

The background is a complex abstract composition of overlapping squares and circles. The squares are in various shades of blue, teal, and grey, with some containing patterns of dots. The circles are also in various shades of blue and teal, scattered across the composition. The overall effect is a modern, geometric, and somewhat pixelated aesthetic.

**One Vision, Different
Responses:** An Analysis
of ASEAN Member States'
Responses to the Myanmar Coup
and Recommendations.

One Vision, Different Responses: An Analysis of ASEAN Member States' Responses to the Myanmar Coup and Recommendations

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**About FORUM-ASIA:**

The Asian Forum for Human Rights and Development (FORUMASIA) is a Bangkok based regional network of 81 member organisations across 21 Asian countries, with consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has sub-regional offices in Geneva, Jakarta, and Kathmandu.

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The Asian Forum for Human Rights and Development (FORUM-ASIA) presents the following summary and analysis of the responses of the Association of Southeast Asian Nations (ASEAN) and its Member States to the ongoing coup in Myanmar. FORUM-ASIA completed the following summary using online monitoring and documentation from various sources from 1 February to 8 April 2021. The analysis includes a comparative assessment of the responses of the African Union and the Organization of American States to similar situations within their regions.

The analysis in this briefing does not aim to provide comprehensive and detailed analysis, given the nature of the rapidly changing situation in Myanmar and the diversity of historical, political, socio-economic, and cultural backgrounds of the regional mechanisms discussed below. Instead, readers should see this briefing as providing highlights of alternative steps from other regional experiences that ASEAN should consider in responding to the coup in Myanmar.

Executive Summary

Since the Myanmar military seized power in a coup d'état on 1 February 2021, military forces have arbitrarily arrested, charged or sentenced at least 3,331 people and killed at least 739 others, according to the Assistance Association for Political Prisoners.¹ The military is now increasingly repressing independent media through raids, filing lawsuits against reporters, and suspending broadcasting licenses. Millions of civilians continue to protest nationwide in almost every township in Myanmar, despite military intimidation and brutal violence. The Civil Disobedience Movement (CDM) has been joined by workers and senior officials from the civil service, police officers, and the private sector. The coup and crackdown have disrupted the political stability and economy of Myanmar, aside from the devastating human rights violations. It is highly possible that the political and economic destabilisation in Myanmar will have regional and global impacts, resulting in withdrawals and suspensions of investment.

Responding to the situation in Myanmar, ASEAN and its body issued statements and conducted diplomacy to varying degrees. However, none of the interventions made by ASEAN and its Member States during the course of February - March, except for the recent statement by Malaysian Prime Minister Muhyiddin Yassin on 19 March 2021, has addressed the current crisis in Myanmar as a coup. The Chair Statement on the on 1 February has also failed to mention the coup and meaningfully condemn the junta. Furthermore, the resolution issued by the Informal ASEAN Foreign Ministers Meeting (IAMM) failed to meaningfully address the situation in accordance with the will of the people in Myanmar. It did not condemn the brutality of the military junta, support the international community's efforts to impose targeted economic sanctions on Myanmar military personnel, or call for cooperation with international mechanisms, such as the Human Rights Council and the Security Council of the United Nations. The weak resolution produced by the IAMM embodied the differences of views among the ASEAN Member States on the Myanmar coup. Half of ASEAN Member States, namely Brunei Darussalam, Vietnam, Laos, Thailand, and Cambodia, are firm in their non-intervention approach. They view the Myanmar coup as a domestic affair.

Moreover, ASEAN Member States' statements at the UN Human Rights Council clearly reflected ASEAN's emphasis on an approach of non-intervention and reiterated their support for ASEAN's position, which was outlined in statements issued by Brunei Darussalam as the Chair of ASEAN on 1 February and on 3 March following the meeting of ASEAN foreign ministers. Their statements, beyond general expressions of concern over the use of force against protesters and calls for the release of political prisoners, failed to condemn the military coup or support international action. Instead, ASEAN Member States insisted on dialogue with the Myanmar military to resolve the current crisis, which implicitly legitimises the junta.

1 Assistance Association for Political Prisoners, 'Daily Briefing in Relation to the Military Coup,' 21 April 2021, <https://aappb.org/?p=14003>. The data is from 1 February to 31 March 2021. See the Assistance Association for Political Prisoners website for updated information related to arbitrary detention and casualties in Myanmar.

Compared with the responses of the African Union and the Organization of American States when dealing with similar crises in their regions, the steps taken by ASEAN to address the situation in Myanmar have been far from optimal. The lack of meaningful action from ASEAN stems from the absence of political willingness to safeguard and enforce the principles under the ASEAN Charter, including democracy, governance, and the rule of law. This failure reflects the differing point of views from ASEAN's Member States to implement ASEAN's role under the pretext of upholding an ASEAN way of understanding consensus and non-interference, which also contributes to setting up a weak ASEAN response. Further, although the ASEAN Charter has a decision-making mechanism to address a Member State who breaches the principles enshrined in the charter, it still relies on consensus building. The absence of a stronger institutional framework or mechanism to hold Member States accountable in the absence of consensus, such as a suspension of ASEAN membership or sanction mechanism, has hindered ASEAN's ability to take concrete action to create hard consequences for Myanmar, its Member State. This absence is the reason for the weak enforcement of the ASEAN Charter.

The coup in Myanmar should be seen as a wake-up call for ASEAN to conduct systematic changes by revamping and strengthening its institutional framework to meaningfully and immediately address the situation in Myanmar. It is also crucial for ASEAN to prepare itself for the apparent trend of backsliding democracy, eroding human rights, political and security instability as a trickle-down effect from Myanmar. Only by undertaking systematic changes, from the Charter to the implementation body, can ASEAN significantly contribute to its people's livelihood.

Highlights of ASEAN Responses to the Coup in Myanmar

On 1 February 2021, Brunei Darussalam, as the current Chair of ASEAN, released a 'Statement on The Developments in The Republic of The Union of Myanmar.'² The statement highlighted adherence to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms, and the importance of dialogue, reconciliation and the return to normalcy under the will and interests of the people of Myanmar. Shortly afterwards, individual Member States, such as Indonesia and Malaysia, also issued statements in a similar tone.³

On 6 February 2021, four representatives from the ASEAN Intergovernmental Commission on Human Rights (AICHR) (Indonesia, Singapore, Malaysia, and Thailand) issued a joint statement that expressed grave concern over the current situation in Myanmar and urged the military to respect the principles enshrined in the ASEAN Charter.⁴ Further, they called on all parties to resolve any disputes through lawful mechanisms and peaceful dialogue.

Eight former AICHR representatives issued a statement on 15 February that took a stronger position than the current representatives' joint statement. The previous mandate holders called on AICHR to demand that the military junta 'immediately release all those currently arbitrarily detained [and] respect the human rights of the people of Myanmar and refrain from any use of violence against peaceful assemblies.'⁵ The former representatives also called on ASEAN to 'convene a special meeting on Myanmar' and for 'AICHR to exercise its protection mandate to look into the human rights abuses in Myanmar.' The former and current representatives of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children issued a joint statement, as well.⁶

2 Association of Southeast Asian Nations (ASEAN), 'ASEAN Chairman's Statement on The Developments in The Republic of The Union of Myanmar,' 1 February 2021, <https://asean.org/asean-chairmans-statement-developments-republic-union-myanmar/>.

3 Please refer to annexe 1 for responses from each ASEAN Member State and annexe 2 for the international community's responses.

4 'Resolve Disputes in Myanmar Lawfully,' The Star Online, 6 February 2021, www.thestar.com.my/opinion/letters/2021/02/06/resolve-disputes-in-myanmar-lawfully.

5 AICHR, 'Myanmar Military Must Uphold Democracy, Stop Violence against Protesters,' Malaysiakini, 15 February 2021, <https://www.malaysiakini.com/letters/563035>.

6 Child Rights Coalition Asia, 'Statement of Former and Current Representatives of ACWC on the Situation of Human Rights in Myanmar | Child Rights Coalition Asia,' 26 March 2021, <https://www.crcasia.org/former-and-current-acwcreps-on-hr-myanmar/>.

The most notable move made by ASEAN was the proposal by Indonesia and Malaysia for the Informal ASEAN Foreign Ministers Meeting (an ad hoc meeting of foreign ministers) to discuss Myanmar. Following the meeting, the Chair of ASEAN issued a statement noting that the Foreign Ministers ‘called on all parties to refrain from instigating further violence, and for all sides to exercise utmost restraint as well as flexibility.’⁷ Additionally, they ‘called on all parties concerned to seek a peaceful solution, through constructive dialogue, and practical reconciliation in the interests of the people and their livelihood,’ and expressed ‘ASEAN’s readiness to assist Myanmar in a positive, peaceful and constructive manner.’ The meeting also noted that some countries made calls for ‘the release of political detainees and for the United Nations Secretary-General’s Special Envoy on Myanmar to engage the parties concerned.’

At the United Nations Human Rights Council’s 47th session, ASEAN Member States made interventions during the interactive dialogue with the UN Special Rapporteur on Myanmar on 11 and 12 March in which they highlighted the IAMM’s key message. Despite expressing concern over the use of force against protesters and calling for the release of political prisoners, none of the statements strongly condemned the brutality of the Myanmar military or supported international sanctions. The ASEAN Member States stood with the organisation’s position to build constructive dialogue and cooperation with all parties in Myanmar to achieve a win-win solution to resolve the current crisis, implicitly legitimising the junta. Some notably contrasting comments: Laos called on the international community to create an enabling environment for Myanmar to resolve its internal differences and Singapore made a strong statement calling specifically for the military to refrain from violence, but conveyed its disapproval of economic sanctions.

On 19 March 2021, the President of the Republic of Indonesia, Joko Widodo, issued a follow-up statement to condemn the utilisation of violence against protesters in Myanmar and conveyed his willingness to discuss with the current ASEAN Chair, Brunei Darussalam, the possibility of conducting a special ASEAN summit on Myanmar.⁸ Malaysia and Singapore also supported the call from President Jokowi.⁹ It is unclear whether Brunei Darussalam and the other ASEAN Member States will agree to the proposal.

Discussion

None of the official statements made by ASEAN bodies address the situation in Myanmar as a coup. Furthermore, the resolution from IAMM, agreed to by all 10 ASEAN Member States, did not specifically call out or condemn the military junta’s brutality, with only a few states in favour of the call to release political detainees. AICHR has also failed to condemn the situation in Myanmar with one voice. Only four representatives endorsed the AICHR statement, while the rest of the commissioners have yet to make any comments about the situation.

Preceding the IAMM, 69 civil society organisations (CSOs) sent an open letter arguing what the ASEAN response should be.¹⁰ First, they stressed that the response should specifically condemn

7 ASEAN, ‘Chair’s Statement on the Informal ASEAN Ministerial Meeting (IAMM),’ 2 March 2021, <https://asean.org/storage/FINAL-Chairmans-Statement-on-the-IAMM.pdf>

8 ‘Pernyataan Presiden RI terkait Perkembangan Situasi Terkini di Myanmar,’ Sekretariat Kabinet Republik Indonesia, 19 March 2021, <https://setkab.go.id/pernyataan-presiden-ri-terkait-perkembangan-situasi-terkini-di-myanmar-19-maret-2021-di-istana-kepresidenan-bogor-provinsi-jawa-barat/>.

9 Sebastian Strangio, ‘Indonesia, Malaysia Call for Urgent ASEAN Summit on Myanmar,’ *The Diplomat*, 22 March 2021, <https://thediplomat.com/2021/03/indonesia-malaysia-call-for-urgent-asean-summit-on-myanmar/>; ‘Singapore’s Foreign Minister and Indonesian counterpart back ASEAN leaders’ summit on Myanmar.’ *The Star Online*, 25 March 2021, <https://www.thestar.com.my/aseanplus/aseanplus-news/2021/03/25/singapore039s-foreign-minister-and-indonesian-counterpart-back-asean-leaders039-summit-on-myanmar>.

10 Asian Forum for Human Rights and Development (FORUM-ASIA), ‘Joint Open Letter: ASEAN’s Response to the Military Coup in Myanmar,’ 19 February 2021, <https://www.forum-asia.org/?p=33925>

the illegitimacy and brutality of the military junta, support the efforts made by the international community to impose targeted economic sanctions on Myanmar military personnel, and cooperate with international mechanisms, such as the Human Rights Council and the Security Council of the United Nations.¹¹ Additionally, FORUM-ASIA, Progressive Voice, and Equality Myanmar also reiterated these demands and specifically called on ASEAN to support the Myanmar people's calls for change by issuing a solid resolution that might concretely address the situation in Myanmar. IAMM's resolution falls short of the CSOs expectation, as none of the demands have been mentioned in official statements from ASEAN or its entities. Nevertheless, the meeting conducted on 2 March 2021 under Indonesia and Malaysia's initiative was the first of its kind to discuss important issues concerning ASEAN.

The weak response from ASEAN's bodies might reflect how ASEAN and its Member States function. They are motivated not by their shared commitment to upholding democracy or promoting and protecting human rights, but rather by their various interests.

The governments of Brunei Darussalam, Vietnam, Laos, the Philippines, Thailand, and Cambodia are firm in their non-intervention approach. They view the Myanmar coup as an issue of domestic affairs. On the other hand, Indonesia and Malaysia have been quite active in building diplomatic pressure in ASEAN to push for an active role from the regional body (as represented by the commitments made by President Joko Widodo and Prime Minister Muhyiddin Yassin in a bilateral meeting on 6 February). Specifically, the Minister of Foreign Affairs of Indonesia, Retno Marsudi, has manoeuvred the country's trademark 'shuttle diplomacy' to influence other ASEAN Member States to agree to convene an ad hoc meeting on Myanmar. However, Indonesia's vague stance and continued communication with military-appointed ministers sparked demonstrations outside the Indonesian embassy in Yangon. Furthermore, on 23 February, the Malaysian High Court granted a temporary stay to a deportation order of 1,200 Myanmar nationals who are held in Malaysian custody to allow time for judicial review. Despite the court order, immigration authorities transferred 1,086 of the Myanmar nationals to the Myanmar navy to return to Myanmar. Singapore notably has made a vital statement about the situation in Myanmar. However, the country is still reluctant to support targeted economic sanctions under the pretext of protecting the well-being of the people in Myanmar.

Owing to the differing approaches taken by the ASEAN Member States, a weak outcome from the informal ministerial meetings might stem from the ASEAN preference for building consensus and non-interference at the cost of putting aside the will of the people of Myanmar. A prominent example is how the statement noted that some countries called for Myanmar to 'release the political detainees,' indicating disagreement among the ASEAN Member States in this specific recommendation. Under the current political dynamic and situation in the region, it is doubtful that ASEAN will rely on itself to address the problems in Myanmar or build back public trust in the body's relevance to serve its people.

It is also worth noting that Indonesia and the Philippines, as the ASEAN Member States currently sitting as members of the United Nations Human Rights Council, did not take part in drafting the Council's resolution on Myanmar.

¹¹ Ibid.

Regional Human Rights Mechanisms Responding to Coups: A Comparative Analysis

A comparative analysis of the responses of other regional mechanisms in responding to attacks on democracy, such as a coup, illuminates the ideal role regional human rights mechanisms should play in this regard. The comparison can be made by looking at each mechanism's institutional framework, norms, and to what extent they have been implemented in context.

African Union

Institutionalised framework and norms

Article 4(h) of the Constitutive Act of the African Union stipulates ‘the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.’¹² Moreover, the Constitutive Act also enshrines ‘respect for democratic principles, human rights, the rule of law and good governance’ (Article 4(m)). The Constitutive Act also contains a principle of ‘condemnation and rejection of unconstitutional changes of government,’ a direct rejection of the use of coups to seize power (Article 4(p)).

The governments of the Organization for African Unity (OAU)—now the African Union—adopted in July 2000 the ‘Framework for an OAU response to Unconstitutional Changes of Government.’ Known as the Lomé Declaration, the framework included the reactivation of the ‘Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution’ as the implementation mechanism (later becoming the African Union Peace and Security Council (AUPSC) in 2002).¹³

As set forth in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, AUPSC’s mandate is to ‘recommend to the Assembly, according to Article 4(h) of the Constitutive Act, intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments.’¹⁴ Furthermore, AUPSC shall also ‘institute sanctions whenever an unconstitutional change of Government takes places in a Member State, as provided for in the Lomé Declaration,’ such as a military coup, intervention by mercenaries, replacement of a democratically elected government by armed dissidents, or the refusal of an incumbent government to relinquish power after free and fair elections.¹⁵ The protocol additionally includes a set of non-exhaustive ‘principles as a basis for the articulation of common values and principles for democratic governance’ in the African Union, including the Universal Declaration of Human Rights and the African Charter on Human and Peoples’ Rights.¹⁶

12 African Union, *The Constitutive Act of the African Union*, Addis Ababa: African Union, 2000, https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf.

13 Organization for African Unity, *Lomé Declaration of July 2000 on the Framework for an OAU Response to Unconstitutional Changes of Government AHG/DECL 5 (XXXVI)*, Lomé: Organization of African Unity, 2000, https://www2.ohchr.org/english/law/compilation_democracy/lomedec.htm.

14 African Union, *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, Durban: African Union, <https://www.peaceau.org/uploads/psc-protocol-en.pdf>, Article 7(1)(e).

15 Ibid., Article 7(1)(g).

16 Organization for African Unity, *Lomé Declaration*, Article (viii).

Implementation of the framework and norms

Following a military coup in Mali (18 August 2020), the Chairperson of the African Union issued a statement that strongly condemned the arrest of the political leaders, including the president and prime minister, rejected 'any attempt at the unconstitutional change of government in Mali,' and called 'on the mutineers to cease all recourse to violence' and the Economic Community of West African States (ECOWAS), the United Nations and the entire international community to 'combine our collective efforts to oppose any use of force as a means to end the political crisis in Mali.'¹⁷ The African Commission on Human and Peoples' Rights issued a statement the same day.¹⁸

The day following the Chair's statement, the African Union Peace and Security Council suspended Mali's membership in the African Union.¹⁹ The suspension was lifted on 9 October 2020, after the Council observed significant progress toward a return to democracy in the country, including the selection of the civilian president and prime minister.²⁰

The AUPSC utilised the suspension mechanism in the case of Sudan in June 2019, after the country failed to establish a civilian-led transitional authority following a military coup in April 2019.²¹

Economic Community of West African States (ECOWAS)

Institutionalised framework and norms

ECOWAS is an economic bloc consisting of 15 states in West Africa. ECOWAS established a 'Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security' on 10 December 1999 in Lomé, Togo. ECOWAS also adopted a supplementary 'Protocol on Democracy and Good Governance' on 21 December 2001.²² Under the supplementary protocol, ECOWAS may impose sanctions on a Member State in the event that democracy is abruptly brought to an end by any means or where there is a massive violation of human rights.²³ Article 18 of the supplementary protocol also gives ECOWAS the power to conduct mediation with the Member State concerned.

Implementation of the frameworks and norms

Two days after the coup in Mali, ECOWAS heads of state convened an ad hoc virtual meeting to discuss the extraordinary situation. Through an official statement, the heads of state of ECOWAS agreed to, among other things, suspend Mali from all ECOWAS decision-making bodies until 'the effective restoration of constitutional order.'²⁴ The economic body also decided to 'close all land and air borders as well as stop all financial, economic and trade flows and transactions between

17 African Union, 'Statement of the Chairperson of the African Union Commission on the situation in the Republic of Mali,' 18 August 2020, <https://au.int/en/pressreleases/20200818/statement-chairperson-situation-republic-mali>.

18 African Commission on Human Rights and Peoples' Rights, 'Press Release from the African Commission on Human and Peoples' Rights on the coup d'état in Mali,' 18 August 2021, https://www.achpr.org/fr_pressrelease/detail?id=528.

19 African Union Peace and Security Council, 'Communiqué of the 941st meeting of the PSC held on 19 August 2020 on the situation in Mali,' 19 August 2020, <http://peaceau.org/en/article/communique-of-the-941st-meeting-of-the-psc-held-on-19-august-2020-on-the-situation-in-mali>.

20 'African Union lifts Mali's suspension imposed in the wake of coup,' Al-Jazeera, 9 October 2020, <https://www.aljazeera.com/news/2020/10/9/african-union-lifts-malis-suspension-imposed-in-the-wake-of-coup>.

21 African Union, 'Sudan Suspended from the African Union,' 6 June 2019, <https://au.int/ar/node/37024>.

22 Economic Community of West African States (ECOWAS), *Protocol on Democracy and Good Governance (A/SP1/12/01)*, ECOWAS, Dakar: African Union, 2001, <https://www.ohchr.org/EN/Issues/RuleOfLaw/CompilationDemocracy/Pages/ECOWASProtocol.aspx>.

23 Ibid., Chapter II, Article 45(1).

24 Ibid., para. 13(g).

ECOWAS Member States and Mali, except for basic essentials, drugs and equipment for the fight against COVID-19 relief,' and other provisions stipulated in the statement.²⁵ The ECOWAS heads of state also called for 'the immediate imposition of targeted sanctions against all putschists and their partners and collaborators.' ECOWAS lifted the sanctions on 6 October 2020.

Organization of American States (OAS)

Institutionalised Framework and Norms

The preamble of the Charter of OAS recognises the indispensable condition of representative democracy for the region's stability, peace, and development.²⁶ To that end, OAS created a mechanism to address potential threats to democracy at its 5th Plenary Session in June 1991. The mechanism was established under AG/RES. 1080 (XXI-O/91), which provides that the General Assembly of the Organization of American States shall 'instruct the Secretary General to call for the immediate convocation of a meeting to the Permanent Council in the event of any occurrences giving to the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government in any of the Organization's member states' and to 'instruct the Permanent Council to devise a set of proposals that will serve as incentives to preserve and strengthen democratic systems, based on international solidarity and cooperation.'²⁷

The resolution marked the institutionalisation of a legitimate procedure for the organisation to follow in order to restore democratic government and processes that may have been interrupted by extra-constitutional means. It was also the first framework made by OAS that dealt with matters regarding the disruption of democracy by incorporating international cooperation and response.

Implementation of the framework and norms

OAS tested the resolution in response to the coup in Haiti in September 1991. It launched the first Ad Hoc Meeting of Ministers of Foreign Affairs ('Meeting of Foreign Ministers') in OAS' history that was convened to facilitate the return of power to a wrongfully deposed, democratically elected head of state (which later become the practice in the region). The Meeting of Foreign Ministers adopted a resolution that, among other things, 'demanded full restoration of the rule of law and of constitutional order and the reinstatement of the democratically elected president in the exercise of his legitimate authority'; requested OAS Member States and other states to suspend their economic, financial, and commercial ties with Haiti; requested the OAS Secretary-General to go to Haiti, together with a group of foreign ministers, to 'inform those who hold power illegally that the American states reject the disruption of constitutional order and advise them of the decisions' of the ad hoc meeting; and 'to transmit this resolution to the UN and its specialized agencies and to urge them to consider its spirit and aims,' indicating a willingness from OAS to cooperate with the UN in this matter.²⁸

²⁵ Ibid., para. 13(h).

²⁶ Organization of American States (OAS), *Charter of the Organization of American States*, 6 October 1993, http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp.

²⁷ OAS General Assembly, *Resolution 1080 (XXI-O/91), Representative Democracy*, 5 June 1991, http://www.oas.org/xxxiiiga/english/docs_en/Representative_Democracy.htm, paras. 1, 3.

²⁸ OAS Ad Hoc Meeting of Ministers Foreign Affairs, *Resolution MRE/RES. 7/95, Restoration of Democracy in Haiti*, 2 October 1991, http://www.oas.org/en/columbus/docs/haiti/Ad_Hoc_Meeting_%20of_%20Ministers_%20of_%20Foreign_%20Affairs/OEA%20Ser.F%20V.1%20MRE%20RES.7%2095%20Eng.pdf.

Through the cooperation and negotiation facilitated by the OAS and UN, the Member States of OAS adopted in 1992 the Protocol of Amendments to the Charter of the Organization of American States (A-56) known as the 'Protocol of Washington,' that provided an amendment to the OAS Charter by adding a specific article related to suspension of membership.²⁹

Found in Chapter III, Article 9 of the Charter, the amendment reads in whole:

'A Member of the Organization whose democratically constituted government has been overthrown by force may be suspended from the exercise of the right to participate in the sessions of the General Assembly, the Meeting of Consultation, the Councils of the Organization and the Specialised Conferences as well as in the commissions, working groups and any other bodies established.'

Although Haiti later denounced the protocol, the amendment set a foundation for suspending the membership of a Member State in OAS.

The steps taken by OAS in response to the coup in Haiti in 1991, including but not limited to the adoption of resolution AG/RES. 1080 (XXI-O/91), the institutionalisation of the Ad Hoc Foreign Ministers Meeting, and the Protocol of Washington in 1992 (on the suspension mechanism), has contributed to the formation and adoption of the Inter-American Democratic Charter, which is still implemented to this day.³⁰

The Haitian case study also contributed to creating a model joint venture between the UN and OAS (1993–1995) to take on the vital and sensitive task of monitoring human rights in Haiti. In the cooperation model, OAS became the primary party to mobilise regional partners and actively provide measures that the UN could adapt and conduct together as the 'partner,' such as providing resources and planning expertise.

29 OAS General Assembly, *Protocol of Amendments to the Charter of the Organization of American States ('Protocol of Washington')*, 14 December 1992, <https://www.refworld.org/docid/3de4a1f84.html>.

30 OAS General Assembly, *Inter-American Democratic Charter*, 11 September 2001, https://www.oas.org/charter/docs/resolution1_en_p4.htm.

Ways forward for ASEAN and its Member States

Article 1, point 7 of the ASEAN Charter stipulates that one of the purposes of ASEAN is ‘to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN.’ Although the Charter mentions the shared commitment to uphold democracy and human rights, the implementation of that commitment still remains the responsibility of each Member State, which can be interpreted as a way of reinforcing the principle of non-interference.

While one of the purposes of ASEAN is to ‘respond effectively, in accordance with the principle of comprehensive security, to all forms of threats, transnational crimes and transboundary challenges,’ Member States do not use this clause as a justification for intervention. Indeed, most ASEAN Member States that see the crisis in Myanmar as an issue of domestic affairs, a position that hinders action.

Article 20(1) of the ASEAN Charter requires that, in the event a Member State breaches the principles of the ASEAN Charter, ‘as a basic principle, decision-making shall be based on consultation and consensus.’ Further, in Article 20(2), the ASEAN Summit—a biannual meeting held by ASEAN Member States in relation to the economic, political, security, and socio-cultural development of Southeast Asian countries—can decide a modality of decision-making if a consensus cannot be reached. Implementation of these articles is considerably weak, however, as no ASEAN Member State has to date been firmly held accountable for any violation of human rights or democratic principles. This precedent has not yet been established.

At the moment, ASEAN does not have a body that deals with issues of peace, security, and stability in the region, such as the UN Security Council, the AU Peace and Security Council, or the OAS Permanent Council. ASEAN does have the ASEAN Institute for Peace and Reconciliation. However, the mandate of this body is limited to research, knowledge gathering, and capacity building for ASEAN Member States with no function or ability to give recommendations to the ASEAN Summit (the decision-making body).

The experiences of the AU, ECOWAS, and OAS in responding to military coups and human rights abuses in their regions should guide ASEAN's response to the ongoing coup in Myanmar. ASEAN currently does not have a robust framework or mechanism to intervene, suspend membership, or sanction Member States to hold them accountable for breaching the principles of the ASEAN Charter, including a failure to uphold and respect democracy as well as fulfil its human rights

obligations under international human rights law.

To forge ahead as one community, ASEAN must move away from the vagueness of the 'non-interference principle' and towards strengthening mechanisms that address the persistent violation of human rights in the region. Such a move should include the implementation of the ASEAN cooperation framework with the United Nations and other regional mechanisms to better deal with such situations.

ASEAN's response, if it is willing to be meaningful, should align with the demands of the people of Myanmar, be immediate, and include the following:

- Respect the protection of human rights, democracy and fundamental freedoms in the ASEAN Charter to forging an alternative regionalism to address key human rights violations in the region, such as the Myanmar coup and Rohingya genocide.
- Uphold a people-centric approach by ensuring meaningful civil society engagement in addressing key human rights issues within the region.
- Collaborate with the UN Security Council and UN Human Rights Council to immediately send a delegation to the country to monitor the situation and help negotiate a democratic and human rights-based solution.
- Institutionalise a more robust practice and revise the terms of reference of the ASEAN mechanism to respond to grave human rights violations.
- Establish an ad hoc body to impose targeted financial sanctions on the Myanmar military as an institution, including its businesses and its associates, in a manner that respects human rights and gives due consideration to any potential negative socio-economic impacts on the civilian population, as recommended by the UN Fact-Finding Mission on Myanmar.
- Impose an embargo on the transfer or sale of military arms and equipment to Myanmar.
- Encourage ASEAN's dialogue partners to support ASEAN's initiatives in this regard.
- Use diplomatic leverage to establish a comprehensive response to ensure long-term democratic and human rights change in the country by ensuring that:
 - The Myanmar armed forces end all violations of international humanitarian and human rights law in ethnic minority and ceasefire areas, and that all civilians are protected;
 - Myanmar guarantees the safe, voluntary and dignified return of displaced communities, including the Rohingya, by lifting all arbitrary and discriminatory restrictions on their access to citizenship, freedom of movement, and access to healthcare, education, and livelihood opportunities;
 - Myanmar fully cooperates with the Independent Investigative Mechanism for Myanmar and complies with the provisional measures ordered by the International Court of Justice; and
 - Institutional and constitutional changes are adopted that would bring the military under civilian control and ensure accountability for human rights violations.

Annexe 1. Mapping the responses of ASEAN Member States

Cambodia, Vietnam, Lao PDR, the Philippines, and Brunei Darussalam firmly see the Myanmar crisis as domestic issue and thus not in need of intervention. Their position prevented consensus building at the ASEAN level, leading to a weak resolution during the recent foreign ministers' meeting. While ASEAN as a body has yet to make a strong statement on the situation in Myanmar, several ASEAN Member States have come forward to speak about the crisis of democracy and human rights abuses in Myanmar.

Country	Forms of intervention
Brunei Darussalam	<ul style="list-style-type: none"> On 5 April, Brunei Darussalam issued a joint statement with Malaysia to convey support for Indonesia's proposal to conduct ASEAN special summit on Myanmar and instruct their ministers and senior officials to undertake necessary preparations for the meeting to be held at the ASEAN Secretariat in Jakarta, Indonesia.
Cambodia	<ul style="list-style-type: none"> Prime Minister Hun Sen announced that the Myanmar coup is an 'internal affair' and therefore had no further comment.
Indonesia	<ul style="list-style-type: none"> Indonesia's Ministry of Foreign Affairs issued a press release on 1 February regarding the situation in Myanmar. The Ministry expressed concern about the political crisis in Myanmar and called for adherence to the principles of ASEAN, including the rule of law, good governance, and democracy. Indonesia also urged all parties concerned 'to exercise self-restraint and put forth dialogue in finding solutions to challenges so as not to exacerbate the condition.' Shortly after the publication of the press release, Indonesia engaged in dialogue with other ASEAN Member States through its trademark 'shuttle diplomacy,' in which the Minister of Foreign Affairs of Indonesia, Retno Marsudi, visited other ASEAN Member States to discuss, among other things, the situation in Myanmar. Indonesia also discussed with ASEAN dialogue partners including Japan, Australia, UK, and the USA. Some of the key messages brought by Indonesia included a call for all parties to refrain from utilising violence, to find a solution that prioritises the safety and security of the people of Myanmar, and to call on ASEAN to immediately conduct a special session on Myanmar (which ASEAN managed to hold on 2 March). Notably, Indonesia conducted a trilateral meeting with the Minister of Foreign Affairs of Thailand and with the Myanmar military envoy, in an attempt to avoid bloodshed in Myanmar. The Indonesian government's efforts were met with criticism from civil society in the region, due to a lack of clarity regarding what the exact messages were and what plan was being carried forward by the country. There was an allegation that Indonesia, to settle electoral differences, pushed for ASEAN Member States to agree to re-election of the Myanmar junta, which was later denied by the country following a protest conducted in front of the Indonesian embassy in Myanmar. Civil society was also concerned with the move from Indonesia to meet with the military envoy but not the representative of the Committee Representing Pyidaungsu Hluttaw (CHRP). Indonesia's Minister of Foreign Affairs, through a press briefing, assured the public of his commitment to the safety and security of the people of Myanmar.

Country	Forms of intervention
Indonesia	<ul style="list-style-type: none"> • In the IAMB, Indonesia conveyed its recommendation for ASEAN to urge Myanmar to release political detainees, refrain from utilising any violence and respect democracy and the right to protest. It also strongly emphasised the importance of ASEAN's proactive role in facilitating peaceful dialogue to address the situation in Myanmar. Notably, it reminded ASEAN to hold its members accountable to uphold the principles of ASEAN and address the threats that will hinder the establishment of one ASEAN community, and its relevance to its people, if the regional body fails to meaningfully address the situation in Myanmar. • On 18 March, Indonesian Armed Forces Chief <u>conveyed</u> concern on the situation Myanmar during the 18th ASEAN Chiefs of Defense Forces' Meeting • President Joko Widodo issued a <u>statement</u> calling for ASEAN to conduct a special summit on Myanmar (backed by Malaysia and Singapore).
Laos	<ul style="list-style-type: none"> • During 46th Regular Session Human Rights Council on 11 March (interaction with UNSR on Myanmar), Laos <u>called</u> on other States to constructively engage with Myanmar and to find a peaceful solution to address the situation. • On 15 March, during the another interactive dialogue with the UNSR on Myanmar, Laos <u>called</u> on international community to create a conducive environment for Myanmar to resolve its internal differences.
Malaysia	<ul style="list-style-type: none"> • Malaysia issued a press release on 1 February calling on the Myanmar military and related parties to uphold the rule of law and resolve any electoral discrepancies through established legal mechanisms and dialogue in a peaceful manner. Together with Indonesia, Malaysia also advocated for ASEAN to immediately convene and discuss the situation in Myanmar, as mentioned in the joint press statement of the Republic of Indonesia and Prime Minister of Malaysia on 5 February. • During the IAMB, Malaysia proposed three recommendations for ASEAN to move forward with the situation in Myanmar, including for ASEAN to: <ul style="list-style-type: none"> • Establish a group of eminent persons or experts in electoral matters to help in settling disputes regarding the general election in November; • Arrange a visit immediately of the ASEAN Secretary-General and Chair of ASEAN to Myanmar with full access to all parties involved; • Continue engaging with its international partners collectively, or through the establishment of an ASEAN troika, on the situation in Myanmar. • Although previously demonstrating a <u>strong position</u> and commitment to addressing the situation in Myanmar, the recent action from the Malaysian authorities spoke to the contrary. Malaysia authorities deported 1,086 Myanmar detainees back to their country of origin on 23 February 2021, after the military junta sent three ships to pick them up. The deportations happened despite calls from local and regional civil society to the Government of Malaysia to prioritise the safety and security of the detainees, which was at risk owing to the political turmoil in Myanmar and the adverse risks the detainees might face once in Myanmar. Additionally, the Malaysian government did not engage with or provide access to the UNHCR to assist the detainees prior to deportation.

Country	Forms of intervention
Malaysia	<ul style="list-style-type: none"> The deportation not only violates the non-refoulement principle under international customary law but also violates the Kuala Lumpur High Court's interim stay order granted earlier that day. FORUM-ASIA, the Asia Pacific Refugee Rights Network (APRRN), ASEAN Parliamentarian for Human Rights (APHR), and the International Detention Coalition (IDC) urged the Government of Malaysia in a joint statement to grant UNHCR immediate and unfettered access to immigration detention facilities and to further investigate the illegal deportation violating the court order.
Myanmar	N/A
Philippines	<ul style="list-style-type: none"> On 12 February, the Philippines joined China, Russia, Venezuela and Bolivia in dissociating itself from the HRC consensus that adopted the resolution without calling for a vote. The Philippines' Department of Foreign Affairs issued a statement on the latest development in Myanmar on 3 March. The Government reiterated its call for 'a complete restoration of the status quo ante' and to 'allow the State Counsellor Daw Aung San Suu Kyi to play her unifying role.'
Singapore	<ul style="list-style-type: none"> Singapore initially issued a statement that was similar to the messages conveyed by Indonesia and Malaysia. During a discussion with the country's parliamentarian, the Minister of Foreign Affairs of Singapore, Dr Vivian Balakrishnan, stated that whilst all ASEAN Member States are expected to uphold the principles enshrined in the ASEAN Charter and the ASEAN Human Rights Declaration, ASEAN cannot compel any of its Member States to abide by them due to the principles of non-interference and consensus. On 18 February, during a bilateral meeting with Indonesia, Singapore expressed strong support for a proposed Informal ASEAN Ministerial Meeting on Myanmar to be convened as soon as possible to facilitate a constructive exchange of views and identify a possible way forward. In the IAMM, the Minister of Foreign Affairs of Singapore intervened to urge the military junta to 'publicly commit, in words and deeds today, to exercise utmost restraint, and to desist from the use of lethal force, and to steadfastly ensure that there is no further violence and bloodshed' and 'to urgently seek a negotiated compromise to the current situation,' in addition to calling for the release of political detainees. Furthermore, Singapore was the only country that urged ASEAN to engage with external parties, including the US administration under the newly-elected President Joe Biden through an ASEAN-US Foreign Ministers' Meeting. It also emphasised that what happened in Myanmar should not affect ASEAN's engagement with external partners. Singapore demonstrated a stronger position on intervening in the situation in Myanmar after the ASEAN IAMM. On 5 March, the Singapore Foreign Minister also made a public comment, labelling the Myanmar military's action on utilising lethal violence against protesters as 'national shame,' Later on, Prime Minister Lee Hsien Loong made a strong statement in an interview about violent clashes at protests, the detention of civil servants, internet blackouts and the utilisation of lethal force against protesters. The Prime Minister, however, has stated his disagreement on the use of widespread economic sanctions against the country as these could hurt ordinary citizens.

Country	Forms of intervention
Singapore	<ul style="list-style-type: none"> • Singapore's position not to support economic sanctions against Myanmar raised concern among civil society in the region, given the fact that the country is the largest foreign investor in Myanmar, which amounted to 35 per cent of Myanmar's foreign direct investment. On 13 February, protesters gathered outside the Singapore embassy in Yangon, calling on Singapore's financial institutions, including the Monetary Authority of Singapore and United Overseas Bank, to stop processing transactions for banks linked to the Myanmar military. There are also concerns also that Singapore has close ties with Myanmar military-led companies in the arms trade. • After the protest on the 13 February, a few Singaporean business people announced their plans to cut business ties with Myanmar. For example, Emerging Towns & Cities Singapore Ltd. has requested that trading in its shares be <u>suspended</u> and said it would conduct a review of its contracts with Myanmar government ministries and departments. Further, the Monetary Authority of Singapore has also issued an <u>order</u> for financial firms to closely monitor any suspicious transactions related to Myanmar. • On 29 March, Singapore Foreign Affairs Minister addressed the situation of Myanmar as 'an unfolding tragedy' and called for <u>ASEAN to offer constructive assistance</u> on this matter.
Thailand	<ul style="list-style-type: none"> • After meeting with the Minister of Foreign Affairs of Indonesia in February, Thailand's Minister of Foreign Affairs agreed to bring the issue of Myanmar to the IAMM for discussion. • Thailand issued a <u>statement</u> on 12 March 2021 reiterating the ASEAN Chair statement on Myanmar. • Thailand authorities braced itself for an increase of refugee influx from Myanmar as the situation is worsening, and have <u>set aside areas to shelter</u> more than 43,000 people in Mae Sot district. • While addressing the situation in Myanmar as an 'internal matter' of the country, Thailand's Prime Minister, Prayuth Chan-o-cha, <u>stated</u> that the human rights of Myanmar refugees will be respected. • On 1 April 2021, Thailand's Foreign Minister <u>called</u> for a de-escalation of violence in Myanmar and committed to working on a peaceful solution with other ASEAN countries.
Vietnam	<ul style="list-style-type: none"> • The Vietnamese spokesperson <u>relayed</u> that they hoped Myanmar would stabilise soon. However, they did not mention the coup or protection of rights. • The spokesperson for the Ministry of Foreign Affairs of Vietnam <u>conveyed</u> that the country will engage with other ASEAN countries to respond the situation in Myanmar. • Assuming its presidency of the UN Security Council on 1 April, the Vietnamese Government stated that in order for the Security Council to intervene in Myanmar, all 15 Member States must come to an agreement. Vietnam, together with China, Russia, and India, were criticised by civil society for blocking UNSC Action to address the situation in Myanmar.

Annexe 2. Actions from the international community

Date	Actions
9 February	<ul style="list-style-type: none"> New Zealand <u>suspended ties</u> with Myanmar and decides to impose a travel ban for military leaders.
11 February	<ul style="list-style-type: none"> President Biden on 11 February issued an 'Executive Order on Blocking Property with Respect to the Situation in Burma' (the '<u>Executive Order</u>') which establishes a new sanctions program focused on Myanmar.
25 February	<ul style="list-style-type: none"> The World Bank has <u>halted payments</u> to projects in Myanmar on withdrawal requests that were made after the 1 February coup.
26 February	<ul style="list-style-type: none"> The UK has <u>listed</u> six Burmese officials under the Burma (Sanctions) (EU Exit) Regulations 2019. They are all members of the State Administration Council (SAC) that was established after the military coup on 1 February 2021 to exercise the functions of the State. Total number: 24 sanctions.
4 March	<ul style="list-style-type: none"> The 27-nation EU <u>put on hold</u> all development cooperation that would support the military authorities. Further, the European Commission confirmed it had suspended the budgetary support for Myanmar.
7 March	<ul style="list-style-type: none"> Australian Foreign Minister, Marise Payne, <u>suspended</u> its training programme with the Burmese military.
8 March	<ul style="list-style-type: none"> The European Union is <u>preparing sanctions</u> on Myanmar military businesses. However, it is reluctant to freeze trade preferences out of a fear that doing so would hurt the textile industry, which would negatively impact female workers. India will <u>provide temporary shelter</u> for Myanmar refugees.
10 March	<ul style="list-style-type: none"> UN Security Council <u>condemns</u> Myanmar junta's use of violence against peaceful protesters.
11 March	<ul style="list-style-type: none"> US Government <u>sanctioned military junta's</u> adult children. According to a 11 February <u>statement</u> from the US White House, President Joe Biden introduced new sanctions in response to the coup, adding 10 individuals and three companies to the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List for their association with the military regime. The Asian Development Bank has <u>temporarily suspended</u> funding for projects in Myanmar in response to the coup situation.
12 March	<ul style="list-style-type: none"> <u>South Korea</u> said it would suspend defence and security exchanges, ban exports of arms and other strategic items and reconsider development aid for Myanmar.

Date	Actions
18 March	<ul style="list-style-type: none"> • The UK <u>enforced immediate asset freezes</u> and travel bans against three members of the Myanmar military regime for their role in serious human rights violations during the coup. These sanctions are in addition to the sanctions against 16 individuals from the Myanmar military already listed by the UK. • Canada is <u>imposing sanctions</u> against nine Myanmar military officials, under the Special Economic Measures (Burma). These individuals are all senior officials in Myanmar's military. • The Danish Government decided to <u>stop Danish development activities</u> that are carried out through public institutions in Myanmar. According to Politiken's information, this support has so far amounted to around Danish Krone 30 to 35 million. • Switzerland decided to <u>suspend all further payments</u> related to development cooperation in Myanmar following the recent military coup. However, programmes already underway in the Asian country will continue.
19 March	<ul style="list-style-type: none"> • The Ambassadors to Myanmar from Canada; the Delegation of the European Union and European Union Member States with presence in Myanmar <u>signed a statement</u> on regime's brutal crackdowns.
20 March	<ul style="list-style-type: none"> • Following the brutal repression of the pro-democracy protesters by the military, French energy giant Électricité de France <u>suspended</u> a hydropower project worth more than US\$1.5 billion (2.11 trillion Myanmar Kyat) in Myanmar's Shan State over concerns related to human rights.
22 March	<ul style="list-style-type: none"> • The Council of the European Union yesterday <u>imposed restrictive measures</u> on 11 individuals responsible for the military coup staged in Myanmar/Burma on 1 February 2021.
25 March	<ul style="list-style-type: none"> • The United States and the United Kingdom <u>imposed sanctions</u> on conglomerates controlled by Myanmar's military, following the generals' February 1 coup and deadly crackdown. • The US sanctioned Myanmar Economic Holdings Public Company Ltd. (MEHL) and Myanmar Economic Corporation Ltd. (MEC) while while the UK only sanctioned MEHL.
28 March	<ul style="list-style-type: none"> • The US Chiefs of Defence released a <u>joint statement</u> condemning the Military-sponsored violence in Myanmar amid the ongoing military coup.
29 March	<ul style="list-style-type: none"> • The United States on Monday <u>suspended</u> a trade pact with Myanmar because the military junta's killed of more than 100 protesters over the weekend.
31 March	<ul style="list-style-type: none"> • Due to the political and humanitarian crisis in Myanmar, Voltalia, an international company in the field of energy, decided to <u>withdraw</u> from the country and has launched the associated process.

Date	Actions
1 April	<ul style="list-style-type: none">The UK has announced further measures targeting the Myanmar regime on Thursday 1 April with <u>sanctions against military</u>-linked conglomerate Myanmar Economic Corporation (MEC). The company was sanctioned last month by the US.
2 April	<ul style="list-style-type: none">The United Nations Security Council <u>strongly condemned</u> the deaths of hundreds of civilians and the use of violence against protesters in Myanmar. However, the final statement was milder than the original draft as China blocked the use of strong language, after two days of tough negotiations.
4 April	<ul style="list-style-type: none">Italian clothing brand Benetton Group and Sweden's H&M <u>suspended</u> all new orders from Myanmar with immediate effect due to concerns of human rights violations.

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