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# The Republic of Myanmar's Catastrophe: A Forceful Dissent to Authoritarianism

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## ABSTRACT

*This study aims to examine the legal, political and, humanitarian circumstances that have developed in the Republic of Myanmar after the military takeover on February 1, 2021. The military junta known as the "Tatmadaw" overthrew the democratic government, detained political leaders, and, established unlawful authority following the victory of the National League for Democracy (NLD) in the 2020 elections. Civil unrest following the takeover resulted in systematic breaches of human rights, unlawful executions, enforced disappearances, arbitrary arrests and various forms of torture. This study illustrates the junta's serious violations of human rights by using international human rights frameworks, including the ICCPR, ICESCR, and, UDHR. This study additionally, uses international human rights cases, such as *Myrna Mack Chang v. Guatemala* and *Sik v. Turkey*, to contextualize Myanmar's actions and showcase the government's violence and intimidation. This examination goes hand in hand with the analysis of the arrests of journalists and the weak legal protections. To conclude, the article establishes that the current situation in the Republic of Myanmar is a grave breach of international human rights, an attack on the rule of law and democracy, with important ramifications for regional stability and preservation of international human rights. The uncertain future of Myanmar's democracy is highlighted in the conclusion.*

## KEYWORDS

*Myanmar Coup; Human Rights Violations; Arbitrary Detention; Freedom of Expression; International Human Rights Law; Authoritarianism.*

## INTRODUCTION

Aung San Suu Kyi's National League for Democracy (NLD) won the

national elections, restoring democracy in the country on the 8<sup>th</sup> of November 2020.<sup>1</sup> The elections offered a glimmer of hope for democracy on behalf of Aung San Suu Kyi's party, however, the military junta's intervention shattered that dream. Myanmar's military junta, known as 'the Tatmadaw' had been frustrated for months due to the country's decision and the delicate transition from a monarchy to a democracy.

Months after the election, many democratic party leaders and current serving military members alongside President Win Myint were detained in a series of raids executed by members of the Myanmar military in an attempt to overthrow the decision of the country.<sup>2</sup>

## **HUMAN RIGHTS VIOLATIONS AND ARBITRARY ARRESTS**

On the 1<sup>st</sup> of February 2021, Myanmar's military junta gained power through a coup d'état. The junta justified the coup by explaining its theory of fraud in the supposedly "systematic election".<sup>3;4</sup> As a consequence of the violations of human rights and unexplained takeover of the government, youths took to the streets to mass protest against the junta. The junta responded with deadly punishments and more.<sup>5</sup>

The fear, the human rights violations, the regional pressure, and the national security of Myanmar all sparked civil unrest among the citizens of The Republic of Myanmar.

Following the coup and several civil unrests, the junta declared martial law in Yangon.<sup>6</sup> The Tatmadaw retaliated by holding military

<sup>1</sup> Leong Wai Kit & Darelle Ng, 'CNA Explains: What happened since Myanmar's coup 3 years ago?' (Channel News Asia, 1 February 2024) < A timeline of Myanmar's 3-year coup - and what could come next (channelnewsasia.com) > accessed 16 September 2024.

<sup>2</sup> Leong Wai Kit & Darelle Ng, 'CNA Explains: What happened since Myanmar's coup 3 years ago?' (Channel News Asia, 1 February 2024) < A timeline of Myanmar's 3-year coup - and what could come next (channelnewsasia.com) > accessed 16 September 2024.

<sup>3</sup> BBC, 'Myanmar Coup: Aung San Suu Kyi detained as military seized control' (British Broadcasting Channel, 1 February 2021) < Myanmar coup: Aung San Suu Kyi detained as military seizes control (bbc.com) > accessed 16 September 2024.

<sup>4</sup> Human Rights Watch, 'World Report 2020: Myanmar Country's Chapter' (Human Rights Watch, 2020) < World Report 2020: Myanmar | Human Rights Watch (hrw.org) > accessed 16 September 2024.

<sup>5</sup> BBC, 'Myanmar coup: Protesters defy military warning in mass strike' (British Broadcasting Channel, 22 February 2021), < Myanmar coup: Protesters defy military warning in mass strike (bbc.com) > accessed 16 September 2024.

<sup>6</sup> Human Rights Watch, 'Myanmar: Junta Tribunals Impose 65 Death Sentences' (Human Rights Watch, 21 July 2021) < Myanmar: Junta Tribunals

tribunals and sentencing the junta leadership to death. When imposing martial law, the junta entrusted the head of the regional military command with all executive and judicial power, while modifying the death penalty as a possible sentence for 23 new crimes.<sup>7</sup>

As a result of the military takeover in 2021; human rights have been violated, and there have been numerous claims of extrajudicial killings, sexual assault, torture, and arbitrary arrest. The Republic of Myanmar is subject to gross violations of human rights, and the increasing disrespect towards the evolution and purposes of fundamental human rights.

The military junta arrested opposition political figures, civil servants, special arms forces, the President of the Republic of Myanmar, and civilians. In fact, more than 5000 civilians have been murdered since the military takeover.<sup>8</sup> The citizens of Myanmar who lost their lives were killed by artillery attacks and airstrikes, to make matters more intense, circa 27,000 civilians have been arrested.<sup>9</sup>

Arbitrary arrests and deprivation of personal liberty are not necessarily proportionate but at times, equal. Arbitrary detention or arrest is considered a violation of human rights under international law, the prohibition of such is enshrined in numerous international human rights treaties. The prohibition on arbitrary detention is enshrined in the right to liberty and customary international law. Customary law is binding on all states regardless of if the states have signed or ratified it. The crime is of such gravity that all states must respect it.<sup>10</sup> ;<sup>11</sup>

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Impose 65 Death Sentences | Human Rights Watch (hrw.org) accessed 15 January 2024.

<sup>7</sup> Human Rights Watch, 'Myanmar: Junta Tribunals Impose 65 Death Sentences' (Human Rights Watch, 21 July 2021) < Myanmar: Junta Tribunals Impose 65 Death Sentences | Human Rights Watch (hrw.org) accessed 15 January 2024.

<sup>8</sup> Emma Farage and Cecile Mantovani, 'Myanmar military stepping up civilian killings and arrests, says UN report'(Reuters, 17 September 2024) < Myanmar military stepping up civilian killings and arrests, says UN report | Reuters> accessed 17 September 2024.

<sup>9</sup> United Nations, 'Over 5,000 civilians killed since Myanmar military coup' (United Nations News, 17 September 2024) < Over 5,000 civilians killed since Myanmar military coup | UN News> accessed 17 September 2024.

<sup>10</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976), UNGA res2200A XXI art9.

<sup>11</sup> author, | title | (additional information, | edition, | publisher | year) Mortimer N.S. Sellers, '*Why states Are Boundy By Customary International Law*'( Republican Principles in International Law, 1st edn, Palgrave Macmillan, London, 2006).

In writing, Article 9 of the ICCPR addresses the topic at hand.<sup>12</sup> This article concisely states that no one should be deprived of their liberty unless there is a valid legal basis.<sup>13</sup> The deprivation (if a legal basis is found) should be proportionate and necessary.

Similarly, Article 9 of the Universal Declaration of Human Rights (UDHR) safeguards the right to liberty and freedom from arbitrary detention.<sup>14</sup> The International Covenant on Economic, Social, and Cultural Rights (ICESCR) recognizes the right to social security, including protection from arbitrary detention.<sup>15</sup> While many states are parties to these crucial treaties, Myanmar has only signed ICESCR in 2015 and ratified it in 2017.<sup>16</sup>

The military junta, acting on behalf of the state, deliberately violates the right to liberty. Human rights are not compatible with development and by assessing the wrongdoings of Myanmar, the military junta doesn't agree, by abusing fundamental rights of citizens to obtain change.

### **JUSTICE DENIED IN MYANMAR AND GUATEMALA**

In the case of *Myrna Mack Chang v. Guatemala*, Chang the defendant is a human rights advocate and investigator for the displacement of the Mayan indigenous groups in Guatemala.<sup>17</sup> Ms. Chang is sure that the military of Guatemala is behind the disappearances and displacement of the indigenous groups. She has openly voiced her very negative opinion towards the national military in the treatment of indigenous groups.<sup>18</sup> In fact, the military of Guatemala has done a very good job of keeping the displacement and treatment of the displaced groups a secret, not informing the public and making the population of Guatemala unaware of the state's violations.<sup>19</sup> Ms. Chang gains recognition

<sup>12</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 9.

<sup>13</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 9.

<sup>14</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 9.

<sup>15</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976), UNGA res2200A XXI art9.

<sup>16</sup> United Nations Human Rights Office of the High Commissioner, 'Status of Ratification', <- OHCHR Dashboard> accessed 19 September 2024.

<sup>17</sup> *Myrna Mack Chang v. Guatemala. Merits, Reparations and Costs*, Contenoius case, Inter-American Court of Human Rights Series C No.101 (25 November 2003).

<sup>18</sup> IACR-Loyola Law School, 'Myrna Mack Chang v. Guatemala, Case Summary' (2003) <LOYOLA OF LOS ANGELES (lls.edu)> accessed 20 September 2024.

<sup>19</sup> *Myrna Mack Chang v. Guatemala. Merits, Reparations and Costs*, Contenoius case, Inter-American Court of Human Rights Series C No.101 (25

and gathers with members of the Communities of the Population in Resistance (*Comunidades de Población en Resistencia*; “CPR”).<sup>20</sup> Members of the CRP theorize that if they don’t appeal to the public and political parties for help, they will be murdered. The military identified CRP as a threat to the country and national security. Ms. Chang is put under surveillance and labeled as a threat due to her research and affiliation with the CRP. Ms. Chang exits her office one day to be murdered and stabbed in the streets.<sup>21</sup> The state’s intelligent services often have a pattern when it comes to threats: they will identify an individual as a threat, proceed to keep tabs on the individual, plan to eliminate the individual, and eventually do. These “operations” to speak, are never in writing, the state maintains these extrajudicial killings a secret.<sup>22</sup>

1990 September 12th, the Guatemalan Human Rights Commission (*Comisión Guatemalteca de Derechos Humanos*, “CGHR”) decided to forward the case to the Inter-American Commission for Human Rights (IACHR).<sup>23</sup> In 2001, the IACHR referred the case to the Inter-American Court of Human Rights (IACtHR) after Guatemala failed to uphold the recommendation of the IACHR. The violations alleged by the IACtHR are the following: Violation to the right to life under Article 4 of the ACHR, violation of the right to judicial protection under Article 25 to all be interpreted in conformity with Article 1 (1) of the American Convention on the obligation to respect rights.<sup>24; 25; 26; 27</sup>

In 2003, the Court issued its judgment and merits and found that the state of Guatemala violated Ms. Chang’s right to the prohibition of Arbitrary deprivation of life under Article 4 (1) of the Charter and Article 1(1) of the Charter.<sup>28;29</sup> The court gave its reasoning and explained that the violation of the right to life had

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November 2003).

<sup>20</sup> IACtHR-Loyola Law School, ‘Myrna Mack Chang v. Guatemala, Case Summary’ (2003) <LOYOLA OF LOS ANGELES (lls.edu)> accessed 20 September 2024.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> American Convention on Human Rights (adopted 22 November 1969, entry into force 18 July 1978) OAS, Treaty Series, N36, (ACHR) art 25.

<sup>25</sup> American Convention on Human Rights (adopted 22 November 1969, entry into force 18 July 1978) OAS, Treaty Series, N36, (ACHR) art 4.

<sup>26</sup> IACtHR-Loyola Law School, ‘Myrna Mack Chang v. Guatemala, Case Summary’ (2003) <LOYOLA OF LOS ANGELES (lls.edu)> accessed 20 September 2024.

<sup>27</sup> American Convention on Human Rights (adopted 22 November 1969, entry into force 18 July 1978) OAS, Treaty Series, N36, (ACHR) art 1(1).

<sup>28</sup> Ibid.

<sup>29</sup> American Convention on Human Rights (adopted 22 November 1969, entry into force 18 July 1978) OAS, Treaty Series, N36, (ACHR) art 4.

been exercised by the state's ongoing extrajudicial killings.<sup>30</sup>

The Court went further to reiterate the strategy that was used by the Guatemalan military to terminate Ms. Chang.<sup>31</sup>

Guatemala's actions in this case are a prime example of where Myanmar could be going. It's hard to fathom the idea that a state such as Guatemala hinders people's rights without acknowledging the legal and moral consequences that come after these violations.

To offer some comparison, both Guatemala and The Republic of Myanmar have used intimidation tactics and violence to silently suppress the voices of those who oppose. Both in their own ways, either through secretive arbitrary killings or detention and disappearance. The military acting on behalf of the state has executed killings of activists, journalists, political figures, and civilians who coincidentally, all oppose the regime. The perpetrators, in both cases, the military, hold little to no accountability for the crimes committed even under international pressure.

Drawing a parallel between Guatemala and Myanmar is more visible and understandable than the action needed to fuel the protection of international law and prevent further atrocities in the international human rights field.

### **A CLASS OF FEAR: DETENTION AND TORTURE IN MYANMAR**

Over 9,000 civilians were detained by the junta during the reporting period of the UN Report on the situation of human rights in Myanmar, bringing the total in the report to 26,933 citizens, around 5,000 of those being women and an estimated 500 of those being children.<sup>32</sup> Men would be physically assaulted and abused after the implementation of mandatory military training. Coming to age boys would be put on a list to be "ideal candidates" for the military. The women would be sexually abused daily and tortured.<sup>33</sup> The children would be stripped away from their families when members could not be located or if the members opposed the

<sup>30</sup> *Myrna Mack Chang v. Guatemala. Merits, Reparations and Costs*, Contenoius case, Inter-American Court of Human Rights Series C No.101 (25 November 2003).

<sup>31</sup> Ibid.

<sup>32</sup> OHCHR 'Situation of Human Rights in Myanmar- Report of the United Nations High Commissioner for Human Rights- Advance unedited version' A/HRC/57/5.

<sup>33</sup> OHCHR 'Situation of Human Rights in Myanmar- Report of the United Nations High Commissioner for Human Rights- Advance unedited version' A/HRC/57/5.

ideology of the junta as a form of torture.<sup>34</sup>

### **THE ORDEAL OF EIN SOE MAY**

In another case, Ein Soe May a democracy activist was imprisoned for over 4 months, 10 days of which were spent in interrogation centers, following the military coup. During her abduction, Ein Soe May was arbitrarily arrested, sexually assaulted several times by interrogators, and tortured many times with different methods on different occasions. When the interrogator failed to obtain any information or confessions from the activist herself, he would physically abuse Ein Soe May and sexually assault her.<sup>35</sup> Ein Soe May was subjected to torture while being in detention under 'obstruction of the armed forces'. These acts of violence interfere and violate many absolute rights with one of the most important being freedom from torture.<sup>36</sup>

Ein Soe May's horrific experience exposes the military junta's inhumane tactics, serving as a reminder of the potential that military officers have to gain information and create a climate of fear, all these threats and tactics fuel future acts of recklessness throughout the nation, even sparking ideas for national terrorism groups to form.

The takeover essentially ruined Myanmar as the world knows it, with half the population living below the poverty line due to the consequences and violence that this takeover incurred on the country.<sup>37</sup>

### **FREEDOM OF EXPRESSION OR SUPPRESSION?**

Article 19 of the UDHR states that everyone has the right to exercise freedom of expression and opinion. This article entails that everyone has the right to hold beliefs or opinions without interference and to search, receive, and share information and ideas across all boundaries of the media.<sup>38</sup> The right to freedom of

<sup>34</sup> Emma Farage and Cecile Mantovani, 'Myanmar military stepping up civilian killings and arrests, says UN report'(Reuters, 17 September 2024) <Myanmar military stepping up civilian killings and arrests, says UN report | Reuters> accessed 17 September 2024.

<sup>35</sup> BBC News, "Myanmar coup: The women abused and tortured in detention" 19 November 2022, <Myanmar coup: The women abused and tortured in detention - BBC News> accessed 15 January 2024.

<sup>36</sup> BBC News, Myanmar coup: Protesters face up to 20 years in prison under new law." 2021 <<https://www.bbc.com/news/world-asia-56067423>> Accessed 15 January 2024.

<sup>37</sup> OHCHR 'Situation of Human Rights in Myanmar- Report of the United Nations High Commissioner for Human Rights- Advance unedited version' A/HRC/57/5.

<sup>38</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA

expression is a fundamental human right and often at times governments will strategically hinder and suppress the voices of those who exercise this right the most, an example is journalists. Journalists risk arbitrary detention, intimidation methods, and at an extreme, torture to exercise their right to seek, receive, and impart information, through any media, regardless of the frontiers.<sup>39,40</sup>

People rely on informative sources to create a belief in a situation, i.e. newspapers, journals, domestic channel news, etc. If the government seizes all these sources, there would be no way of understanding if a certain fact or event is even true and has actually happened. In worse cases, the opposite occurs. When people have information, they feel empowered to make their own decisions.<sup>41</sup> When someone is rightfully informed about the ongoing situation in their country, in this case, Myanmar, people can identify the pattern of the regime and potentially the next step they are going to take. The government will abolish all sources of media and information as a way of manipulating the people to side with their ideas or strategies. In the Republic of Myanmar, the government, acting on behalf of the state has initiated propaganda several times in an attempt to influence the people's ideas on the current situation in the country.<sup>42</sup>

## **DIS- INFORMING THE MEDIA: THE DETENTION OF JOURNALISTS**

Analyzing another human rights case with the current situation in Myanmar, *Şık v. Turkey*, it is possible to understand the similarities and the possibility of Myanmar landing a similar case due to the present situation in the country. Ahmet Şık is a Turkish journalist who wrote about sensitive topics such as political leaders, social changes, activities of certain extremist religious groups, and government corruption. Similarly, to Danny Fenster or Shin Daewe, Mr. Şık was arbitrarily arrested and detained due to his journalistic pieces and convicted for “disseminating

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Res 217 A(III) (UDHR) art 19.

<sup>39</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 19.

<sup>40</sup> Ban Ki-moon, 'Freedom of Expression, a Fundamental Human Right', UN Chronicle <Freedom of Expression, a Fundamental Human Right | United Nations> accessed 21 September 2024.

<sup>41</sup> Yusuf Ali, '15 Reasons For the Importance of Information in Life' (*Curious Desire*, 11 September 2023) <15 Reasons For The Importance Of Information In Life (curiousdesire.com)> accessed 21 September 2024.

<sup>42</sup> Attila Mong, 'How Myanmar's military regime weaponizes disinformation against independent media', (*DW Akademie*, 5 April 2024) <How Myanmar's military regime weaponizes disinformation against independent media | tackling-disinformation-learning-guide | DW | 05.04.2024> accessed 21 September 2024.

propaganda for terrorist organizations". Mr. Şik was detained for 13 months prior to the judgment of his case.<sup>43</sup> Mr. Şik argued that the actions of the Turkish government, acting on behalf of the state violated his right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR), alongside Articles 3,4,5, and 18 of the Convention.<sup>44</sup> ;<sup>45</sup>; <sup>46</sup>; <sup>47</sup>; <sup>48</sup>

The Court found that Turkey couldn't justify the detention of Mr. Şik therefore having no legal basis, constituting a violation of Mr. Şik's right to freedom of expression under Article 10 of the Convention.<sup>49</sup> In fact, the Court went further to reiterate that:

*"freedom of expression constitutes one of the essential foundations of a democratic society".<sup>50</sup>*

Journalists have faced lengthy sentences under the Counter-Terrorism Law. Not only national journalists but journalists who are nationals from other countries have been detained and denied freedom.<sup>51</sup>

States have a duty of due diligence to provide information that will affect or impact people's lives, Journalists are crucial for information, risking their lives to write articles about major widespread news around the globe.<sup>52</sup>

Danny Fenster, an American journalist convicted of "encouraging dissent against the military" was to take on trial in Myanmar for terrorism. The sentence for being charged with terrorism in Myanmar is life. He was detained for 176 days, almost 6 months. Danny Fester was pardoned three days after his sentence due to negotiations between the Republic of Myanmar and the American ambassador to the United Nations.<sup>53</sup>

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<sup>43</sup> *Şik v. Turkey* (no.2), no. 36493/17, para 181, ECHR, 2020.

<sup>44</sup> *Şik v. Turkey* (no.2), no. 36493/17, ECHR, 2020.

<sup>45</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 3.

<sup>46</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 4.

<sup>47</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 5.

<sup>48</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 10.

<sup>49</sup> *Şik v. Turkey* (no.2), no. 36493/17, para 186, ECHR, 2020.

<sup>50</sup> *Şik v. Turkey* (no.2), no. 36493/17, para 173, ECHR, 2020.

<sup>51</sup> Ban Ki-moon, 'Freedom of Expression, a Fundamental Human Right', UN Chronicle <Freedom of Expression, a Fundamental Human Right | United Nations> accessed 21 September 2024.

<sup>52</sup> Ibid.

<sup>53</sup> BBC News, "Danny Fenster: US journalist freed from Myanmar jail" 15 November 2021, <Danny Fenster: US journalist freed from Myanmar jail

Fenster is an example of a foreign national being involved in the coup, but what does that mean for nationals of the Republic of Myanmar?

Shin Daewe was arrested on the 15<sup>th</sup> of October 2024, after being caught filming with a drone for her new award-winning movie about the oppression in Myanmar. Shin Daewe was convicted of terrorism under the Republic of Myanmar Counterterrorism Law of 2014 and sentenced to life in prison. This judgment was held in private military courts, not open to hearing, and the defendant, Shin Daewe was denied legal representation. While awaiting her unfair trial she was tortured on several occasions with bruises and gauges on her body.<sup>54</sup>

Danny Fenster, Shin Daewe, and a plethora of other cases are just examples of Myanmar's efforts to trump freedom of expression while manipulating citizens through media propaganda. The military initiated propaganda mainly to acquire control of the media and impose restrictions on websites and international news sources.<sup>55</sup> The military junta has a "habit" as to say, of hindering freedom of speech and suppressing the exercisers of that right while branding them as terrorists.

## UNCONSTITUTIONALITY OF THE COUP D'ÉTAT

The takeover of the government by the military is deemed unconstitutional; The military junta failed to follow its own requirements for taking control of the country as specified in the 2008 Constitution that the military itself drafted. The 2008 Myanmar Constitution empowers the executive branch to declare a state of emergency in certain circumstances and to follow certain procedures.

Comparing the facts of the takeover and the country's constitution, the requirements were not met. To be precise, Article 40 of the 2008 Myanmar Constitution grants the Commander-in-chief of the military the power to exercise full judicial and executive powers when a state of emergency has been declared. In contrast, Article 413 (b) and Article 417 of the 2008 Myanmar Constitution specify that the President, not the military, has the authority to declare a state of emergency if there is a sufficient

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(bbc.com)>. accessed 17 September 2024.

<sup>54</sup> Manny Maung, Human Rights Watch, 'Myanmar Filmmaker Sentenced to Life in Prison' (Human Rights Watch, 12 January 2024) < Myanma Filmmaker Sentenced to Life in Prison | Human Rights Watch (hrw.org)> accessed 17 September 2024.

<sup>55</sup> Human Rights Watch, 'World Report 2020: Myanmar Country's Chapter' (Human Rights Watch, 2020) < World Report 2020: Myanmar | Human Rights Watch (hrw.org)> accessed 15 January 2024.

reason that may compromise the sovereignty of the state.

In practice, the military junta after detaining the president declared a one-year state of emergency granting themselves full authority per the 2008 Constitution of Myanmar. The detainment of President Win Myint was the most important step in the military junta's plan, without this step, the military would need to obey the hierarchy enlisted in the constitution. According to the 2008 Myanmar Constitution, authorities are obliged to hold elections within six months of a declaration of a state of emergency.<sup>56</sup> The junta generals and officials have sworn to hold an election in 2025, however, the current Commander-in-Chief, acting as President Min Aung Hlaing extended the country's state of emergency to six more months. The reasoning is to improve and prepare ballots for the supposed 2025 election.<sup>57</sup>

### **ROOT OF VIOLENCE: THE FORMATION OF RESISTANCE GROUPS**

The conviction of terrorism is often given to those who oppose the military regime, even in the slightest. This strategy of the military ignores the United Nations General Assembly's definition of terrorism as "criminal acts intended to provoke a state of terror in the minds of people, in order to intimidate them into giving it to an unstated demand".<sup>58;59</sup>

To enforce my claim, in a much earlier case regarding the Rohingya minority, the Tatmadaw, launched a forceful campaign against the minority, driving more than half a million nationals to find refuge in Bangladesh.<sup>60</sup> The government of Myanmar does not acknowledge the Rohingya citizens as legitimate citizens of Myanmar due to the fact that the minority was relocated to Rakhine from Bangladesh during the period of British

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<sup>56</sup> Aljazeera, 'Myanmar military extends state of emergency by six months', (Aljazeera News, 31 July 2024), < Myanma military extends state of emergency by six months | Conflict News | Al Jazeera> accessed 18 September 2024.

<sup>57</sup> Ibid.

<sup>58</sup> Ben Saul, 'Definition of "Terrorism" in the UN Security Council: 1985–2004' (Chinese Journal of International Law, 1 January 2005) accessed 16 September 2024.

<sup>59</sup> Amnesty International, 'Myanmar: New evidence reveals Rohingya armed group massacred in Rakhine State', (Amnesty Internatioanl, 22 May 2018) < Myanmar: New evidence reveals Rohingya armed group massacred scores in Rakhine State (amnesty.org)> accessed 17 September 2024.

<sup>60</sup> Sarah Gibbens 'Myanmar's Rohingya Are in Crisis- What You Need to Know' (National Geographic, 29 September 2017) < Myanmar's Rohingya Refugee Crisis Explained (nationalgeographic.com) > accessed 16 September 2024.

colonization.<sup>61</sup>

The Arakan Rohingya Salvation Army is a revolutionary group that has launched various attacks on the Republic of Myanmar's security forces.<sup>62</sup> The group aims to protect the Rohingya minority group's fundamental human rights and fight for change. The methods by which these goals are achieved are often, if not always, of violence towards the authority of the Republic of Myanmar and various station posts along the borders. ARSA has massacred almost 100 Hindu citizens in an effort to make the state of Rakhine autonomous.<sup>63</sup>

Myanmar argues that many acts, such as the massacre and displacement of the Hindu group, fall under the responsibility of a terrorist group and not state responsibility. ARSA, formally known as Harakah al-Yaqin has murdered state agents, members of the military, and special forces. These armed forces groups have systematically rioted police posts, injuring and killing civilians.<sup>64</sup>

The Independent International Fact-Finding Mission on Myanmar (IIFFMM) Report found that ARSA committed several acts that could be considered terrorism under the definition given by the UN General Assembly.<sup>65</sup> However, the IIFFMM Report did not conclude concisely that ARSA is a terrorist organization.<sup>66</sup> ARSA's actions are carried out with the intent of political consequences therefore they are attacks of political purposes, they are executed with intent.

### **COMPARING STATES: DISPLACEMENT IN BOTH STATES**

To further highlight the gravity of the crimes being committed in Myanmar, citing again the *Myrna Mack Chang v. Guatemala*, both cases show extreme similarity even though the case and the situation in Myanmar are different.<sup>67</sup> The minority group of the

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<sup>61</sup> Ibid.

<sup>62</sup> Amnesty International, 'Myanmar: New evidence reveals Rohingya armed group massacred in Rakhine State', (Amnesty International, 22 May 2018) <Myanmar: New evidence reveals Rohingya armed group massacred in Rakhine State (amnesty.org)> accessed 17 September 2024.

<sup>63</sup> Ibid.

<sup>64</sup> BBC News, "Myanmar: Who are the Arakan Rohingya Salvation Army?." (6 September 2017) <Myanmar: Who are the Arakan Rohingya Salvation Army? (bbc.com)> Accessed 16 September 2024.

<sup>65</sup> Independent International Fact-Finding Mission on Myanmar, Report of the Independent International Fact-Finding Mission on Myanmar, A/HRC/42/50, 27 August 2018.

<sup>66</sup> Ibid.

<sup>67</sup> *Myrna Mack Chang v. Guatemala. Merits, Reparations and Costs*, Contenious case, Inter-American Court of Human Rights Series C No.101 (25 November 2003).

Rohingya people and the Mayan Indigenous group in Guatemala were both attacked and are subject to inhumane treatment, intimidation techniques, enforced disappearances, and forceful displacement. Ms. Chang voiced her opinion and exercised her right to freedom of expression as a fundamental human right and got murdered for doing so. It would be unfathomable to claim that Myanmar is acting just like Guatemala did, however, *Myrna Mack Chang v. Guatemala* is a good example to show the citizens of the Republic of Myanmar that this is exactly how the government tries to suppress the voices of those who aren't afraid to hit back at the regime.<sup>68</sup>

## CONCLUSION

The 2020 elections for The Republic of Myanmar offered a dream of a democracy for the Burmese people, but the coup d'etat staged by the military junta, acting on behalf of the state completely shattered all hope for the dream to come true. The arbitrary detentions, arrests, extrajudicial killings, gross human rights violations, torture, sexual assault, corruption, and displacement, were all enough to spark civil unrest in the country but a sensitive topic to talk about in the field of Public International law. The international law community has voiced its opinion on these atrocities, but the military junta remains unbothered.

The junta's actions have and still do have an extreme impact on the social and cultural side of the state and, damaged Myanmar's international reputation.

Myanmar has citizens who voice their opinions on situations however, the military does an excellent job of silencing those voices. Civil reform groups and "terrorist" groups have formed due to the situation. The situation has been escalating for months now, keeping people guessing when the peak is or when this time of distress is over.

The Future of The Republic of Myanmar remains uncertain, and the hopes for another election in 2025 are still strong, but the determination of the Burmese and everyone else fighting against the regime offers hope for the dream of democracy to come true.

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<sup>68</sup> *Myrna Mack Chang v. Guatemala. Merits, Reparations and Costs*, Contenious case, Inter-American Court of Human Rights Series C No.101 (25 November 2003).