



National Unity Government
Representative Office (Australia)



Myanmar Roadmap to Federal Democracy Forum Report

Acronyms and definitions

CDM - Civil Disobedience Movement

CDMers - People who joined CDM movement

CRPH - Committee Committee Representing Pyidaungsu Hluttaw

CSOs - Civil Society Organizations

EAO - Ethnic Armed Organisations also known as **ERO** - Ethnic Resistance Organisations

FDC - Federal Democracy Charter

NLD - National League for Democracy Party

NUCC - National Unity Consultative Council

NUG - National Unity Government of Myanmar

MP - Members of Parliament

PDF - People Defence Force

SAC - State Administrative Council

Pyidaungsu Hluttaw - bicameral legislature of Myanmar established by the 2008 National Constitution. The Pyidaungsu Hluttaw is made up of two houses, the Amyotha Hluttaw, a 224-seat upper house as well as the Pyithu Hluttaw, a 440-seat lower house.



Executive Summary

On 29 September 2022, [Myanmar Campaign Network](#) co-hosted the Myanmar Roadmap to Federal Democracy Forum with the [International Institute for Democracy and Electoral Assistance](#) (International IDEA) and [National Unity Government \(NUG\) Representative to Australia](#), hosted at the Museum for Australian Democracy at Old Parliament House and via Zoom.

The forum provided essential insights into the constitutional and political developments in Myanmar, and the challenges and opportunities for federal democracy, covering the interim institutions that emerged after the 2021 coup, the importance of the Federal Democracy Charter, transitional justice, the process of negotiating a new federal constitution and establishing a new justice system.

Dr Tun Aung Shwe, National Unity Government Representative to Australia was a special guest speaker, and set the scene in his opening remarks, reflecting on the history of conflict in Myanmar. A panel discussion was moderated by Professor Mark Kenny, Australian National University, Australian Studies Institute and Director of the National Press Club.

The panel discussants were Dr Marcus Brand, Head of Programme Myanmar, International IDEA, and H.E. Dr. Lian Hmung Sakhong, Union Minister of the Federal Union Affairs Ministry, National Unity Government and H.E. Thein Oo Union Minister of Justice Ministry, National Unity Government who joined via Zoom. International IDEA's Director of the Asia and the Pacific Region Leena Rikkilä Tamang made the closing remarks.

Background

The Myanmar military is the driving force of a vicious cycle of armed conflict, structural conflict, and protracted social conflict, as seen in Myanmar's history of prolonged civil war.

Structural matters that ethnic leaders demanded such as federalism, ethnic rights and equality, self-determination, self-administration, and sharing of resources could not be resolved through negotiation and consultation with the military dictatorship. The inability of the civil war to end was damaging to social harmony and social cohesion and as a result, distrust, stereotypes, and prejudice are deeply rooted in Myanmar.

However, after the 2021 coup, the Myanmar Spring Revolution has helped to unite across different ethnic, religious and interest groups and has presented the opportunity to continue to build a united coalition against the dictatorship, and transition to federal democracy.

The unconstitutionality of the 1 February 2021 coup

The 1st of February 2021 coup d'etat was highlighted as unconstitutional, illegal and illegitimate. The Myanmar junta narrative is that it implemented the State of Emergency provision of the 2008 Constitution,



claiming electoral fraud in the 2020 election. However, as the elected President, U Win Myint, refused to sign the State of Emergency, the junta arrested him and positioned the Vice President as Acting President, a violation of the 2008 Constitution, which can no longer be considered as the basic law of the country. The military appointed their own ministers of an 11-member State Administration Council (SAC) and quickly announced that they would hold elections, currently planned for 2023..

Interim Institutions

After the coup, a number of interim institutions emerged:

The [Committee Representing Pyidaungsu Hluttaw \(CRPH\)](#) was formed on the 5 February 2021, made of 20 elected MPs from the 2020 general election who have the full mandate to represent the Parliament of Myanmar and operate underground to avoid arrest and persecution.

The [National Unity Government \(NUG\)](#), was formed by CRPH on 16 April 2021, whose members include National League for Democracy (NLD), other political parties and independents and it is the legitimate legislative authority of Myanmar.

The [National Unity Consultative Council \(NUCC\)](#) - the highest consultative body, comprising five stakeholders and 33 organisations. The five stakeholders are 1) elected MPs, political parties, 2) ethnic resistance movement, 3) ethnic arms organizations, 4) Civil Disobedience Movement leaders, Civil Society Organisations, Strike Committees, Labor unions, women's groups, youth groups and 5) newly formed state and federal unit councils.

Federal Democracy Charter (FDC)

These democratically elected representatives and interim institutions have begun to prepare a new institutional framework, including the first [Federal Democracy Charter \(FDC\)](#), produced on 31st of March 2021 with a second one revised and produced on 29th of January 2022.

The FDC outlines 5 guiding principles and 64 federal principles for the new constitutional process, emphasising self-determination, democratic citizenship, a strong commitment of human rights, rule of law, diversity, inclusion and non- discrimination.

The FDC rejects the validity of the 2008 constitution, and is not designed as an interim constitution. It is more of a flexible political framework document rather than a legally enforceable interim constitution.

It is a bottom-up federal system that sees the member states of the Union and the people in these states as the original owners of sovereignty. The new federal system will likely be a combination of ethnic based and geographical based states.

The NUG is forming federal, state, regional and local level union consultative councils through consultation. Those consultative councils will prepare state and regional constitutions and transitional constitutions within a year.

The Ministry of Federal Union Affairs of the NUG is now preparing for drafting a new transitional constitution with a constitution drafting committee composed of 24 members from all the stakeholders from NUCC including the National League for Democracy and the Kachin Political Interim Consultative Team.

A New Justice System

Justice system - The current institutions dictated by the State Administrative Council (SAC) led by military ruler, Min Aung Hlaing, cannot be seen as any form of justice system. The courts, prosecutions and the police under SAC do not run in accordance with rule of law.

NUG's justice system has two essential outlooks; (1) what currently exists within the NUG and other opposition/ethnic areas, and (2) what will operate in Myanmar in the future. In NUG's controlled areas, there has been the process of appointing judges and the justice system. There will be strong assistance needed to establish an independent judicial system and a well equipped justice system including policing.

The new justice system will ensure accountability for war crimes and crime against humanity, including genocide. The elements of the Myanmar new justice system includes constitutional reform for the Federal Democratic Union. There will be legislative changes to support democracy, including laws relating to citizenship, human rights, the electorate system, civil servants, and land.

Transitional justice - Transitional justice will be a pillar of a new justice for Myanmar. The NUG is advancing in terms of transitional justice towards the Myanmar military and the chief collaborators being held accountable before international tribunals.

- They have moved before the International Court of Justice to block the junta as the representative of the people. They have dropped objections to the jurisdictions of the court, and have agreed to participate in the Court's trial of international crimes against the Rohingya.
- On 3rd June 2021, NUG issued a historic statement on its intentions to comply with international obligations relating to the Rohingya, including voluntary, safe and dignified repatriation.
- The NUG has accepted the jurisdiction of the International Criminal Court, and has agreed to the investigation of all crimes within its jurisdiction in Myanmar.
- The Ministry of Justice (MOJ) aims to develop and implement an approach to transitional justice that brings peace, democracy and reconciliation to Myanmar, and brings accountability and redress to victims of mass human rights violations during the conflict unleashed by the SAC in 2021.
- The NUG are actively collaborating with leading international non-government organisations and experts worldwide in transitional justice seeking their guidance and assistance.

Code of Conduct - MOJ ensures Myanmar's freedom fighters, People Defence Forces (PDF) respect the principles of international humanitarian law. NUG has requested their soldiers and civilian supporters to

abide by international standards and laws as guidelines to all their actions in their battles. There are already several rare cases being investigated by NUG and the PDF.

Universal Jurisdiction - SAC's brutal attacks in Karenni state, Chin state, Sagaing and Magway region have not only led to massive military setbacks, but also to a series of criminal cases being prepared against their leadership. The NUG, Ethnic Rights Organizations (EROs) and PDFs have gathered witness accounts and physical evidence on mass cases of military atrocities. Those cases will be brought to the attention of the nations committed to investigate such abuses under their acceptance of the legal concept known as "universal jurisdiction".

Key Takeaways

The main takeaway messages for the international community are to:

- Avoid any legitimizing of military leadership and reject the SAC's 2023 sham election;
- Hold NUG and interim institutions to account over the promises and commitment made in the FDC and things such as Rohingya policy;
- Provide capacity building and investment in young people who are driving in the movement, especially student's visa and scholarships;
- Provide cross-border humanitarian assistance, not through Yangon or Nay Pyi Taw;
- Provide support and assistance to those participating in the Civil Disobedience Movement,
- Provide technical and financial assistance;
- Recognise the NUG, and support the democratisation process

Conclusion

There is a concrete plan roadmap toward federal democracy and peace in Myanmar that outlines a commitment to democracy, citizens' rights, gender equality, minority rights, and federal principles. However Myanmar's transition to restore democracy cannot be done by Myanmar people alone, international assistance and support are highly needed.

International IDEA has taken a very clear position since the beginning of condemning the coup as unconstitutional and illegitimate. It has been working closely with these interim institutions that they consider the legitimate representatives of the country, providing not only capacity building and advice to the institutions, but also helping them to follow the path laid out in FDC, which is the roadmap towards a new constitution.

The international community can nurture the democratisation process by providing cross-border humanitarian aid, technical and financial assistance and importantly, recognition to the legitimate government, the National Unity Government.