



December 16, 2022  
Committee Secretary  
Joint Standing Committee on Foreign Affairs, Defence and Trade  
PO Box 6021  
Parliament House  
Canberra ACT, 2600

**Australian Chin Federation and Chin Human Rights Organization  
Submission to the Joint Standing Committee on Foreign Affairs, Defence  
and Trade - Foreign Affairs and Aid Subcommittee**

**Introduction**

1. The Australian Chin Federation (ACF) was founded in October 2013 in Melbourne, Australia by Chin communities who have settled and are living in various parts of Australia, including Melbourne, Adelaide, Queensland, Coffs Harbour and Perth. AFC works with different non-governmental organisations and church groups, including the Australian Chin Christian Council (ACC), which as 21 individual local churches, in advancing and representing the interest and well-being of Chin communities across Australia, as well as those living within Myanmar and the region.

2. The Chin Human Rights Organization (CHRO) is committed to protecting and promoting human rights through monitoring, research, documentation, education and advocacy on behalf of the Chin indigenous people and other oppressed and marginalized communities in Burma/Myanmar. Through our work, we envision meaningful social change and the full enjoyment of human rights in a just, free and democratic society, where the equal dignity of all human beings is respected and upheld. CHRO was founded in 1995, by a group of Chin activists committed to documenting and exposing years of systematic human rights violations by State actors, previously unreported and unknown to the international community.

3. This submission refers directly to the ongoing crisis in Myanmar which has, to date, resulted in the loss of [over 2000](#) civilian lives via mass atrocity crimes and the ongoing detention of [over 12,000](#) people since the Myanmar military junta took power via an illegal coup. Political prisoners include opinion leaders, members of civil society, key political figures, health workers, and civil servants formerly involved in the administration of elections.

4. The following recommendations are put forward as suggestions to the Foreign Affairs and Aid Sub Committee that we feel the Australian government could pursue to help restore peace and democracy to the nation. We would like to take this opportunity to thank the Foreign Affairs and Aid Sub Committee for allowing submissions from civil society on such critical issues.

### **Targeted Sanctioning**

5. The need for targeted sanctions on members of the Myanmar military junta and associated businesses has previously been [raised by representatives](#) of the Australian Labour Party (ALP), including the newly appointed Foreign Affairs Minister, Penny Wong. The imposition of a comprehensive targeted sanctioning agenda of senior military officials and associates as well as military-owned businesses and subsidiaries, would bring Australian foreign policy into line with international sanctions regimes on Myanmar and further incentivize stronger action from the regional bloc.

6. Australia could utilize the Autonomous Sanctions Amendment Act 2021 in response to the Myanmar Junta's gross human rights violations under Section (3) (b); (d); (e) and (f) which deal specifically with the themes of threats to international peace and security, serious violations of human rights, serious violations of international humanitarian law and good governance or rule of law.

7. Since the Feb 1 coup, the Myanmar Junta has intensified the use of its air force to commit war crimes and crimes against humanity. Amnesty International has documented [16 unlawful air attacks](#) that took place between March 2021 and August 2022 in Kayah, Kayin and Chin States, as well as in Sagaing Region. The attacks killed at least 15 civilians and injured at least 36 more. Aerial bombardments have also destroyed homes, religious buildings, schools, medical facilities and a camp for displaced persons. Recent junta aerial attacks include [indiscriminate air strikes against](#) a concert in Kachin State, killing more than 80 people, and against a school in Let Yet Kone village, Sagaing Region, killing at least 12 people. To carry out these attacks on civilian populations and infrastructure the Myanmar military relies on aviation fuel to power aircraft.

8. Given the dangers to the civilian population that aircraft pose, the Australian government should consider sanctioning Burmese companies involved in the supply of aviation fuel such as Myanma Petrochemical Enterprise (MPE), the sanctioning of international companies supplying aviation fuel, such as the regionally based, PetroChina's Petroleum Company, Chevron and Asia Sun Group. An inquiry into whether Australian companies are involved in the supply of aviation fuel to Myanmar including any services or use of infrastructure linked to the fuel supply to Myanmar should take place.

## ASEAN Engagement

9. Diplomatic efforts undertaken by the Association of Southeast Asian Nations (ASEAN) to resolve the crisis in Myanmar have failed, and the [Five Point Consensus](#) has been continually ignored as violations of IL and IHL have escalated. Certain narratives have suggested that diplomatic efforts to resolve the crisis by the regional bloc have been met with deaf ears by the junta, other corners have argued they have been complicit in human rights abuses by providing support and legitimacy to the Myanmar military via its [defence programme](#) which has maintained the junta's participation in meetings, training, intelligence exchanges, arms production, research and development, and cyber security.

10. Recently, General Tun Aung led the junta's delegation to the [ASEAN Air Chiefs Conference \(AACC\)](#) where they assumed the AACC Chairmanship for the coming year. General Tun Aung is a former director of the military-owned Myanma Economic Holdings Ltd and is sanctioned by the UK, Canada and the EU. These actions contradict the Five-Point Consensus which aims to cease the ongoing violence and only serve to further embolden the military junta. Nonetheless, during the recent [40th and 41st ASEAN summit](#), states reaffirmed their commitment to the consensus but called upon the U.N. and external partners to help implement concrete and practical measures.

11. Notwithstanding the need for the UN, Australia and other like-minded countries, and ASEAN to work with the NUG and other legitimate representative organisations to negotiate a new agreement to respond to the crisis in Myanmar, the following recommendations are put forward under the current ASEAN proposals.

12. The ALP's proposed South East Asia Special Envoy who would sit above the ASEAN ambassador could be given a mandate for engagement with the ASEAN foreign ministers to build consensus among the regional bloc to bring alignment with commitments to peace and democracy. The mandate could include working directly with the ASEAN Intergovernmental Commission on Human Rights (AICHR) to develop a common approach to ensure that all engagement with Myanmar considers and addresses human rights concerns.

13. Australia could recommend that ASEAN implement emergency measures on Myanmar which could include coordinating with the international community to deprive the junta of arms, aviation fuel, funds and political recognition. These actions would be practical solutions to achieving point one in the five-point consensus which aims to halt the violence.

14. Practical measures to protect civilians could include blanket agreements to protect refugees in the region, respecting the principle of non-refoulement and allowing unhindered humanitarian access to Myanmar via the authorization of cross-border modalities on aid in their respective territories.

15. It is of note that the decision of the 40th and 41st ASEAN Summits was to pursue implementation of the five-point consensus through engagement with all stakeholders. The first practical measure in implementing this would be to publicly engage the National Unity Government (NUG) and other legitimate representative organisations.

16. The commitment by the ASEAN leaders to deliver humanitarian assistance to all in need without discrimination is to be welcomed. The junta [weaponizes](#) aid delivery and any continued engagement with it will lack impartiality. A practical measure that could be suggested to the ASEAN Secretary-General and the AHA Centre would be to channel funds and aid away from the Myanmar junta's task force and UN agencies which are required to sign agreements and present credentials to the junta, and instead engage directly with local service providers trusted by ethnic communities in border areas. Such a stance would be in line with the statement made by [Malaysian Foreign Minister Dato Saifuddin Abdullah](#), who has publicly recognized the need to directly support local civil society organizations working on the ground outside of the junta's control to provide life-saving humanitarian aid to the people. It is also of note that the Minister has moved forward with this agenda and publicly engaged directly with exiled Myanmar civil society in [direct dialogue](#).

17. Australia could work with regional partners to suspend the direct and indirect supply, sale or transfer, including transit, trans-shipment and brokering of aviation fuel to Myanmar until effective mechanisms are in place to ensure that aviation fuel will not be used to commit serious violations of international human rights law and war crimes.

18. Furthermore, Australia could also incentivize Singapore to play a role in ending the crisis. Singapore extends [banking services](#) to the junta and is Myanmar's top source of foreign direct investment. It could exercise leverage on the Myanmar junta by preventing the military from accessing funds held in Singapore-based banks and financial institutions.

19. Lastly, the decision of ASEAN leaders included a commitment to hold accountable those that bear arms, noting that the Myanmar junta is the largest armed force in the country. One practical measure to achieve this would be to refer the Myanmar situation to the International Criminal Court through the UN Security Council.

### **Disengagement with Myanmar Military Junta**

20. The Myanmar military junta is an illegitimate body with [no democratic mandate](#) to be recognised as a government and therefore should be treated as such. It does not have control of Myanmar and does not represent Myanmar at the UN. Australia should consider doing everything in its power to stop lending legitimacy to the Myanmar military junta and cease all engagement with it.

21. The suspension of bilateral ties with the junta by Australia in March 2021 and the boycotting of the Experts' Working Group on Counter-Terrorism in July 2022 are welcome steps in suspending ties with the junta. However, in its capacity as an ASEAN Defence Ministers' Meeting

plus member (ADMM), Australia maintains its position as one of the Experts' Working Groups. Through ADMM, ASEAN has provided the Myanmar military with access to diplomatic, military, technical, financial, and intelligence support while continuing to commit atrocity crimes with impunity. Australia should cease this practical cooperation with the junta.

22. Lastly, the recent signing of new agreements and the presenting of credentials to the illegitimate junta by some of the UN agencies working inside Myanmar, including the UN Office for the Coordination of Humanitarian Affairs, UN International Children's Emergency Fund and UN Food and Agriculture Organization of the United Nations also continues to legitimise and embolden the junta. Australia should consider applying all means to compel these agencies to disengage with the junta and ensure any funds directed to these organisations are insulated from any direct or indirect collaboration or agreement with the Myanmar junta.

### **Recognition of Democratically Elected Government and Engagement with other democratic-focused organizations.**

23. The Australian government could consider recognizing the NUG as the legitimate government of Myanmar. The NUG was [formed](#) by the Committee Representing the People's Hluttaw (CRPH), based on a popular mandate from the people of Myanmar through the 2020 general election.

24. Australia can promote shared democratic values by engaging directly with the NUG and CRPH but also by engaging directly with Myanmar's multitude of ethnic and religious groups, many of which make up immigrant communities in Australia. Given the longstanding commitments to a federal democracy, Australia should consider direct communication with armed resistance organizations, general strike committees, ethnic civil society actors and local governance structures such as peoples' administrations. This depth of knowledge concerning federal governance would provide a solid platform for political dialogue with ASEAN members on the complexities of Myanmar's sociopolitical and security situation.

### **Accountability**

25. The victims of crimes committed by the Myanmar military junta have [no recourse to justice](#) in Myanmar and members of the junta continue to enjoy a safe haven of impunity. Australia could take more robust action and support accountability efforts taking place in other jurisdictions while also pursuing an internal process of accountability for those committing mass atrocity crimes.

26. Australia should consider formally joining the case at the ICJ brought by The Gambia against Myanmar for violations of the Genocide Convention. The recent decision by the ICJ to reject Myanmar's preliminary objections and to confirm that all States that are party to the Genocide Convention have a [common interest](#) to ensure the prevention, suppression and punishment of genocide by committing themselves to fulfil the obligations contained in the Convention has provided categorical guidance on formally supporting the Gambia's position.

27. Furthermore, Australia should support initiatives to bring Myanmar junta officials responsible for gross violations of human rights to justice, including by Australia exercising universal jurisdiction to investigate and prosecute them and by supporting a UN Security Council referral to the International Criminal Court.

28. Australia should continue to support the Independent Investigative Mechanism for Myanmar (IIMM), which does vital work to collect evidence for criminal proceedings.

### **Refugees and Asylum Seekers**

29. It is welcomed that in recognition of the grave humanitarian and security situation in Myanmar, Australia designated Myanmar nationals as a priority caseload in the onshore humanitarian visa program. It is also welcomed that in 2021/22 Myanmar nationals have maintained priority designation for offshore resettlement. However, looking from the Chin population alone, numbers of asylum seekers in Malaysia have swelled to double of those before the military coup, with estimates of between 80,000 to 100,000 people, based on information provided by local organizations in Kuala Lumpur.

30. Without UN High Commissioner for Refugees registration and processing, little protection is granted for those fleeing Chin State and other regions of Myanmar. Furthermore, there are ongoing deportations taking place in collaboration with the Myanmar Embassy in Kuala Lumpur which is under military control. Those deported include [defectors](#) and members of the Civil Disobedience Movement (CDM) who are certain to face persecution on return. Such actions amount to refoulement and the Malaysian government should be compelled to cease such activities.

31. Australia could increase quotas for Myanmar refugees as per need under a bilateral agreement with the Malaysian Home Ministry under an agreement to prevent the arrest, detention and deportation of those fleeing conflict. The UNHCR has stated that a lack of funding prevents them from registering asylum seekers in good time which in turn creates tension with organizational presence in Malaysia. Australia could increase funding toward the UNCHR.

32. Finally, Australia could provide more funding for agencies which can provide short term skills development for Myanmar refugees which would increase the amount of Myanmar refugees to make use of national initiatives such as the Skilled Refugee Labour Agreement Pilot.