers, school students, medical personnel, religious figures, civil society activists, officials of the National League for Democracy and random bystanders. In the last month, there has been an increasing number of explosions targeting offices, schools, hospital compounds, markets, shopping malls, public transportation, roads and private homes, but with no individuals or groups claiming responsibility. In addition, in April, there was an escalation of fighting in Kachin State and Kayin State between ethnic armed organizations and the military, resulting in many civilians being displaced.
5. Widespread economic disruption is continuing, including severe pressure on financial institutions and supply chains. Banks have placed tight restrictions on the amount of cash that can be withdrawn daily and weekly, and the Central Bank has placed close controls on transactions by international and civil society organizations.
6. In March there was also significant disruption in the industrial zones in Yangon, including factory fires that particularly affected the garment sector in Hlaing Thar Yar, which is also under martial law. Many workers who initially left the industrial zones due to job losses and the deteriorating security situation are now returning after failing to find employment in regions outside of Yangon.
7. According to a recent study by the United Nations Development Programme, the combined effect of the global pandemic and the military takeover could, if unchecked, push up to 12 million people into poverty. This could result in as many as 25 million people living below the national poverty line by early 2022.³
8. The Committee Representing the Pyidaungsu Hluttaw, which represents elected members of the Parliament, has continued its activities on the basis of the democratic mandate conferred by the November 2020 election. On 1 April, the Committee announced it had rescinded the 2008 Myanmar Constitution and would launch a new interim constitution that would be implemented by a new National Unity Government. The National Unity Government was formally announced on 16 April, with Win Myint as President and Aung San Suu Kyi as State Counsellor, both of whom are currently in detention. Under the announced Federal Democratic Charter, there are also plans to establish a National Unity Consultative Council to coordinate cooperation among federal democratic forces, ethnic armed organizations, civil society organizations and groups involved in the civil disobedience movement across the country.
9. Both the Committee Representing the Pyidaungsu Hluttaw and the National Unity Government have been declared by the military authorities to be unlawful associations. The military authorities warned that any media broadcasting of news related to the Committee with intent to aid and abet it would be an offence under the Unlawful Association Law, and that interacting with it would be considered as high treason.

³ UNDP, *COVID-19, Coup d'Etat and Poverty: Compounding Negative Shocks and Their Impact on Human Development in Myanmar*, 30 April 2021.

- 10.** On 24 April, leaders of the Association of Southeast Asian Nations (ASEAN) held a crisis meeting on Myanmar, which was attended by Min Aung Hlaing, the Commander-in-Chief of the Myanmar military. A consensus was reached on five points: (1) there shall be an immediate cessation of violence in Myanmar and all parties shall exercise utmost restraint; (2) constructive dialogue among all parties concerned shall commence to seek a peaceful solution in the interests of the people; (3) a Special Envoy of the ASEAN Chair shall facilitate mediation of the dialogue process, with the assistance of the Secretary-General of ASEAN; (4) ASEAN shall provide humanitarian assistance through the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management; and (5) the Special Envoy and delegation shall visit Myanmar to meet with all parties concerned.⁴ However, on 7 May, the spokesperson of the State Administration Council announced on the State-run television that the visit of ASEAN representatives would only be possible if the situation in Myanmar became more stable.
- 11.** On 14 and 15 March, the State Administration Council implemented martial law in six townships in Yangon. According to the announcement in the State-owned newspaper, 23 categories of offence are subject to court martial with no independent judicial process and severe penalties. They include crimes under section 505 of the Penal Code, which is being applied extensively against participants in the civil disobedience movement. Organizations that are declared illegal under the Illegal Organisation Law are also covered by martial law provisions.
- 12.** Section 505 of the Penal Code, as amended by the State Administration Council, is widely used to prosecute persons who engage in activities in opposition to the military authorities, such as posting material on social media, publishing media stories or engaging in activities associated with the civil disobedience movement, including supporting the Committee Representing the Pyidaungsu Hluttaw or the National Unity Government.
- 13.** Severe restrictions on freedom of information and expression remain. Individuals who share information on social media or express dissent are targeted, with the security forces searching mobile phones for evidence. The internet was cut off completely from 1 a.m. to 9 a.m. for 72 nights, with access resuming on 28 April. However, internet accessibility remains severely restricted, as mobile data services and wireless broadband were cut off on 2 April, leaving most of Myanmar's population without internet access. In late April, a small number of mobile data applications were restored. On 5 May, State media reported that the military authorities would ban satellite dishes and that those violating the ban would be liable to a fine or imprisonment of up to a year.
- 14.** On 1 March 2021, the Committee Representing the Pyidaungsu Hluttaw announced that the State Administration Council was a terrorist group. On 8 May 2021, the military authorities issued an order under the Anti-Terrorism Law declaring that the Committee Representing the Pyidaungsu Hluttaw, the National Unity Government, the Peoples Defence Force and all their subordinates were terrorist groups. On 11 May, a note verbale from the Myanmar Ministry of Foreign Affairs stated that all diplomatic missions, UN agencies and international organizations accredited to Myanmar were to refrain from making any contact or communications with these groups.

⁴ ASEAN, "Chairman's Statement on the ASEAN Leaders' Meeting", 24 April 2021.

▶ Civil disobedience movement and complaints

15. The civil disobedience movement has continued, involving a wide cross-section of society, including public and private sector workers. Thousands of civil servants have been sanctioned for their participation in the movement, with at least 6,013 staff from 51 educational institutions being suspended as a result.
16. Many participants have been arrested and charged under section 505(a) of the Penal Code. According to information published by the military authorities, arrests are made for participating or inciting others to participate in the civil disobedience movement and for supporting its activities and the Committee Representing the Pyidaungsu Hluttaw with the aim of undermining the State administrative machinery. This effectively criminalizes any opposition to the military takeover.
17. Since 1 February, the ILO Liaison Office has registered 354 communications in its database on events concerning the military takeover. They fall into three main categories: complaints concerning the civil disobedience movement, general correspondence on wider human rights violations, and correspondence concerning forced labour connected to the military takeover. Complaints concerning the civil disobedience movement include blacklisting, denial of contractual benefits and denial of leave, suspensions, dismissals or threats of dismissal, arrests, and door-to-door searches for participants in or advocates of the civil disobedience movement. A total of 120 complaints concerning the civil disobedience movement have now been lodged relating to civil servants from 16 ministries or government and regional government entities.
18. General correspondence received by the Liaison Office includes requests for information and support as well as reports, video footage and photographs of human rights violations by security forces (including beatings, degrading treatment, violent arrests and destruction of property). Since its previous report, the Office has also started to receive reports of forced labour, including 31 items of correspondence and videos reporting incidents of security forces forcing people to remove barricades or sandbags in streets in Yangon.

▶ Impacts

ILO constituents

19. Trade union leaders and labour activists have continued to be targeted by the military authorities and trade union leaders remain in hiding. On 19 April, security forces arrested the Director of the Solidarity Trade Union of Myanmar and charged her under section 505(a) of the Penal Code.
20. Since the previous update to the Governing Body, the following incidents concerning trade unionists have been reported:
 - (a) A youth leader of the Confederation of Trade Unions of Myanmar (CTUM) was killed while participating in a protest on 27 March, Armed Forces Day, and a youth committee member of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUF) was shot and injured on the same day in a separate incident.

- (b) On 28 March, one MICS-TUF member was killed while participating in a demonstration and another was arrested in a separate incident.
 - (c) In March, security forces went to houses searching for union organizers from one of CTUM's affiliates, the Industrial Workers Federation of Myanmar (IWFM), and for trade union leaders from several garment factories.
 - (d) On 20 April, the police searched for three IWFM union leaders at a factory with a warrant for their arrest and also went to the home of one of them, who managed to escape.
 - (e) There have been 12 arrests under section 505(a) of the Penal Code of members of the University Teachers Association, an affiliate of the Agriculture and Farmer Federation of Myanmar – Food Allied Workers (AFFM-IUF), and warrants have been issued for the arrest of 17 of its members.
 - (f) The MICS-TUF reported that, on 26 April, the Myanmar Oriental Bank terminated 197 workers involved in the civil disobedience movement. They had been on unpaid leave negotiated with their respective offices. Staff at two other banks were required to return to work by a specified date, otherwise action would be taken.
- 21.** Following its withdrawal on 3 February from tripartite activities involving the Government, the CTUM condemned the military and expressed support for peaceful demonstrations calling for the restoration of democracy and the support for the leadership of the Committee Representing the Pyidaungsu Hluttaw. In addition to supporting the Committee, the CTUM also announced on 19 April that the confederation and its affiliates supported the establishment of the National Unity Government and called on the ILO and foreign governments to recognize the National Unity Government. The CTUM also called on the ILO to deny the military authorities access to all ILO meetings and conferences.
- 22.** The CTUM reported that its staff have seen arrest warrants issued for its President, General Secretary and Treasurer. Further, in February, police in a number of locations required factory employers to surrender information about and photographs of trade unionists.
- 23.** Maintaining economic livelihoods and job security is a key concern for workers. There are reports of increased precarious contracting in the garment sector, with workers returning to industrial zones being put on daily contracts and workers' livelihoods in rural areas under threat. The AFFM-IUF reports that farmers, particularly in Kachin State and Shan State, are facing serious challenges in harvesting crops due to transport and security conditions in conflict areas, and have no income to purchase seeds for new crops.
- 24.** The International Trade Union Confederation submitted a complaint to the ILO Committee on Freedom of Association concerning violations by the Myanmar military of the right to freedom of association, right to opinion and right to peaceful assembly and protest. This was communicated by note verbale to the Ministry of Labour, Immigration and Population on 10 March. Subsequently, Education International associated itself with the complaint and provided further information, which was transmitted to the Ministry on 20 April. In its 393rd Report, the Committee on Freedom of Association indicated its intention to examine this urgent and serious case at its meeting in May–June 2021.

- 25.** The Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry is seeking to operate in very difficult circumstances for business continuity and sustainability, jobs and livelihoods. All businesses are suffering from a cash flow shortage which hampers business operations and wage payments. Despite its offices being closed between 10 February and 18 April 2021, it has sought to continue to provide advisory services to its member companies. For example, the federation has worked with its members to promote bipartite dialogue at the workplace level to seek to mitigate the impact on jobs. It is also working with the ILO Liaison Office to provide legal advisory services to small and medium-sized enterprises on labour issues, conduct training on business continuity and offer occupational safety and health (OSH) services in response to the pandemic.

ILO work

- 26.** Since 1 February 2021, ILO staff in Myanmar have continued to work from home. With limited COVID-19 testing and tracing, and given the current security situation, the ILO Liaison Office continues to take a precautionary approach to returning to the office. As advised by the United Nations Department of Safety and Security, all UN international staff's dependants left Myanmar on 9 and 11 April by two World Food Programme evacuation flights. As a result, all ILO international staff members' dependants have left the country.
- 27.** The Liaison Office held bilateral meetings with employers' and workers' organizations in early May to discuss the current situation and the nine points in the Governing Body's decision of March 2021, and also to inform them that, as part of the UN system operating in Myanmar, the ILO Liaison Office was undertaking a programme review, with the intention of maintaining provision of technical assistance to workers' and employers' organizations. On 12 May, the Liaison Office participated in a virtual meeting with the Ministry of Labour, Immigration and Population at the Ministry's request. The Office's participation was for the purposes of advocating for the restoration of fundamental workers' rights and reiterating the nine points of the Governing Body's March 2021 decision as well as raising continuing serious concerns about the freezing of the ILO bank account. The Ministry responded that the issue of the bank account would need to be raised with other ministries.
- 28.** As previously reported, on 24 February, the Liaison Office became aware that its bank account had been frozen by the Central Bank of Myanmar, which had serious implications for the operations of the Office. No response has been received to the ILO's notes verbales sent by the ILO to the military authorities on 2 March and to the Central Bank on 30 March, urging Myanmar to respect and protect the status of the ILO Liaison Office in its operations without undue interference, consistent with the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947. The Office's bank account in Myanmar remains frozen.
- 29.** The 21 projects funded by development partners and implemented by the ILO in Myanmar have been reviewed and reprogrammed in consultation with individual donors and in accordance with the current guidance of the UN Country Team.
- 30.** The ILO Liaison Office continues to be active in the following areas:
- (a) promoting rights at work, including key areas under Priority 2 of the Decent Work Country Programme relating to promotion of labour standards, elimination of child labour and elimination of forced labour through awareness-raising, and training initiatives for employers, workers and civil society across these areas;

- (b) promoting safe migration for women migrant workers and families through community-based awareness, rights advocacy and service delivery as well as other support, including COVID-19 prevention;
 - (c) continuing to emphasize occupational safety and health, including supporting new OSH trainings in Shan State, and support for workplaces in responding to COVID-19;
 - (d) supporting small and medium-sized enterprises under the Sustaining Competitive and Responsible Enterprises (SCORE) project, particularly where livelihoods are under threat. This year, work will continue on rolling out a new training package for micro and small food-processing entrepreneurs, and on training trainers;
 - (e) supporting the establishment of a skills development network to promote knowledge-sharing;
 - (f) developing e-learning modules on cross-cutting project topics, including child labour, OSH and labour governance, to be included in the Myanmar e-campus platform launched in January 2021 as well as providing opportunities for workers and employers to access other trainings of the International Training Centre of the ILO; and
 - (g) conducting assessments and studies in a range of areas, including a study of OSH drivers and constraints in the construction sector and a situational analysis of the garment sector.
- 31.** While the Liaison Office will continue to pursue its activities within the constraints of the circumstances prevailing in the country and in the light of the guidance of the UN Country Team, the question of possible additional measures raised in the Governing Body's March 2021 decision will need to be considered by the Governing Body on the basis of any discussion and decisions taken at the International Labour Conference and of the evolution of the situation.

▶ Draft decision

- 32. In the light of the above developments, the Governing Body:**
- (a) **expressed profound concern that the situation in Myanmar has deteriorated and that no progress has been made to respect the will of the people, respect democratic institutions and processes, and restore the democratically elected government;**
 - (b) **expressed profound concern over the large-scale use of lethal violence by the authorities, particularly about the bullying of trade unionists, as well as ongoing intimidation, arrests and detentions, and called on the military authorities to cease immediately such activities, and to release from detention and drop any charges against trade unionists who have peacefully participated in protest activities;**
 - (c) **expressed deep concern that the military authorities have taken no steps to respect and protect the status of the ILO Liaison Office in Myanmar and all ILO staff in Myanmar and to refrain from interference in its operations in keeping with the principles of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947;**

- (d) expressed its grave concern that measures curtailing freedom of expression and freedom of peaceful assembly remain in place and that further restrictions have been implemented by the military authorities on the internet, and called again for the immediate repeal of such measures and for guarantees of the freedom of workers' and employers' organizations to undertake their activities freely and without threat of intimidation or harm;
- (e) urged Myanmar to uphold fully and without delay its obligations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and to ensure that workers' and employers' organizations are able to exercise their rights in a climate of freedom and security, free from violence, arbitrary arrest, and detention;
- (f) repeated its call for the Civil Services Personnel Law, the Settlement of Labour Disputes Law and the Labour Organization Law to be amended without delay, once the democratically elected government has been restored, consistent with Convention No. 87;
- (g) acknowledged the efforts of the ILO Liaison Office in Myanmar to continue to work to implement development cooperation programmes focusing on decent work and promoting labour rights; and
- (h) requested the Director-General to report to the 343rd Session (November 2021) of the Governing Body on developments in Myanmar.