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January 4, 2023

Security Council Resolution 2669 (2022) on the Situation in Myanmar: Too Little, Too Late?

Written by *Abdul Ghafur Hamid*



On December 21, 2022, the United Nations Security Council adopted [Resolution 2669 \(2022\)](#) on the situation in Myanmar with a vote of 12 in favour to none against, and 3 abstentions (China, India, and the Russian Federation). The Council “demands an immediate end to all forms of violence throughout the country.” It “urges the Myanmar military to immediately release all arbitrarily detained prisoners, including President Win Myint and State Counselor Aung San Suu Kyi.”

The Council “reiterates its call to uphold democratic institutions and processes and to pursue constructive dialogue and reconciliation in accordance with the will and interests of the people of Myanmar.” It also “calls for concrete and immediate actions to effectively and fully implement ASEAN’s Five-Point Consensus.” Finally, it “requests the Secretary-General or through his Special Envoy to report to the Council by March 15, 2023.”

This is the first ever Security Council resolution on Myanmar, nearly two years after the military *coup d’etat* on February 1, 2021. Credit is to be given to the United Kingdom for its hard work in drafting the resolution and passing it through a tough negotiation process. It is understandable that many important points in the initial draft had to be removed to avoid a veto by certain permanent members.

This is a long overdue resolution that has been eagerly awaited by the people of Myanmar. Since General New Win usurped the State’s power by overthrowing the democratically elected government in 1962, the military has ruled Myanmar with an iron grip for nearly 60 years, controlling the entire national economy and making the generals billionaires. Following a few years of democratic transition under Aung San Su Kyi, the military staged a third coup in 2021.

This is too much for the people of Myanmar, in particular the younger generation, fondly known as “Generation Z.” This time, the military has encountered much more decisive resistance from people from all walks of life. Almost the [entire nation went out to the streets and peacefully demonstrated against the military coup](#). The vast majority of civil servants have participated in an unprecedented [Civil Disobedience Movement \(CDM\)](#), rendering the military junta unable to function. However, the [military crushed peaceful demonstrations and the CDM movement in brutal ways](#).

Due to extensive military operations throughout the country, 1.4 million people are displaced and hiding in forests or mountainous areas without food, clothing,

medicine, or a proper place to sleep. [Tens of thousands of houses in numerous villages in rural areas were burned down](#) and destroyed under the military's "four cuts" strategy. More than 13,000 people are detained in inhumane conditions in notorious prisons. Nearly 8 million children are out of school.

The people of Myanmar therefore wanted to seek help from the United Nations to intervene under the doctrine of [Responsibility to Protect \(R2P\)](#) as there are credible reports that the [junta has committed crimes against humanity](#) against its own people. Many attempts to propose R2P in the UN Security Council have nonetheless failed in view of the threatened vetoes of China and Russia. Stalemate in the Council has prompted the UN to tactfully hand over the Myanmar conflict to ASEAN, the regional organization of which Myanmar is a member.

The Myanmar military, however, never respected and implemented the [Five-Point Consensus](#) adopted by the ASEAN Meeting of Leaders in April 2021. ASEAN definitely needs the UN's pressure to push the military to come to terms. This resolution will enhance ASEAN's clout in the implementation of the Five-Point Consensus.

It is indeed not a timely resolution. Since the people have already suffered for almost two years under the military junta, the resolution comes late, but it is better than having no resolution at all.

In addition, as rightly pointed out by [Thomas Andrews, UN Special Rapporteur on the situation of human rights in Myanmar](#), the resolution does not go far enough. It does not even recognize the military's seizure of power from the constitutionally elected government as a *coup d'etat* but a mere declaration of emergency, the term preferred by the junta. It falls short of condemning the junta's atrocities and serious violations of human rights. It also does not address the issue of an arms embargo against the junta, which is crucial to ending the bloodshed and killing of innocent civilians. It does not call for the implementation of R2P. Finally, it was not adopted as an enforcement action under Chapter VII of the Charter.

[Some commentators](#) are of the view that a Security Council resolution is not legally binding on States if it is not adopted under Chapter VII of the Charter. However, under Article 25 of the UN Charter, members agree to accept and carry out the decisions of the Security Council. The ordinary meaning of this

provision is that any decision of the UN SC is legally binding on member States, whether or not it is adopted under Chapter VII.

The issue of the [bindingness of the Security Council resolutions](#) is addressed by the International Court of Justice in its [Namibia](#) Advisory Opinion. In paragraph 113, the court affirms that:

It has been contended that Article 25 of the Charter applies only to enforcement measures adopted under Chapter VII of the Charter. It is not possible to find in the Charter any support for this view. Article 25 is not confined to decisions in regard to enforcement action but applies to “the decisions of the Security Council” adopted in accordance with the Charter....

Again in paragraph 114, the court states that:

It has also been contended that the relevant Security Council resolutions are couched in exhortatory rather than mandatory language and that, therefore, they do not purport to impose any legal duty on any State nor to affect legally any right of any State. The language of a resolution of the Security Council should be carefully analysed before a conclusion can be made as to its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted....

In Resolution 2669 (2022), the Council uses strong and commanding terms such as “demands” (in operative para 1), “urges” (in operative para 2), and “calls for” (in operative para 6). In light of *Namibia* Advisory Opinion, at least these operative paragraphs appear to be legally binding on the military junta as well as all UN Member States.

As an immediate response to the resolution, the [foreign affairs ministry of the junta announced](#) on December 23, 2022, that “the resolution contained several intrusive elements on Myanmar’s internal affairs that contravened the principles and purposes of the United Nations, and thus they would not accept it.”

One important question, therefore, is what would happen if the military junta did not comply with the resolution. What can we do? Since the resolution was not adopted as an enforcement action under Chapter VII of the Charter, it lacks any guarantee for enforcement. There can be no enforcement action against non-compliance.

The military junta can possibly be pressured by the strong and coordinated action of like-minded UN Member States and ASEAN. If the junta still does not comply, the non-compliance would seriously affect its image, and in that case, the Security Council could adopt a stronger resolution, even under Chapter VII, if China and Russian Federation do not oppose it.

All things considered, the unprecedented UN Security Council resolution on Myanmar can be taken as a small but important step forward. It can hopefully be followed by further and stronger resolutions in the future.

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