



PARLIAMENTARIANS AT RISK:

Reprisals against opposition MPs
in Southeast Asia in 2021

 **LAPHR** ASEAN PARLIAMENTARIANS
FOR HUMAN RIGHTS

 Hanns
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Foundation



ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS

APHR is a regional network of current and former parliamentarians who use their unique positions to advance human rights and democracy in Southeast Asia. We seek to help create a region where people can express themselves without fear, live free from all forms of discrimination and violence, and where development takes place with human rights at the forefront.

Our members use their mandate to advocate for human rights inside and outside of parliaments, regionally and globally. They work closely with civil society, conduct fact-finding missions, and publish recommendations and opinions on important issues affecting the region.

APHR was born out of the recognition that human rights issues in Southeast Asia are interconnected, and from the desire of progressive legislators to work together across borders to promote and protect human rights.



The Hanns Seidel Foundation (HSF) is a German Political Foundation. It is mandated by the German Parliament to promote democratic and sustainable structures worldwide. This mandate involves strengthening institutions, individuals, procedures and standards, as well as building the requisite attitudes, towards that end.

First published in 2021 by ASEAN Parliamentarians for Human Rights (APHR)
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Cover page: A light truck loaded with demonstrators holding signs showing the three-fingers salute, a symbol of resistance, drives past the Sule Pagoda during a protest against the military coup at downtown area in Yangon, Myanmar. © EPA-EFE

1. EXECUTIVE SUMMARY



Military vehicles and soldiers block the road leading to the parliament in Nay Pyi Taw, Myanmar. © EPA-EFE

KEY FINDINGS



MPs detained across Southeast Asia



1

2020

91

2021

The last year has seen a dramatic rise in the **number of MPs detained across Southeast Asia**, from just one in 2020 to 91 in 2021, largely due to developments in Myanmar, where the military seized power in a coup in February. Scores of other MPs in Myanmar have been driven into hiding where they remain at risk of arrest.

Governments used responses to **COVID-19 to unjustifiably silence democratic debate**, including by bringing politically-motivated cases against critics and lawmakers who expressed dissenting views. In Malaysia, COVID-19 was used as an excuse to suspend elections and parliament for more than seven months, as part of apparent efforts to keep an unpopular government in power.



Judicial harassment against MPs continued in countries like Thailand and the Philippines, and escalated substantially in Malaysia. Legal cases rarely lead to convictions but are instead filed to harass MPs and muzzle freedom of expression.

Online abuse and harassment of MPs continued at an alarming rate throughout the region, often through coordinated disinformation campaigns. In the Philippines, such abuse spiked ahead of the upcoming elections in 2022.



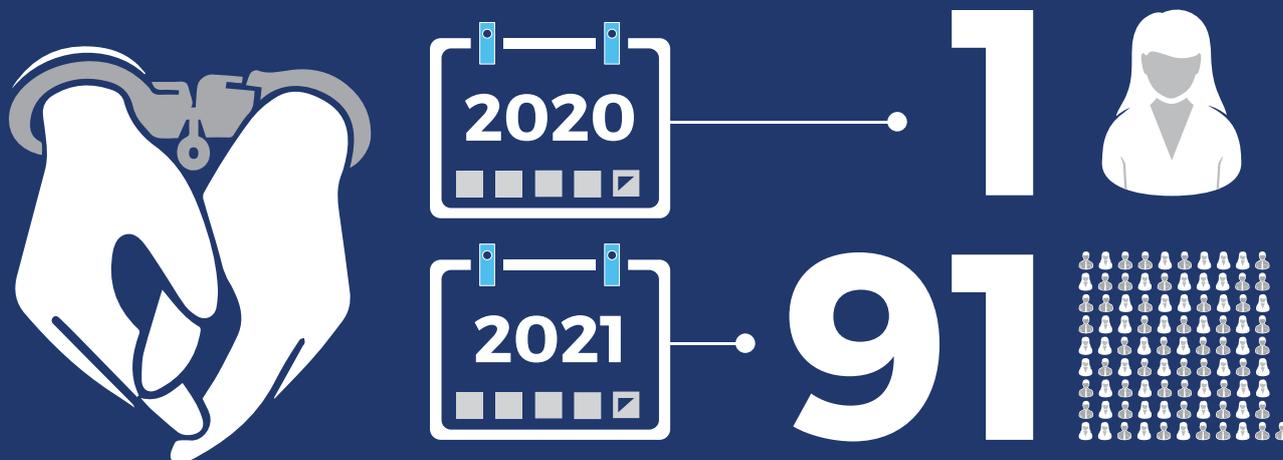
Across Southeast Asia, parliamentarians are increasingly at risk. Lawmakers who use their mandates to defend human rights or to hold power to account have for years been targeted through trumped-up criminal charges, threats and harassment, physical violence, and detention. In 2021, we continued to see MPs targeted, to a large extent because of the military coup in Myanmar and its devastating aftermath, but also due to alarming developments elsewhere.

This briefing from ASEAN Parliamentarians for Human Rights (APHR) provides an overview of human rights abuses against elected lawmakers in Southeast Asia. The findings in 2021 are stark, and APHR must unfortunately report that the situation facing MPs has only deteriorated further. The number of detained lawmakers in the region rose from just one in 2020, to 91 in 2021 due to the Myanmar military regime's wave of arrests. In fact, Myanmar has

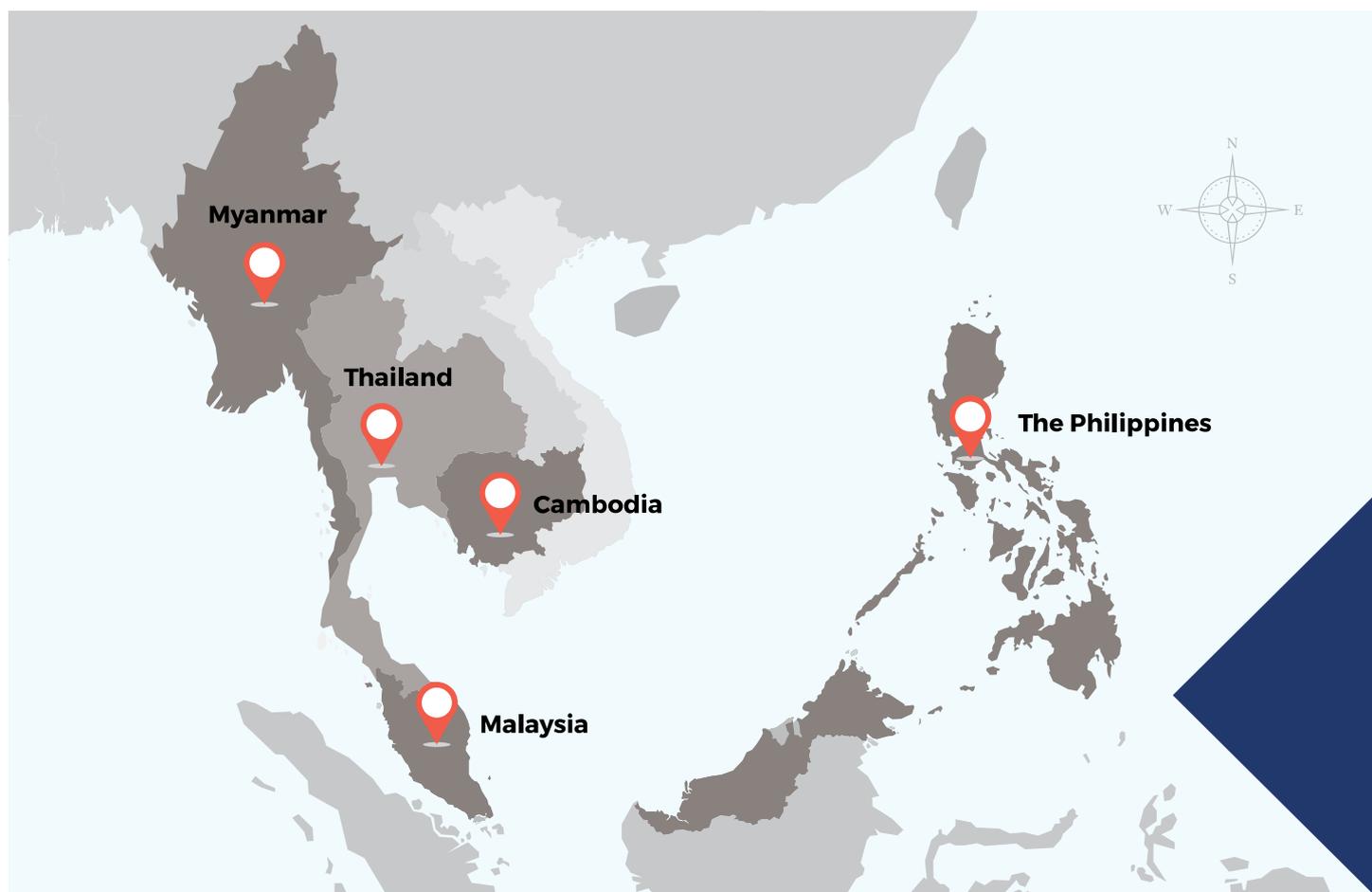
previously been a country where APHR has rarely documented abuses against MPs, but it has now joined the ranks of Southeast Asian states repressing lawmakers.

The coup in Myanmar is the most dramatic example of a wider trend of closing democratic space in the region. In countries where APHR has previously documented abuses against MPs, such as Malaysia, the Philippines, and Thailand, authorities continued to level baseless criminal charges against opposition MPs, while often also being implicated in or failing to prevent or effectively investigate threats, online abuse, and disinformation campaigns against lawmakers. In 2021, the resurgence of the COVID-19 pandemic in the region also served as an apparent excuse to justify the silencing of democratic debate, either by targeting lawmakers exercising their freedom of expression to scrutinize official measures, or by suspending parliament, as was the case in Malaysia.

THE NUMBER OF DETAINED LAWMAKERS IN THE REGION ROSE FROM JUST **ONE** IN 2020, TO **91** IN 2021



COUNTRY SNAPSHOTS



The military's attempt to seize power through an illegal coup on 1 February plunged **Myanmar** into another human rights crisis. As peaceful protests against military rule swept the country, the junta responded with a vicious and bloody crackdown, killing more than 1,200 people,¹ forcibly disappearing at least 100, arresting thousands, and displacing hundreds of thousands of civilians.

The political opposition, in particular members of the National League for Democracy (NLD), which won the 2020 election in a landslide, have been among the most prominent targets. The junta suspended all national and sub-national parliaments, stripping democratically elected national MPs of their seats without legal or constitutional justification. Lawmakers

were almost immediately faced with criminal charges, and by the time of publication at least 90 parliamentarians (national, regional, and state level) remain in detention or under house arrest.² Many others have gone into hiding to avoid the same fate. Often, security forces have arrested family members, including children, of MPs in an effort to force them out of hiding.

Those in detention have routinely been denied access to lawyers in violation of international fair trial standards. With torture rife in detention, lawmakers and others detained are at serious risk of torture or other ill-treatment, as has been recently highlighted in media reports on the use of torture. The lack of adequate medical care in Myanmar, in particular in prisons, is also an enormous concern, with the COVID-19

¹ According to the Assistance Association of Political Prisoners Burma (AAPP), as of 8 November 2021.

² AAPP, 8 November 2021.

pandemic spreading without an adequate government response.

While the situation in Myanmar dominated global headlines, lawmakers were also at risk elsewhere in Southeast Asia, notably Malaysia, the Philippines, and Thailand. In **Malaysia**, the government of former Prime Minister Muhyiddin Yassin in January used the COVID-19 pandemic as a pretext to impose a state of emergency, followed by the suspension of parliament for more than seven months. The suspension violated international human rights and democratic standards, and prevented parliamentary oversight at a time when transparent political representation and actions were critically needed. At the same time, opposition politicians were among those targeted in a growing crackdown on dissent, with at least ten lawmakers interrogated or charged for expressing criticism related to human rights abuses or the suspension of parliament.

In **the Philippines**, disinformation campaigns, threats and so-called “*red-tagging*” of opposition lawmakers rose alarmingly ahead of the general elections taking place in 2022. President Rodrigo Duterte and other senior officials made baseless accusations against left-wing lawmakers, claiming they support an armed communist insurgency. Such accusations can come with heavy consequences and have, in the past, been linked to the murder of government

critics. A government body monitoring conflicts against armed groups filed unfounded charges against two political parties that could result in their disbandment from the upcoming vote, preventing incumbent lawmakers from seeking re-election. Senator Leila de Lima remains in prison. Although one of the three “drug trafficking” charges against her was dismissed in 2021 due to a lack of evidence, she has now been arbitrarily detained for close to five years.

In **Thailand**, the government and its allies continued to level trumped-up criminal cases against Move Forward Party (MFP) lawmakers, often after they claimed to have exposed alleged government corruption. As in other countries in Southeast Asia, opposition MPs were the target of widespread abuse online, often through highly coordinated “information operations” orchestrated by state-affiliated actors. Much of this abuse included highly misogynistic elements.

Although not featured in detail in this report, APhR remains deeply concerned about the situation in **Cambodia**. Prime Minister Hun Sen has ruled an effective one-party state since the main opposition party was arbitrarily disbanded in 2017. In 2021, authorities relied on a politicized judiciary to continue to level baseless charges against former opposition lawmakers and members of the opposition, including several exiled leaders.

METHODOLOGY

This briefing is based on an extensive desk review of existing literature, including reports by civil society organizations, various United Nations bodies and other human rights groups, as well as academic research and credible media reports. It is also based on interviews with current and former lawmakers throughout the region. APHR has, where relevant, relied on analysis of official court documents and police records in documenting the cases. APHR wishes to thank those lawmakers and others who contributed to this briefing by offering their time and insights. On occasion, names of those interviewed have been withheld to protect their safety.

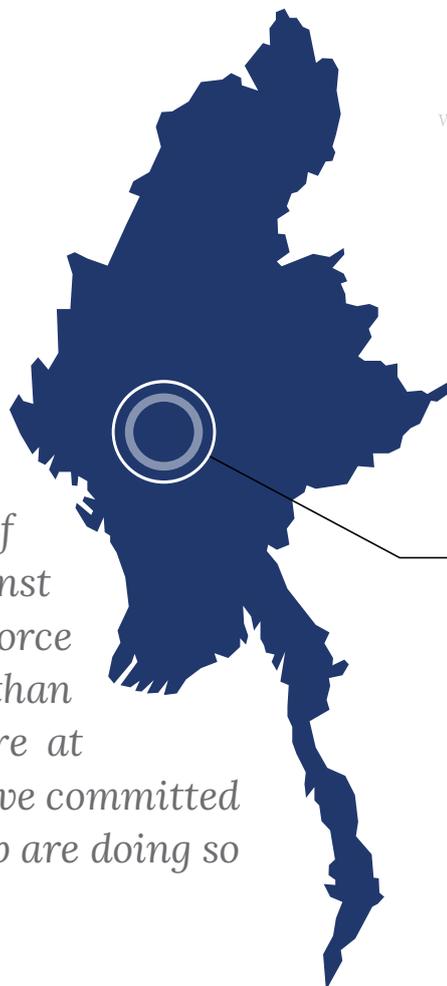
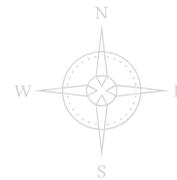
This briefing is part of APHR's efforts to document attacks on lawmakers in Southeast Asia and to ensure that lawmakers can exercise their mandates free of interference. It builds on previous reports including *Death Knell for Democracy: Attacks on Lawmakers and the Threat to Cambodia's Institutions* (March 2017), *In the Crosshairs of the Presidency: Attacks on Opposition Lawmakers in the Philippines* (June 2019), and *Parliamentarians at Risk: Reprisals against Opposition MPs in Southeast Asia* (September 2020).³

ACKNOWLEDGEMENTS

APHR would like to extend its special thanks to Olof Blomqvist who conducted the research and drafted the report. This research and report were made possible thanks to the support of the Hanns Seidel Foundation.

3 APHR, *Death Knell for Democracy: Attacks on Lawmakers and the Threat to Cambodia's Institutions*, March 2017, available at: <https://aseanmp.org/2020/12/03/death-knell-for-democracy-attacks-on-lawmakers-and-the-threat-to-cambodias-institutions/>; APHR, *In the Crosshairs of the Presidency: Attacks on Opposition Lawmakers in the Philippines*, June 2019, available at: <https://aseanmp.org/2020/12/03/philippines-in-the-crosshairs-of-the-presidency-attacks-on-opposition-lawmakers-in-the-philippines/>; and APHR, *Parliamentarians at Risk: Reprisals against Opposition MPs in Southeast Asia*, September 2020, available at: <https://aseanmp.org/2020/12/03/parliamentarians-at-risk-reprisals-against-opposition-mps-in-southeast-asia/>.

2. MYANMAR



A military coup on 1 February was followed by a widespread and brutal crackdown on those opposing the takeover. The military has since been accused of committing what amounts to crimes against humanity. Parliament was suspended by force and MPs stripped of their status. More than 90 are still detained, many of whom are at severe risk of torture. Lawmakers who have committed to uphold their mandates despite the coup are doing so in hiding, at great risk of imprisonment.



Demonstrators carry placards with the message 'We support CRPH, We stand with CRPH' march during a protest against the military coup in Mandalay, Myanmar. © EPA-EFE

ARBITRARY SUSPENSION OF PARLIAMENT & DEPRIVATION OF MP STATUS

The Myanmar military (Tatmadaw) forcibly seized power and suspended the national parliament (Pyidaungsu Hluttaw) on 1 February, the same day the new parliament elected in November 2020 was due to take office. The junta declared a state of emergency and established the State Administrative Council (SAC) as an interim ruling body, while transferring all executive, legislative, and judicial authority to Commander-in-Chief Senior General Min Aung Hlaing.

Scores of MPs who had gathered in Nay Pyi Taw to attend the opening of Parliament were detained, including President Win Myint and State Counsellor Aung San Suu Kyi, or ordered to leave the capital Nay Pyi Taw within 48 hours.⁴ All 498 national MPs elected in the 2020 vote, as well as State and Regional MPs, were stripped of their seats with immediate effect.⁵

The Tatmadaw's seizure of power and suspension of parliament was widely condemned as illegal under both domestic and international law. Legal analysts called the coup a violation of "*even the flawed Constitution that the military itself imposed in 2008*"⁶ and the Inter-Parliamentary Union (IPU) labelled it a "*clear violation*" of

article 21 of the Universal Declaration of Human Rights (UDHR) that "*the will of the people shall be the basis of the authority of government.*"⁷

The military justified the coup by alleging widespread fraud in the 2020 elections, won by the NLD in a landslide. Several credible international experts have, however, declared the vote reflective of the will of the people.⁸

The election results were eventually nullified by the new, junta-appointed Union Election Commission on 26 July, which claimed to have discovered widespread fraud, without offering any public evidence.⁹ On 1 August, the junta declared itself an interim government with Min

4 Frontier Myanmar, MPs told to leave but Aung San Suu Kyi, Win Myint remain in custody, 3 February, available at: <https://www.frontiermyanmar.net/en/mps-told-to-leave-but-aung-san-suu-kyi-win-myint-remain-in-custody/>.

5 The Pyidaungsu Hluttaw ("Assembly of the Union"), Myanmar's national-level bicameral legislature, is made up of two houses, the Amyotha Hluttaw ("House of Nationalities"), a 224-seat upper house, and the Pyithu Hluttaw ("House of Representatives"), a 440-seat lower house. Out of these 664 seats, 75% (498) are elected democratically while 25% (166) are reserved for the military, as per the 2008 Constitution. At the sub-national level, each of Myanmar's 14 major administrative divisions has its own local parliament, either a Region Hluttaw ("Region Assembly") or a State Hluttaw ("State Assembly").

6 International Commission of Jurists (ICJ), Myanmar: Military Coup d'état violates principles of rule of law, international law and Myanmar's Constitution, 8 February 2020, available at: <https://www.icj.org/myanmar-military-coup-detat-violates-principles-of-rule-of-law-international-law-and-myanmars-constitution/>.

7 IPU Committee on the Human Rights of Parliamentarians, Decisions adopted at the 165th Session, 25 May 2021, p. 9, available at: <https://www.ipu.org/file/11330/download>.

8 Carter Centre, Preliminary Statement on the 2020 Myanmar General Elections, 10 November 2020, available at: <https://www.cartercenter.org/news/pr/2020/myanmar-111020.html>; and Asian Network for Free Elections, The 2020 Myanmar General Elections: Democracy Under Attack, 17 May 2021, available at: <https://anfrel.org/anfrel-releases-2020-myanmar-general-elections-final-observation-mission-report/>.

9 Global New Light of Myanmar (GNLM), 27 July 2021, Announcement on annulment of Nov 8 Multiparty General Election results, available at: https://cdn.myanmarseo.com/file/client-cdn/2021/07/27_July_21_gnlm.pdf.

Aung Hlaing as Prime Minister, while committing to hold new elections in August 2023, reneging on its initial pledge for new polls within one year of its seizure of power.¹⁰

The coup triggered massive demonstrations and resistance across Myanmar. Millions of people took to the streets in overwhelmingly peaceful protests, while civil servants, healthcare workers and others have organized a country-wide Civil Disobedience Movement. Many of the arbitrarily ousted MPs have vowed to continue fulfilling their mandates as elected representatives of the people. A few days after the Tatmadaw's seizure of power, on 4 February, some 70 MPs from the NLD took an oath of office pledging to carry out their mandates. On 5 February, close to 300 MPs met online and established the Committee Representing Pyidaungsu Hluttaw (CRPH) to carry out the functions of parliament, led by 20 elected representatives.¹¹ The CRPH on 16 April announced a new National Unity Government (NUG), comprised of ousted MPs, ethnic minority representatives, and members of civil society.¹²

The junta has sought to criminalize these opposition bodies and anyone associated with them. On March 21, the SAC issued an order declaring the CRPH and “its affiliated committees” an unlawful association under the Unlawful Associations Act,¹³ a colonial-era law

that allows the President of Myanmar to declare organization’s “unlawful” on vaguely-worded grounds. Membership or association with such organizations can bring with it prison sentences of between two and five years.¹⁴ On 8 May, the junta went one step further and declared the CRPH and NUG “terrorist groups” under the 2014 Counter-Terrorism Law, another vaguely-worded law that gives authorities wide latitude in who to designate as a “terrorist.”¹⁵ Offences under the law can lead to between three and 15 years in prison.



A person holds roses during prayers for Tin Nwe Yi, a teacher who was killed during a crackdown on anti-coup protesters in Yangon, Myanmar. © EPA-EFE

10 GNLM, 2 August 2021, The Speech made by State Administration Council Chairman Senior General Min Aung Hlaing, available at: <https://www.gnlm.com.mm/the-speech-made-by-state-administration-council-chairman-senior-general-min-aung-hlaing-on-the-occasion-of-six-months-on-1-august-2021-since-the-state-administration-council-has-taken-the-state/>.

11 For more information see: <https://crphmyanmar.org/>.

12 CRPH, Formation of the National Unity Government of Myanmar, 16 April, available at <https://crphmyanmar.org/formation-of-the-national-unity-government/>.

13 Republic of the Union of Myanmar Ministry of Home Affairs, Declaration of Unlawful Association, Order No 2/2021, 21 March 2021, available at: https://cdn.myanmarseo.com/file/client-cdn/gnlm/wp-content/uploads/2021/03/22_Mar_21_gnlm.pdf.

14 Human Rights Watch (HRW), Myanmar: Elected Lawmaker Group Declared Illegal, 25 March 2021, available at: <https://www.hrw.org/news/2021/03/25/myanmar-elected-lawmaker-group-declared-illegal>.

15 Republic of the Union of Myanmar Anti-Terrorism Central Committee, Declaration of Terrorist Groups, Notification No 2/2021, 8 May 2021.

HUNDREDS OF MPS IN DETENTION OR AT RISK OF ARREST



90 MPs
REMAINED IN DETENTION OR
HOUSE ARREST IN MYANMAR

The months after the coup have been marked by nationwide, massive opposition to the junta across Myanmar, whose brutal response has led to widespread human rights violations. At least 1,222 people have been killed and more than 100 forcibly disappeared, while an unknown number have been subjected to torture or sexual violence in detention.¹⁶ Intensifying conflict in ethnic minority areas has resulted in the targeting of civilians and has led to at least 219,000 people becoming internally displaced since the coup.¹⁷ Human rights actors, including Thomas Andrews, the UN Special Rapporteur on the situation of human rights in Myanmar, have said that the scale of violations meet the threshold of crimes against humanity under international law, as part of a widespread and systematic attack on the population.¹⁸

Among those targeted for arrest by the junta are opposition politicians, including elected representatives at the national, regional and state level, in particular from the NLD. Immediately after the coup on 1 February, 20

national-level MPs, including President Win Myint, State Counsellor Aung San Suu Kyi and five other senior-level NLD members, were arrested and placed under house arrest or in detention.¹⁹ Scores of other lawmakers have since been detained. While national-level Union MPs were initially mainly at risk of arrest, authorities have since widened their targets to increasingly include State and Regional MPs.²⁰

As of November 2021, at least 90 MPs remained in detention or under house arrest in Myanmar, all from the NLD. These include at least 22 Union-level MPs (from both Amyotha Hluttaw and Pyithu Hluttaw, the upper and lower houses of parliament respectively), 37 Regional MPs and 28 State MPs.²¹ Of these, at least six MPs have so far been sentenced to between two and three years in prison, while in the other cases trials are either underway or yet to start.²² In addition, one lawmaker arrested since the coup has passed away while in detention (see page 11). In this context, close to 300 sitting parliamentarians from across the world issued a

16 AAPP, Daily Briefing in Relation to the Military Coup, 30 October 2021, available at: <https://aappb.org/?p=18494>.

17 UN High Commissioner for Refugees (UNHCR), Myanmar Emergency Update, 20 October 2021, available at: <https://reliefweb.int/report/myanmar/myanmar-emergency-update-18-october-2021>.

18 UN News, Myanmar crackdown has led to likely crimes against humanity, Human Rights Council told, 11 March 2021, available at: <https://news.un.org/en/story/2021/03/1087062>; and HRW, Myanmar: Coup Leads to Crimes Against Humanity, 31 July 2021, available at: <https://www.hrw.org/news/2021/07/31/myanmar-coup-leads-crimes-against-humanity>.

19 IPU Committee on the Human Rights of Parliamentarians, Decisions adopted at the 165th Session, 25 May 2021, p. 9, available at: <https://www.ipu.org/file/11330/download>.

20 APHR interview NGO official, 14 October 2021.

21 AAPP, Daily Briefing in Relation to the Military Coup, 30 October 2021, available at: <https://aappb.org/?p=18494>; Information supplied by the NLD, on file with APHR.

22 Ibid.

joint statement condemning the coup and calling for the immediate release of their colleagues.²³

The junta has relied on a range of repressive laws that violate international law in cases against opposition lawmakers, including the Telecommunications Law, the Official Secrets Act, the Unlawful Associations Act and Section 505(B) of the Penal Code, which criminalizes speech that “is likely to cause fear or alarm in the public”. Several MPs have also faced charges under the Anti-Corruption Law or the Natural Disaster Management Law for alleged violations of COVID-19 protocols.²⁴ In addition, the junta has revised the legal framework to criminalize peaceful protest and facilitate the detention of anti-coup activists. Several MPs have, for example, been charged under Section 505(A) of the Penal Code, which was amended by the junta on 14 February to punish criticism of the military regime with up to three years in prison.²⁵

The threat of arrest has meant that many MPs have been forced into hiding. On 17 February, for example, 21 MPs including 17 members of the CRPH went into hiding after the military issued arrest warrants against them under Section 505(a) or (b) of the Penal Code and/or the Natural Disaster Management Law.²⁶ The military’s declaration of the CRPH and the NUG as “unlawful” and “terrorist groups” (see page 8) has meant that anyone associated with these groups is at risk of arrest and imprisonment.

The vast majority remain inside Myanmar in areas controlled by ethnic armed groups, or

move back-and-forth across the borders into neighboring Thailand or India. Life in hiding is extremely challenging. Even MPs who have found relative safety in ethnic minority areas often regularly move from place to place to avoid arrest, creating pressure to find new safe houses. MPs told APHR that they have mostly cut off contact with family and friends in their home regions to avoid potentially exposing them to arrest and torture. Lawmakers also highlighted how limited access to electricity or Internet makes coordinating the work of CRPH difficult.²⁷

On several occasions, the junta has targeted family members of MPs who have fled to escape arrest. On 20 July, security forces arrested the wife, son, and daughter of Kyaw Soe Naing, a Mandalay Region MP, in their home after he had gone into hiding, before releasing them two days later. Similarly, on 12 September, police detained the daughter of Shan State MP Maung Nyo after they could not find him in his home when they came to arrest him. She remains in detention.²⁸



THE JUNTA HAS TARGETED FAMILY MEMBERS OF MPS WHO HAVE FLED TO ESCAPE ARREST.

The military regime has also used the threat of charges and detention to silence criticism from other lawmakers. Since May, the junta has

23 APHR, Hundreds of global MPs call for immediate release of Myanmar colleagues, democracy to be restored, 27 April 2021, available at: <https://aseanmp.org/2021/04/27/hundreds-of-global-mps-call-for-immediate-release-of-myanmar-colleagues-democracy-to-be-restored/>.

24 For background, see HRW, Dashed hopes: The Criminalization of Peaceful Expression in Myanmar, 31 January 2019, available at: <https://www.hrw.org/report/2019/02/01/dashed-hopes/criminalization-peaceful-expression-myanmar>.

25 OHCHR, Written updates of the Office of the United Nations High Commissioner for Human Rights on the Situation of human rights in Myanmar (A/HRC/48/67), 16 September 2021, p. 3, available at: <https://reliefweb.int/report/myanmar/written-updates-office-united-nations-high-commissioner-human-rights-situation-human>.

26 Irrawaddy, Military Regime Issues Arrest Warrants for 17 Elected MPs for Incitement, 16 February 2021, available at: <https://www.irrawaddy.com/news/burma/military-regime-issues-arrest-warrants-17-elected-mps-incitement.html>.

27 APHR interviews with MPs, NGO officials and human rights activists in Myanmar, throughout 2021.

28 AAPP, Daily Briefing in Relation to the Military Coup, 30 October 2021, available at: <https://aappb.org/?p=18494>.

threatened NLD MPs with arrest unless they sign a pledge not to support the CRPH or the NUG.²⁹ Local media outlet *Myanmar Now* has confirmed that at least 30 MPs have signed the pledge. The actual number could be substantially higher, however, with an NLD official quoted anonymously saying at least 110 MPs had signed. At least one MP has faced charges even after signing the pledge.³⁰

Many of those held in detention have had limited or no access to their lawyers, in violation of their rights to a fair trial under international law. Even in cases where lawyers have had access, they are often unable to meet with their clients without the presence of security personnel or prison officials, hampering their ability to speak freely.³¹ The legal team of Aung San Suu Kyi has also been ordered not to speak to media or international organizations.³²

The lack of access to legal counsel heightens the risk of torture or other ill-treatment. Torture in detention has long been rife in Myanmar, and many of those arrested since the coup have been routinely beaten or otherwise abused after being arrested, indicating a deliberate tactic by the junta to target protesters. Others who have been detained since the coup have after release said they were subjected to or witnessed torture in detention, including beatings, mock

executions or sexual violence.³³ Several MPs are detained in Insein Prison in Yangon, where the use of torture and other ill-treatment against political prisoners is notorious.³⁴

Human rights groups have also highlighted how prisoners in Myanmar are denied access to medical care.³⁵ This has been particularly worrying as the COVID-19 pandemic spiked after the coup. At least one lawmaker has died from the pandemic in detention. Nyunt Shwe, Bago Regional MP, passed away on 16 August having contracted COVID-19 in prison following his arrest on 1 February.³⁶ According to the UN Office of the High Commissioner for Human Rights (OHCHR), at least 50 people have died in detention since the coup.³⁷

At least 14 of the MPs still in detention or house arrest are women, and there are particular concerns about their treatment. Pramila Patten, UN Special Representative of the Secretary-General on Sexual Violence in Conflict, has highlighted “*very disturbing*” reports of sexual violence in detention in Myanmar, in particular targeting women from ethnic or religious minority groups.³⁸ Human Rights Watch has further documented how women detainees are denied access to menstrual hygiene products and have limited access to toilets.³⁹

29 APHR interviews with MPs, NGO officials and human rights activists in Myanmar, throughout 2021.

30 *Myanmar Now*, As much of Myanmar burns, some MPs steer clear of the fire, 15 October 2021, available at: <https://www.myanmar-now.org/en/news/as-much-of-myanmar-burns-some-mps-steer-clear-of-the-fire>.

31 APHR interview with NGO official, 14 October, 2021.

32 Reuters, Lawyer for Myanmar's Suu Kyi says he has been issued a gag order, 15 October 2021, available at: <https://www.reuters.com/world/asia-pacific/chief-lawyer-myanmars-suu-kyi-says-he-has-been-issued-gag-order-2021-10-15/>.

33 Associated Press, Myanmar military uses systematic torture across country, 28 October 2021, <https://apnews.com/article/myanmar-torture-military-prisons-insein-abuse-390fe5b49337be82ce91639e93e0192f>.

34 *New York Times*, They Call It ‘Insane’: Where Myanmar Sends Political Prisoners, 29 May 2021, available at: <https://www.nytimes.com/2021/05/29/world/asia/myanmar-prison-coup.html>.

35 Physicians for Human Rights, Violence Against or Obstruction of Health Care in Myanmar, 26 October 2021, available at: <https://phr.org/our-work/resources/violence-against-health-care-in-myanmar/>.

36 AAPP, Daily Briefing in Relation to the Military Coup, 30 October 2021, available at: <https://aappb.org/?p=18494>.

37 OHCHR, Written updates of the Office of the United Nations High Commissioner for Human Rights on the Situation of human rights in Myanmar (A/HRC/48/67), 16 September 2021, p. 8, available at: <https://reliefweb.int/report/myanmar/written-updates-office-united-nations-high-commissioner-human-rights-situation-human>.

38 UN News, UN Special Representative Patten expresses grave concern over reports of sexual violence in detention setting in Myanmar, 25 June 2021, available at: <https://www.un.org/sg/en/content/sg/note-correspondents/2021-06-25/note-correspondents-un-special-representative-patten-expresses-grave-concern-over-reports-of-sexual-violence-detention-setting-myanmar>.

39 HRW, Rights of Women Violated in Myanmar Prisons, 8 June 2021, available at: <https://www.hrw.org/news/2021/06/08/rights-women-violated-myanmar-prisons>.

MYAT THIDA HTUN

ON THE RUN FROM THE JUNTA

“The contribution of women and girls to the resistance has been crucial. People sometimes call women weak, but they have really been on the frontlines, fighting not for themselves but for the country, their children and their families.”

Myat Thida Htun was born into politics. Both of her parents were active members of the NLD during the former military regime, and her father served time as a political prisoner. While Myanmar's education system was tightly controlled by the junta at the time, her parents taught Myat Thida Htun about the realities facing the country over the dinner table.

When Myanmar started opening up after 2011, Myat Thida Htun formally entered politics and was eventually elected as an Amyotha Hluttaw (Upper House) MP representing Thanbyuzayat Township in her native Mon State in 2015, a seat she won again in November 2020. Being an MP was challenging, not least because of endemic corruption among military officials who still controlled much of government at the local level, but she still believed she could contribute to real progress.

On the morning of 1 February 2021, Myat Thida Htun was in Nay Pyi Taw with hundreds of other MPs, waiting to be sworn in. She had heard rumors that a coup was in the making, so was not caught completely off-guard when the military seized power, shut off the internet, and confined her and her colleagues to their



Myat Thida Htun who was elected in the 2015 and 2020 elections in Myanmar. © Supplied

guest houses. Though not surprised, she was still outraged and alarmed by the developments, and worried what this would mean for herself, her family, her constituents, and the country as a whole. In defiance of the new junta, Myat Thida Htun was one of 70 MPs who took a vow to continue carrying out their democratic mandates, and also among the hundreds who later formed the CRPH. She is now a member of the International Relations Committee and Legal Affairs Committee of the CRPH.

On 4 February, Myat Thida Htun returned home to Mon State to support her constituents. It was

clear that the situation had already resulted in a much different country than just a few days ago: the roads home were lined with tanks, while her local NLD office had been boarded up and was guarded by soldiers. After a few days, close friends and contacts warned her that she was being targeted by the junta for arrest, and on 10 February she decided to flee for her own safety. Myat Thida Htun reported that life on the run was a struggle for survival as she hid in jungle areas with little or no access to food or water, while military drones were constantly circling above her.

Myat Thida Htun eventually ended up in relative safety in a border area controlled by an ethnic armed group, although she still moves from place to place every few days to avoid arrest. She has ceased all communication with friends and family back home, aware that being in touch could seriously expose them to risk of arrest, torture, or worse. Myat Thida Htun has been informed that many individuals with connections to her have already been questioned by security forces about her whereabouts. The coup has come at

huge cost to Myat Thida Htun and her family. Her father was a long-time NLD activist and also fled Mon State after the military takeover, and died from harsh jungle conditions while suffering from a pre-existing heart condition.

Despite everything she has had to sacrifice, Myat Thida Htun remains committed to resisting the coup: *“What the CRPH has achieved so far is important. We have kept the military government from functioning, and we have united ethnic groups in our resistance. The contribution of women and girls to the resistance has been crucial. People sometimes call women weak, but they have really been on the frontlines, fighting not for themselves but for the country, their children and their families.”*

She also has a clear message for the world: *“We want the international community to work directly with the CRPH for our country’s future. This is also a way of showing the people of Myanmar that you respect their vote and that the election was free and fair. At the same time, ASEAN should stop speaking only to the military, but instead work with genuine democratic forces.”*⁴⁰

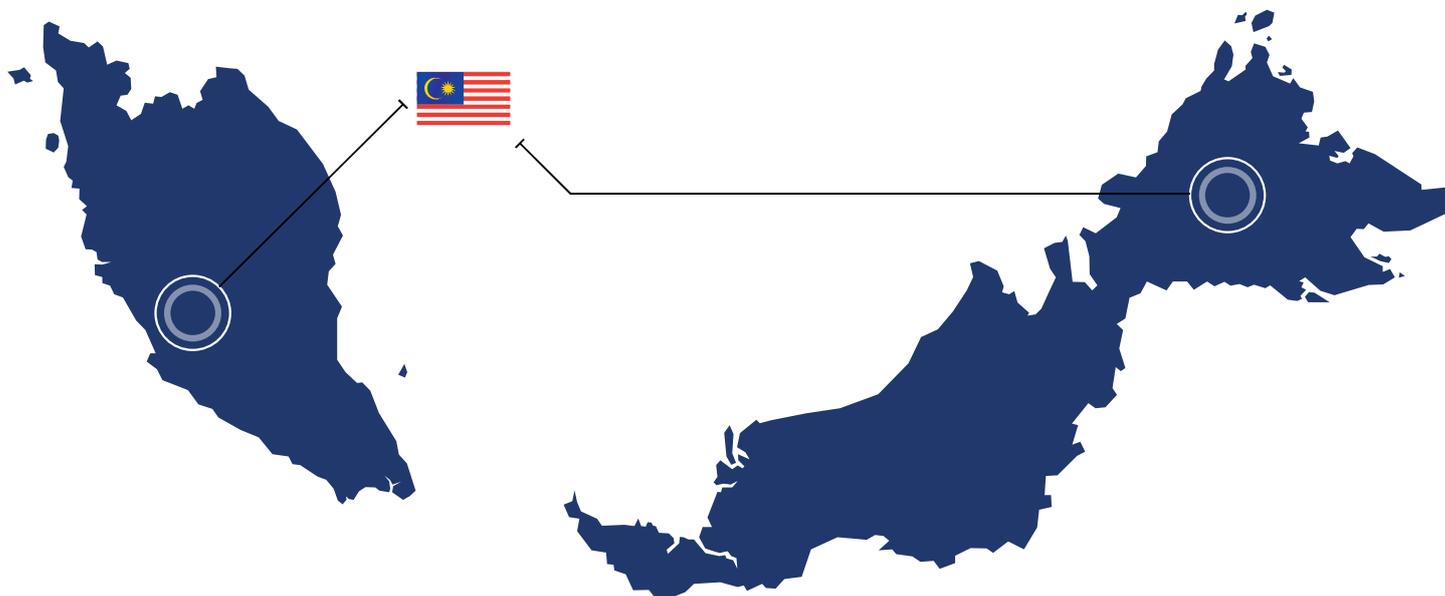
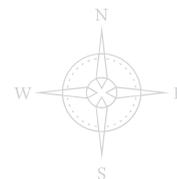
CONCLUSION

The coup in Myanmar has decimated democracy and even the limited parliamentary system the military had put in place under the 2008 constitution, which guaranteed that one-quarter of all seats were reserved for the Tatmadaw. As democratic representatives of the people, the junta has clearly identified elected MPs as one of the main challenges to their own legitimacy and authority. Despite the extreme risks of arrest and torture – not just to themselves but also to family members – a large number of Myanmar MPs have bravely vowed to continue carrying out their mandates. They deserve enormous praise for doing so, but also require protection and support in order to continue their opposition to the ongoing injustices and closure of democracy in the country. APhR urges all international actors, including ASEAN, to refrain from lending legitimacy to the junta, and instead engage directly with the CRPH and the NUG as the true representatives of the people of Myanmar.⁴¹

40 APhR interview with Myat Thida Htun, 19 October 2021.

41 Carter Centre, Preliminary Statement on the 2020 Myanmar General Elections, 10 November 2020, available at: <https://www.cartercenter.org/news/pr/2020/myanmar-111020.html>; and Asian Network for Free Elections, The 2020 Myanmar General Elections: Democracy Under Attack, 17 May 2021, available at: <https://anfreel.org/anfreel-releases-2020-myanmar-general-elections-final-observation-mission-report/>.

3. MALAYSIA



The government used the COVID-19 pandemic as a pretext to suspend parliament for much of the year. Legal harassment of opposition MPs rose alarmingly in the context of a wider crackdown on freedom of expression.

LENGTHY ARBITRARY SUSPENSION OF PARLIAMENT

Amid a surge in COVID-19 cases, the Malaysian King on 11 January 2021 declared a federal state of emergency until 1 August, at the request of then-Prime Minister Muhyiddin Yassin, effectively fully suspending Parliament for more than seven months.

Under the Emergency (Essential Powers) Ordinance 2021, authorities were granted sweeping powers, including by increasing the security forces' ability to arrest while protecting state officials from judicial oversight.

Sections 14 and 15 of the Ordinance allowed the suspension of the sittings of parliament and state assemblies until a time set by the King, while Section 12 suspended elections indefinitely.⁴² The emergency declaration came on the back of steps already taken by the government at the end of 2020 to limit some democratic processes due to the COVID-19 pandemic, including shortening the November-December parliamentary sitting and postponing regional elections.⁴³

⁴² Federal Government of Malaysia Gazette, Emergency (Essential Powers) Ordinance 2021, available at: <https://asset.mkn.gov.my/web/wp-content/uploads/sites/3/2021/03/Ordinan-Anti-Berita-Tidak-Benar-2021.pdf>.

⁴³ *Malaysiakini*, Parliament's Covid-19 prevention to allow only 80 MPs in one sitting, 5 November 2020, available at: <https://www.malaysiakini.com/news/549491>.



Malaysian opposition members of parliament confront the police after they were not allowed to enter Parliament House in Kuala Lumpur, Malaysia. © EPA-EFE

The sweeping restrictions were widely condemned as a disproportionate response to the public health crisis, with many accusing the government of attempting to protect its grip on power while avoiding legislative scrutiny. Indeed, the so-called “backdoor” government of Muhyiddin Yassin was never democratically elected but came to power in March 2020 following reported deal-making between political parties, leading to a fragile majority in parliament.⁴⁴

A coalition of 75 Malaysian CSOs called the suspension of parliament “an assault on our

civil liberties.”⁴⁵ In a statement on 2 February, 93 current and former lawmakers in Southeast Asia stressed that the emergency measures did not meet international standards of necessity and proportionality, and created conditions where “*the abuse of power [is] more likely to occur.*”⁴⁶ On 24 February, Malaysia’s King Al-Sultan Abdullah furthermore stated that parliament can remain open during an emergency.⁴⁷

Indeed, under international law, any measures to restrict human rights during states of emergency must be temporary and limited to what is strictly necessary and proportionate.⁴⁸ The IPU

44 BBC, How Malaysia’s government collapsed in two years, 5 March 2020, available at: <https://www.bbc.co.uk/news/world-asia-51716474>.

45 KOMAS, The Unnecessary State of Emergency is Detrimental to Parliamentary Democracy, 14 January 2021, available at: <https://komas.org/the-unnecessary-state-of-emergency-is-detrimental-to-parliamentary-democracy/>.

46 APHR, Southeast Asian lawmakers express grave concerns over Malaysia’s excessively broad emergency powers, 2 February 2021, available at: <https://aseanmp.org/2021/02/02/call-to-mps-southeast-asian-lawmakers-express-grave-concerns-over-malysias-excessively-broad-emergency-powers/>.

47 Reuters, Malaysia’s king says parliament can convene during emergency, 24 February 2021, available at: <https://news.yahoo.com/malaysias-king-says-parliament-convene-085033312.html?guccounter=1>.

48 UN Human Rights Committee, General (CCPR/C/21/Rev.1/Add.11, 31 August 201, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsjYoiCfMKoIRv2FVaVzRkMjTnjRO%2Bfud3cPVrcM9YR0iix49nIFOsUPO4oTG7R%2F07TSsorhtwUUG%2By2PtslYr5BldM8DN9shT8B8NpbsC%2B7bODxKR6zdESExKjLnNU%2BgQ%3D%3D>.

and OHCHR have stressed the importance of allowing parliaments to remain open during emergency declarations, given the crucial roles of parliamentarians in monitoring activities of authorities, in particular law enforcement. The IPU further recommends that responsibility for declaring states of emergency should lie with parliaments, while the suspension or dissolution of parliaments during a state of emergency should be illegal.⁴⁹ In the Malaysian case, these

standards were clearly violated. The shutdown of parliament was disproportionate, while the government ignored calls to provide alternative working methods, such as remote or online parliamentary sessions.

The state of emergency was eventually lifted in all states except Sarawak on 1 August. The Malaysian Parliament reopened for its full first session of the year on 13 September 2021.⁵⁰

INCREASE IN JUDICIAL HARASSMENT OF OPPOSITION MPS

Respect for fundamental freedoms in Malaysia deteriorated sharply after the Perikatan Nasional (PN) coalition government took office following reported back-door maneuverings in March 2020. Human rights groups have since documented an alarming rise in “*baseless criminal proceedings*” against a range of real or perceived opponents.⁵¹ In Reporters Without Borders’ annual global Press Freedom Index in 2021, Malaysia fell 18 places from its 2020 rank to 119th out of 180 countries, the biggest drop of any country from the previous year.⁵²

This repression has extended to the political opposition, as APHR has documented an increase in judicial harassment of lawmakers since the PN coalition took office, a trend that continued and intensified in 2021.⁵³ Authorities have targeted MPs who have spoken out not only against the

state of emergency but also in defense of human rights more generally. They have often relied on the same repressive legislation used to silence human rights defenders, journalists and other activists, including the Penal Code, the Sedition Act 1948, the Peaceful Assembly Act 2012 (PAA)

49 IPU and OHCHR, Human Rights Handbook for Parliamentarians No 26, 2016, p. 48, available at: <https://www.ohchr.org/documents/publications/handbookparliamentarians.pdf>.

50 FMT, First Parliament session under new PM opens tomorrow, 12 September 2021, available at: <https://www.freemalaysiatoday.com/category/nation/2021/09/12/first-parliament-session-under-new-pm-opens-tomorrow/>.

51 Article 19 and CIVICUS, Rights in reverse: One year under the Perikatan Nasional government in Malaysia, 3 March 2021, available at: <https://civicus.org/documents/A19CIVICUSRightsInReverseReportMarch2021.pdf>.

52 RSF World Press Freedom Index 2021, available at: <https://rsf.org/en/2021-world-press-freedom-index-journalism-vaccine-against-disinformation-blocked-more-130-countries>.

53 APHR, Parliamentarians at Risk: Reprisals against Opposition MPs in Southeast Asia, September 2020, available at: <https://aseanmp.org/2020/12/03/parliamentarians-at-risk-reprisals-against-opposition-mps-in-southeast-asia/>.

and the Communications and Multimedia Act 1998 (CMA).⁵⁴ As APHR has documented in the past, these cases rarely lead to convictions, but are instead filed in order to harass and drain time and resources from MPs.⁵⁵

Several MPs who publicly protested the suspension of parliament faced judicial harassment. In February, police opened an investigation against opposition MPs from the Pakatan Harapan coalition, under Section 505(b) of the Penal Code and Section 233 of the CMA, after they had issued a statement questioning the government's justification for the state of emergency.⁵⁶ The MPs **Anwar Ibrahim**, **Lim Guan Eng** and **Mohamed Sabu** were all called in for police questioning but were not formally charged.⁵⁷

On 30 April, a coalition of youth groups organized a symbolic “*breaking of the fast*” demonstration outside the parliament building in Kuala Lumpur, demanding an end to the emergency and a reopening of parliament.⁵⁸ Police questioned several participants afterwards, including MP **Mukhriz Mahathir**, for allegedly violating Section 9(5) of the PAA by holding a demonstration without a permit.⁵⁹ On 1 October, MP **Amin Ahmad** reported that police had confiscated his phone, apparently because he was investigated for sharing a letter on social media where the King criticized

the government's handling of the state of emergency.⁶⁰

On 2 August, after an ad hoc, five-day parliamentary session was cut short due to the discovery of COVID-19 cases in the building, more than 100 opposition MPs gathered outside the Dewan Rakyat (Lower House) building in Kuala Lumpur to demand its reopening.⁶¹ They were blocked from entering by the Federal Reserve Unit, a police unit usually dispatched to handle riots, while police later summoned MPs who took part in the demonstration for questioning afterwards. Some MPs were fined 1,000 Malaysian Ringgit (US \$240) for violating restrictions on public gatherings during COVID-19.⁶²

Lawmakers who have spoken out against human rights abuses more generally have also been targeted. On 22 February, police opened an investigation into MP **Charles Santiago**, also currently Chairperson of APHR, for alleged violations of Section 4(1) of the Sedition Act and Section 233 of the CMA. An unknown individual from an NGO based in Kedah state had filed a police complaint against Santiago for criticizing a fine imposed by the Federal Court on online news outlet *Malaysiakini*. The fine stems from readers' comments made on *Malaysiakini*'s website criticizing the independence of the judiciary.⁶³ Santiago, who was questioned

54 HRW, Deepening the Culture of Fear: The Criminalization of Peaceful Expression in Malaysia, 12 October 2021, available at: <https://www.hrw.org/report/2016/10/13/deepening-culture-fear/criminalization-peaceful-expression-malaysia>.

55 APHR, Parliamentarians at Risk: Reprisals against Opposition MPs in Southeast Asia, September 2020, available at: <https://aseanmp.org/2020/12/03/parliamentarians-at-risk-reprisals-against-opposition-mps-in-southeast-asia/>.

56 Pakatan Harapan, Kenyataan media Majlis Presiden berkenaan darurat, 12 January 2021, available at: https://www.facebook.com/permalink.php?story_fbid=1397737010576867&id=197799207237326.

57 *Malay Mail*, Cops question Guan Eng over Pakatan statement on Emergency, Mat Sabu's turn tomorrow, 11 March 2021, available at: <https://www.malaymail.com/news/malaysia/2021/03/11/cops-question-guan-eng-over-pakatan-statement-on-emergency-mat-sabus-turn-t/1956875>.

58 *Malay Mail*, Cops call in around 90 who broke fast in front of Parliament yesterday urging for its reopening, end of Emergency, 1 May 2021, available at: <https://www.malaymail.com/news/malaysia/2021/05/01/cops-call-in-around-90-who-broke-fast-in-front-of-parliament-yesterday-urgi/1970916>.

59 FMT, Mukhriz, 7 others hauled up over gathering outside Parliament, 18 May 2021, available at: <https://www.freemalaysiatoday.com/category/nation/2021/05/18/mukhriz-7-others-hauled-up-over-gathering-outside-parliament/>; APHR interview with legal representative of Mukhriz Mahathir.

60 Astro Awani, Warkah Agong tular di media sosial, 30 June 2021, available at: <https://www.astroawani.com/berita-malaysia/warkah-agong-tular-di-media-sosial-311347>; Tweet from Amin Ahmad, available at: <https://twitter.com/NoorAminAhmad/status/1443871237503995906?s=20>.

61 *Channel News Asia*, Malaysia opposition MPs gather at Merdeka Square after being blocked from entering parliament, 2 August 2021, available at: <https://www.channelnewsasia.com/asia/malaysia-opposition-dataran-merdeka-parliament-postponed-covid19-2084501>.

62 APHR interview with Charles Santiago, 14 October 2021.

63 HRW, Malaysia: Court Punishes News Site for Reader Comments, 20 February 2021, available at: <https://www.hrw.org/news/2021/02/20/malaysia-court-punishes-news-site-reader-comments>.

by police on 1 March, called the case “an act of intimidation to silence my voice.”⁶⁴ The case is still ongoing but has been delayed until next year.⁶⁵

Fahmi Fadzil was questioned by police on 2 May under the PAA after he and seven other activists had joined a solidarity protest for the artist Fahmi Reza the week before.⁶⁶ Fahmi Reza is a graphic artist who has faced frequent arrests and police investigations for satirizing or criticizing the government or royal family.⁶⁷ On

2 April, police opened an investigation against 11 individuals, including the MPs **Maszlee Malik**, **Maria Chin Abdullah**, and **Hannah Yeoh**, over their participation in a peaceful rally in Kuala Lumpur on 27 March calling for the lowering of the voting age.⁶⁸ The investigation, which is still ongoing, concerns alleged violations of the PAA and the Prevention and Control of Infectious Diseases (Measures Within Infected Local Areas) (Conditional MCO) (No. 4) Regulations 2021, even though the rally was fully socially distanced.

CONCLUSION

Malaysia saw a government that had come to power through a reported “back-door” deal seemingly manipulate and subvert democratic processes to maintain its own tenuous grip on power. The suspension of parliament due to COVID-19 violated international human rights and democratic standards and was an alarming example of how authorities can manipulate a public health crisis for political purposes. The situation also highlighted the crucial role of MPs in holding power to account during periods of crisis. In this context of a wider crackdown on dissent, the increase in judicial harassment of lawmakers is worrying, and we call on Malaysia’s new government to end these undue restrictions and the targeting of MPs immediately.



IN REPORTERS WITHOUT BORDERS’ ANNUAL GLOBAL PRESS FREEDOM INDEX

IN 2021, MALAYSIA FELL
18 PLACES FROM ITS 2020
RANK TO

119TH
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64 APHR interview with Charles Santiago, 14 October 2021.

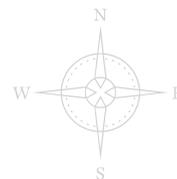
65 AFP, Malaysian news site editor questioned for sedition, 1 March 2021, available at: <https://sg.news.yahoo.com/malaysian-news-editor-questioned-sedition-105642472.html>.

66 *Malay Mail*, Cops call in PKR MP Fahmi Fadzil after show of solidarity for activist designer Fahmi Reza, 1 May 2021, available at: <https://www.malaymail.com/news/malaysia/2021/05/01/cops-call-in-pkr-mp-fahmi-fadzi-after-show-of-solidarity-for-activist-designer/1970905>.

67 Article 19, Malaysia: End the harassment of Fahmi Reza, 10 March 2021, available at: <https://www.article19.org/resources/malaysia-harassment-fahmi-reza/>.

68 Amnesty International, Malaysia: Drop investigations into the Undi18 protest, 30 March 2021, available at: <https://www.amnesty.my/2021/03/30/malaysia-drop-investigations-into-the-undi18-protest/>.

4. THE PHILIPPINES



“Red-tagging” and online harassment of opposition parties intensified in the build-up to the 2022 general elections. Senator Leila de Lima has now been arbitrarily detained for close to five years, although one of the three cases against her was dismissed.

JUDICIAL HARASSMENT AND CONTINUED IMPRISONMENT

As APHR has documented since 2019, under President Rodrigo Duterte, several Philippine lawmakers have faced judicial harassment and trumped-up charges, as well as verbal and physical threats amidst a widespread campaign of vilification. Those targeted mainly include lawmakers who have spoken out for human rights or criticized the administration’s “war on drugs,” in which thousands of mainly poor people have been extrajudicially executed.⁶⁹ Such practices continued in 2021.

Senator **Leila de Lima** has now been imprisoned for close to five years, having been arrested on three separate, trumped-up drug trafficking charges in February 2017. On 18 February 2021, a court

dismissed one of the three cases against Senator de Lima due to the lack of evidence presented by the prosecution.⁷⁰ Trials in the other two cases are ongoing, however, and Senator de Lima has been denied multiple requests for bail (see page 21).⁷¹

Sarah Elago, an MP with the youth-focused Kabataan party-list and member of the left-wing Makabayan bloc, has faced separate “kidnapping” charges in recent years, linked to false accusations that she is recruiting young people to the armed communist insurgency (see “red-tagging” below). More recently, on 1 October 2021, a group of former alleged members of the armed group New People’s Army (NPA) filed a “kidnapping” case against Elago and other left-wing activists,

69 APHR, *In the Crosshairs of the Presidency: Attacks on Opposition Lawmakers in the Philippines*, June 2019, available at: <https://aseanmp.org/2020/12/03/philippines-in-the-crosshairs-of-the-presidency-attacks-on-opposition-lawmakers-in-the-philippines>.

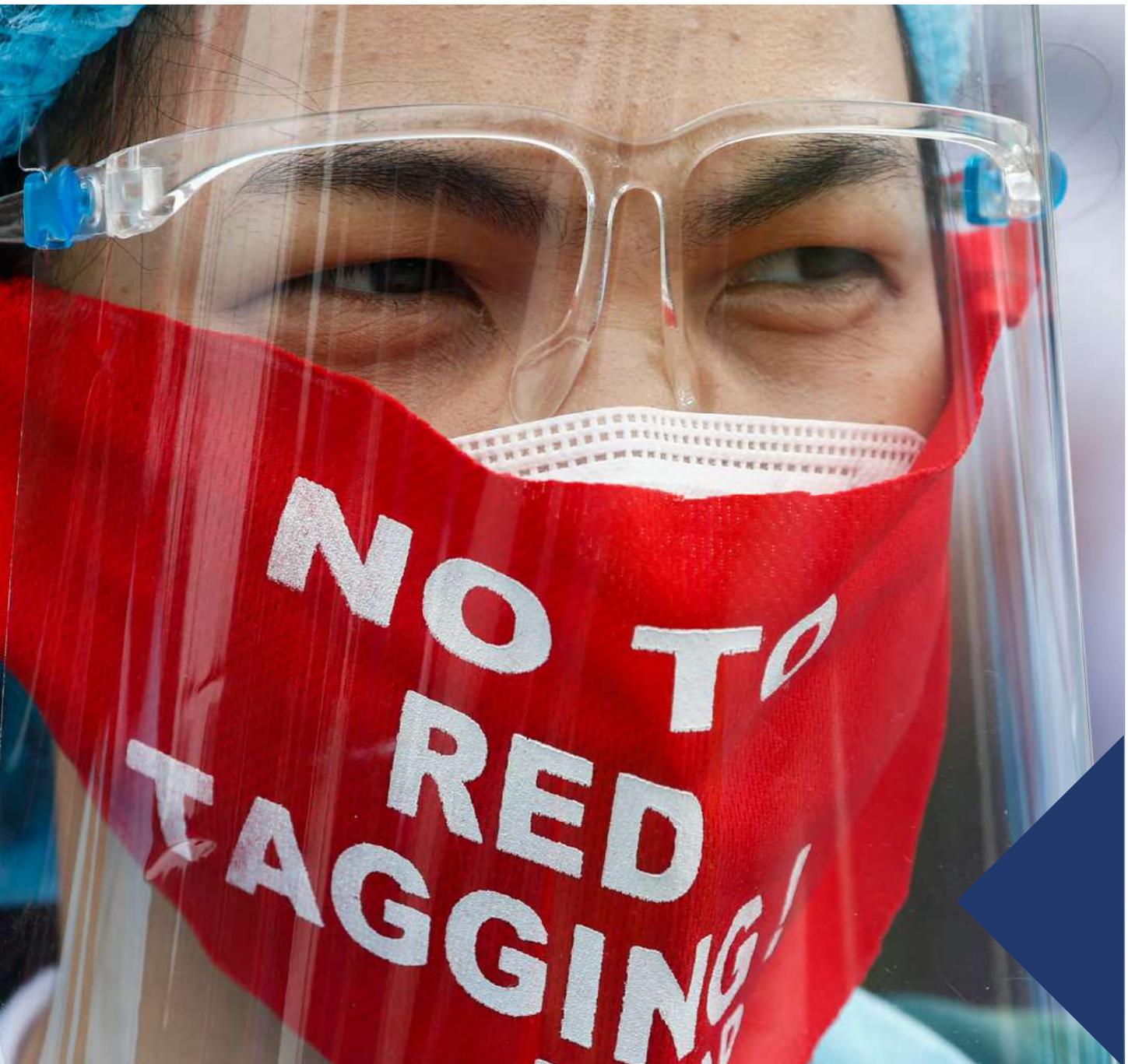
70 *Inquirer*, *Court dismisses 1 of 3 De Lima drug cases*, 18 February 2021, available at: <https://newsinfo.inquirer.net/1397089/court-dismisses-1of-3-de-lima-drug-cases#ixzz7AtMSz53W>.

71 Information provided to APHR by Sen. De Lima’s office.

citing alleged violations of the Anti-Trafficking in Persons Act and the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.⁷² Elago called the case “*pure harassment*”.⁷³

The Department of Justice had in October 2020 dismissed a separate, older “*kidnapping*” charge

brought against Elago and other activists, citing a lack of evidence.⁷⁴ While it is positive that the case was dismissed, the clear lack of evidence indicates that the case and others like it are filed simply to harass and tarnish the reputation of opposition lawmakers and activists.



A protester wears a protective mask with a message criticizing Philippine President Rodrigo Duterte during a rally in Quezon City, Manila, Philippines. © EPA-EFE

72 Philippine News Agency, Ex-NPA rebels sue Sison, Elago for trafficking, child abuse, 1 October 2021, available at: <https://www.pna.gov.ph/articles/1155346>.

73 Tweet by Sarah Elago, 1 October 2021, available at: https://twitter.com/sarahelago/status/1443817393852084231?t=zVmjlqhEf4BQmPxrt_loIq&s=19.

74 Rappler, DOJ junks kidnapping, war crimes suit against activists in student recruitment case, 26 October 2020, available at: <https://www.rappler.com/nation/doj-decision-kidnapping-war-crimes-vs-activists-october-2020-aj-lucena>.

SENATOR LEILA DE LIMA

DEFENDING HUMAN RIGHTS FROM A PRISON CELL

Leila de Lima was a prominent and long-time human rights defender in the Philippines before she entered politics. As the Chairperson of the Philippine Commission on Human Rights in 2009, she launched an investigation into illegal killings by the infamous “*Davao Death Squad*,” drawing the ire of Rodrigo Duterte, then Mayor of Davao City. After a stint as Secretary of Justice, de Lima was elected to the Senate in 2016.

When Rodrigo Duterte took office as President in the same year, he almost immediately made good on campaign promises to “*investigate*” and “*file charges*” against Senator de Lima. The President and his allies launched a vicious and misogynistic smear campaign against the Senator, including by threatening to show a fake “*sex tape*” during a Senate session. In February 2017, Leila de Lima was eventually arrested on three separate drug trafficking charges and detained in Camp Crame, Quezon City, where she has remained since.

The cases against Senator de Lima are politically-motivated and wholly without merit. Amnesty International, Human Rights Watch and many other prominent organizations have urged her immediate release, while the UN Working Group on Arbitrary Detention has called her a “*target of partisan persecution*.” Despite a complete lack of credible evidence, only one of the three



Philippine Senator Leila De Lima gestures after arriving at a metropolitan trial court for her arraignment in Quezon City, Philippines. © EPA-EFE

cases have been dismissed, while trials in the other two, both marked by severe delays, are ongoing.

Leila de Lima has continued to defend human rights from her prison cell. She issues frequent statements from behind bars and remains one of the most vocal critics of the “war on drugs.” In October 2021, the Senator filed her candidacy for re-election in the 2022 polls, stating: “*Even as I fight my own battle for my freedom, I cannot but also join the struggle of our people against injustice and oppression. My battle since 2016 when I was persecuted and then imprisoned goes hand in hand with the people’s struggle for justice and progress.*”⁷⁵

⁷⁵ Senator Leila de Lima’s website, De Lima files certificate of candidacy for Senator, 9 October 2021, available at: <https://leiladelima.ph/de-lima-files-certificate-of-candidacy-for-senator/>.

THREATS AND ORGANIZED DISINFORMATION CAMPAIGNS

Red-tagging and disinformation campaigns against left-leaning MPs has intensified during the build-up to Presidential, Senate, and House of Representatives elections taking place in 2022.

In the Philippines, security forces and government officials have long vilified critics by accusing them of having ties to armed left-wing groups, a practice known as “*red-tagging*.” As APHR has documented in its past reporting, opposition politicians are frequent targets of “*red-tagging*,” including by President Duterte himself and other senior administration members. Such rhetoric has had a chilling effect and contributed to a climate of self-censorship in Congress. Human rights groups have also highlighted how killings of activists and human rights defenders have surged during the Duterte administration, many of whom were “*red-tagged*” before their deaths.⁷⁶

These practices have not just continued but intensified over the past year. In November 2020, President Duterte accused the left-wing Makabayan bloc of being “*legal fronts*” for the armed group the NPA, while comparing MP **Carlos Zarate** to “*dog shit*.”⁷⁷ According to Carlos Zarate, this led to a spate of similar abuse from the President and other senior administration officials over the next several months, causing

him to take extra security precautions for himself and his family.⁷⁸

The National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), a government body established in response to armed conflicts with left-wing groups, has also frequently accused Makabayan MPs of supporting the insurgency without evidence. As a consequence, a Senate committee was established in late 2020 to investigate “*red-tagging*” by public officials. The committee’s final report, which was adopted by the Senate on 16 March, called on security forces to “*refrain from publicly vilifying, labeling and imputing guilt by association*” of progressive groups.⁷⁹ The report was criticized, however, by opposition MPs for concluding that there is no need to criminalize “*red-tagging*” on the basis that the existing legal framework is “*sufficient*.”⁸⁰

NTF-ELCAC’s “*red-tagging*” goes as far as attempting to bar opposition parties from competing in the 2022 general elections. In 2019, it filed a case with the Commission on Elections (Comelec) to cancel the registration of Gabriela party-list (also part of the Makabayan bloc), which advocates for women’s issues, accusing it of violating Comelec’s rules against receiving foreign funding, as well as a constitutional provision against supporting

76 APHR and others, Philippines: Duterte’s administration should be held accountable for the killings of activists and human rights defenders, 18 March 2021, available at: <https://aseanmp.org/2021/03/18/philippines-dutertes-administration-should-be-held-accountable-for-the-killings-of-activists-and-human-rights-defenders/>.

77 *Rappler*, Duterte red-tags Zarate, progressive groups in insult-laden tirade, 30 November 2020, available at: <https://www.rappler.com/nation/duterte-red-tags-carlos-zarate-progressive-groups-insult-laden-tirade-november-30-2020>.

78 APHR interview with Carlos Zarate, 14 October 2021.

79 Senate of the Philippines, Senate adopts defense committee report on ‘red-tagging or red-baiting’, 16 March 2021, available at: http://legacy.senate.gov.ph/press_release/2021/0316_prib1.asp.

80 *Inquirer*, Makabayan bloc on Senate panel report: Legal remedies on red-tagging ‘defective, lacking’, 25 February 2021, available at: <https://newsinfo.inquirer.net/1400230/makabayan-bloc-disagrees-with-senate-panels-report-legal-remedies-on-red-tagging-defective-lacking#ixzz7AtNJpaja>.

“terrorist organizations.”⁸¹ NTF-ELCAC has filed a similar petition to bar another member of the Makabayan bloc, the Kabataan party-list, from competing in the 2022 elections due to alleged support for “terrorist” groups.⁸² Gabriela and Kabataan both dispute the cases as politically-motivated “red-tagging.” Comelec hearings in the case against Gabriela started in January 2021, and there is a risk that the party could be barred from competing in 2022, and its incumbent MPs prevented from running for re-election, if found guilty.

Online abuse and disinformation against lawmakers, in particular from the opposition, remains widespread in the Philippines, as APHR has highlighted in past reports. While

the government has denied involvement in such campaigns, media outlets and others have documented how disinformation campaigns appear to be orchestrated by the Duterte administration.⁸³ Much of this abuse is highly misogynistic in nature, targeting female lawmakers with sexist language and threats. “Of course there has been ‘fake news’ against me, like manipulated photos and rape threats. I just don’t read it, because it’s what they want you to do,” one female lawmaker told APHR.⁸⁴ In May 2021, the IPU called on the Philippine authorities to do more to prevent and punish online disinformation, while highlighting how false claims against Sarah Elago “not only discredit her but also put her physical integrity at risk.”⁸⁵

CONCLUSION:

The continued harassment, both online and judicial, of opposition MPs and in particular those from the Makabayan bloc, in the build-up to the 2022 elections is concerning, and has wider impacts for the fairness of the vote. Senator Leila de Lima’s continued imprisonment is a damning symbol of the Duterte administration’s wider clampdown on dissent. For the people of the Philippines to be able to freely choose their own future, the restrictions on freedom of expression must end.



NO TO RED-TAGGING

81 Specifically, NTF-ELCAC accused Gabriela of violating Section 8 of the Rule 32 of the Comelec Rules of Procedures which allows for the cancellation of a political party if it has received financial contributions from foreign government. Information provided by Gabriela to APHR.

82 ABS-CBN, ‘Activism not a crime’: Kabataan rebukes NTF-ELCAC, OSG disqualification case, 21 September 2021, available at: <https://news.abs-cbn.com/news/09/21/21/kabataan-rebukes-ntf-elcac-osg-disqualification-case>.

83 APHR, In the Crosshairs of the Presidency: Attacks on Opposition Lawmakers in the Philippines, June 2019, available at: <https://aseanmp.org/2020/12/03/philippines-in-the-crosshairs-of-the-presidency-attacks-on-opposition-lawmakers-in-the-philippines>.

84 APHR interview with Arlene Brosas, 14 October 2021.

85 IPU Committee on the Human Rights of Parliamentarians, Decisions adopted at the 165th Session, 25 May 2021, p. 9, available at: <https://www.ipu.org/file/11330/download>.

5. THAILAND

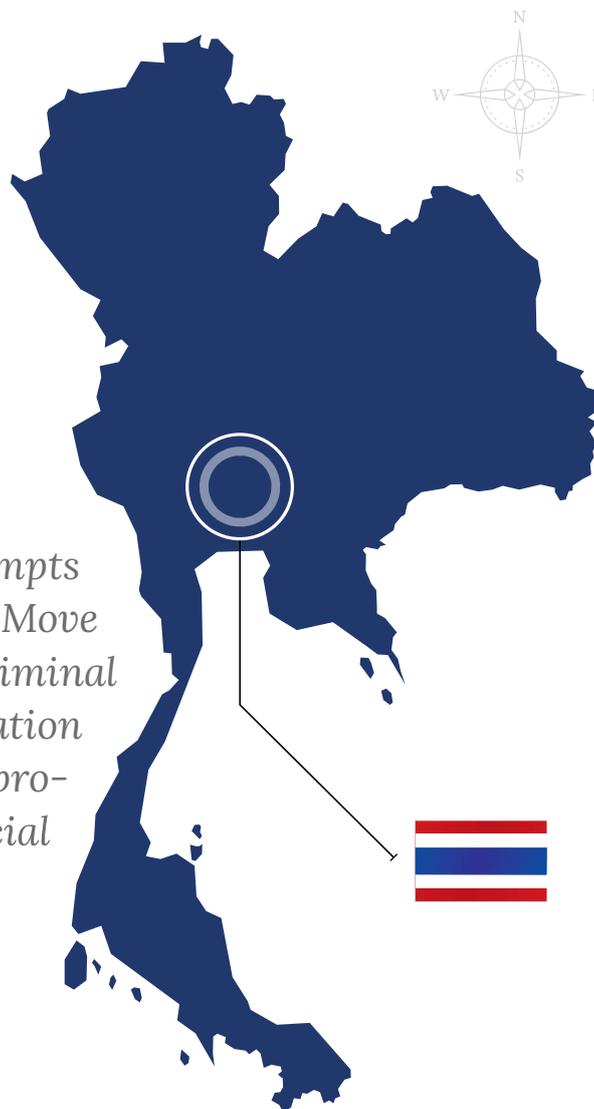
Authorities continued their relentless attempts at undermining lawmakers from the new Move Forward Party through trumped-up criminal charges and coordinated online “Information Operations”, often after they defended pro-democracy protests or exposed official corruption.

SYSTEMATIC JUDICIAL HARASSMENT AGAINST THE MOVE FORWARD PARTY

The climate for freedom of expression remains severely restricted in Thailand. In the context of growing, youth-led anti-government protests throughout 2020, Prime Minister Prayuth Chan-ocha in November 2020 announced that the government would more stringently enforce “*all laws and articles*.” Since then, the use of Section 112 of the Penal Code, the *lese majeste* provision criminalizing defamation of the royal family, has rocketed. According to the NGO Thai Lawyers for Human Rights (TLHR), at least 144 lawsuits have been filed under Section 112 between 24 November 2020 and 29 September 2021.⁸⁶ Each charge carries a prison sentence of between three and 15 years.

While the vast majority of cases have targeted online speech supporting anti-government protesters, current and former opposition MPs have also been charged or threatened with charges. Authorities have also relied on other laws frequently used to stifle dissent, such as the Computer Crime Act or defamation under Sections 326-333 of the Criminal Code, which could lead to between one and three years in prison and/or a fine.⁸⁷

All MPs facing politically-motivated criminal cases are members of the Move Forward Party (MFP), which was formed to continue the agenda of the Future Forward Party (FWP)



⁸⁶ TLHR, The number of prosecutions under “Lèse Majesté” in 2021-2021, available at: <https://tlhr2014.com/en/archives/24103>.

⁸⁷ Article 19, Thailand: Third UPR must urge the Thai authorities to cease their assault on free expression, 26 March 2021, available at: <https://www.article19.org/resources/thailand-third-upr-must-urge-the-thai-authorities-to-cess-their-assault-on-free-expression/>.

following its arbitrary disbandment in 2020.⁸⁸ APHR has documented how the FWP has been the target of a systematic campaign to discredit it and prevent its members from participating in politics since it surprisingly won 81 seats in the 2019 election on a campaign challenging the role of the Thai military in politics.⁸⁹

On 20 January 2021, former MP and founder of the FWP, **Thanathorn Juangroongruangkit**, broadcast a video on Facebook criticizing the Thai government's COVID-19 vaccination roll-out and the role of the company Siam Bioscience, which is owned by the monarchy.⁹⁰ In response, a senior official in the Office of the Prime Minister filed criminal charges under Section 112 against Thanathorn and warned that any similar criticism would be prosecuted.⁹¹ In August, a legal adviser for Palang Pracharat, the ruling party, filed a second Section 112 charge against Thanathorn based on comments he made about the vaccine roll-out during a court hearing in the first case.⁹² This case comes on top of a series of other judicial cases that Thanathorn has been facing since entering politics.⁹³

One other opposition MP was also threatened with *lese majeste* charges by a senior government official. On 20 February 2021, Suphon Attawong, Assistant Minister to the Prime Minister's Office, threatened to file *lese majeste* charges against **Rangsiman Rome**, an MP with the MFP. This was after Rangsiman, during a speech to parliament as part of the no-confidence motion against

Prime Minister Prayuth Chan-ocha, alleged that a senior official in the royal palace was involved in police corruption.⁹⁴

Other MPs have faced charges simply for exercising their right to freedom of expression, often for exposing alleged government corruption. **Amarat Chokepamitkul**, an MP from the MFP, turned herself into police for questioning on 27 March after a lawyer of the Prime Minister filed charges against her under section 14(2) of the Computer Crime Act, and defamation under Sections 326-328 of Criminal Code. The case relates to three tweets posted by Amarat in 2020 and 2021 where she accused the Prime Minister of tax avoidance.⁹⁵ **Bench Saenchantra**, also of the MFP, was sued for defamation under Sections 326-328 of Criminal Code as well as Section 423 of the Civil and Commercial Code by the energy company Gulf Energy. Bench used a debate in parliament on 18 February to allege that Gulf Energy had used connections with government officials to get government contracts for years, resulting in an over construction of plants.⁹⁶



88 APHR, MPs urge Thai authorities to end attacks on pro-democracy groups, 21 February 2020, available at: <https://aseanmp.org/2020/11/09/future-forward-party-dissolved/>.

89 APHR, Parliamentarians at Risk: Reprisals against Opposition MPs in Southeast Asia, September 2020, available at: <https://aseanmp.org/2020/12/03/parliamentarians-at-risk-reprisals-against-opposition-mps-in-southeast-asia/>.

90 *Financial Times*, A king's vaccine: Thailand's struggle to deliver jabs to its people, 10 June 2021, available at: <https://www.ft.com/content/aaa8b820-68c7-408d-9486-222fe2d65634>.

91 iLaw, Case file: Digital Ministry blocks video clip 'Royal Vaccine' of 'Progressive Movement', available at: <https://freedom.ilaw.or.th/en/case/924>.

92 *Bangkok Post*, Thanathorn hit with 2 more lese majeste charges, 20 August 2021, available at: <https://www.bangkokpost.com/thailand/politics/2167967/thanathorn-hit-with-2-more-lese-majeste-charges>; Information provided to APHR from the Progressive Movement.

93 APHR, Thailand: Regional MPs urge end to judicial harassment of opposition politician, 9 November 2020, available at: <https://aseanmp.org/2020/11/09/thailand-judicial-harassment-thanathorn/>.

94 *Khaosod*, Gov't seeks to slap MP with royal insult charge for debate exposé, 20 February 2021, available at: <https://www.khaosodenglish.com/politics/2021/02/20/govt-seeks-to-slap-mp-with-royal-insult-charge-for-debate-expose/>.

95 *Matichon*, MP Amarat meets Nang Loeng police after being summoned for lese majesty, 27 March 2021, available at: https://www.matichon.co.th/local/crime/news_2644823.

96 *Thai Enquirer*, Move Forward MP defiant despite lawsuit by Gulf Energy, 5 April 2021, available at: <https://www.thaienquirer.com/26127/move-forward-mp-defiant-despite-lawsuit-by-gulf-energy/>.



The leader of Move Forward Party Pita Limjaroenrat (speaks during a meeting inside the meeting chambers of Thai Parliament, in Bangkok. © EPA-EFE

On 2 September, the Thai military filed a police complaint against MFP MP **Nattacha Boonchaiinsawat** under the Computer Crime Act, accusing him of using falsified documents to allege the army had orchestrated social media campaigns against the opposition, as part of so-called “Information Operations.” The investigation is ongoing and Nattacha has yet to be formally charged.⁹⁷

The slew of legal cases has had a chilling effect on debates in parliament. Pannika Wannich, a former FWP MP who was arbitrarily stripped of her seat when the party was disbanded, told APHR:

“ These cases are a burden since they take time and effort to fight. The main goal is to discredit us. On a personal level MPs from other parties might approach us to say they agree with our efforts to change repressive laws, but they dare not speak out in public.⁹⁸

”

97 *Thaiger*, Move Forward MP accused of falsifying documents in complaint filed by Thai army, 2 September 2021, available at: <https://thethaiger.com/hot-news/politics/move-forward-mp-accused-of-falsifying-documents-in-complaint-filed-by-thai-army>; Information provided to APHR from the MFP.

98 APHR interview with Pannika Wanich, 13 October 2021.



THREATS AND COORDINATED ONLINE DISINFORMATION CAMPAIGNS

Several MPs suspect they have been the target of surveillance by authorities, as APHR has highlighted in past reporting on Thailand.⁹⁹ In

August, an alleged “*watchlist*” was leaked to media featuring 183 individuals under surveillance by the government, including journalists, activists and several current and former FWP and MFP lawmakers, although the government denied its authenticity.¹⁰⁰ Separately, one former MP reported finding a GPS device hidden underneath her car on 10 August.¹⁰¹

Some harassment has also targeted family members of lawmakers. In May 2021, two unknown men showed up at the house of **Rangsiman Rome** while he was not home, falsely telling his security team that they were friends of his wife. Rangsiman, who reported the incident to police on 28 May, thinks it was a way of intimidating him after his outspoken criticism of the government in parliament.¹⁰² In September, a 17-year-old niece of Thanathorn was also charged under Section 112 over alleged anti-monarchy tweets, one of scores of children targeted with trumped up criminal charges in the context of anti-government protests.¹⁰³

Opposition MPs told APHR they continued to face a barrage of disinformation (“*fake news*”) and harassment online. This often takes the form of so-called “*Information Operations*” (IOs), which appear to be coordinated, with the same doctored photographs or false news articles appearing on multiple social media accounts and pages at the same time.¹⁰⁴ Twitter has in the past suspended hundreds of fake accounts linked to the Royal Thai Army involved in such operations, which a study by Stanford University revealed disproportionately targeted the MFP.¹⁰⁵

99 APHR, *Parliamentarians at Risk: Reprisals against Opposition MPs in Southeast Asia*, September 2020, available at: <https://aseanmp.org/2020/12/03/parliamentarians-at-risk-reprisals-against-opposition-mps-in-southeast-asia/>.

100 Khaosod, *The Paranoid State's Top-secret List of Enemies*, 14 August 2021, available at: <https://www.khaosodenglish.com/opinion/2021/08/14/the-paranoid-states-top-secret-list-of-enemies/>.

101 Tweet from Pannika Wanich, 10 August 2021, available at: https://twitter.com/pannika_fwp/status/1424986305444802560?lang=en

102 APHR interview with Rangsiman Rome, June 2021; copy of police report on file with APHR.

103 *Thai News Room*, *Thanathorn's Niece Slapped With Lese Majeste Charges*, 23 September 2021, available at: <https://thainewsroom.com/2021/09/23/thanathorns-niece-slapped-with-lese-majeste-charges/>; Amnesty International Thailand, *Thailand levying politically motivated charges against children under 18 years old*, 20 May 2021, available at: <https://www.amnesty.or.th/en/latest/news/920/>.

104 APHR interview with Pannika Wanich, 13 October 2021.

105 Stanford Internet Observatory, *Cheerleading Without Fans: A Low-Impact Domestic Information Operation by the Royal Thai Army*, 8 October 2020, available at: <https://stanford.app.box.com/v/202009-sio-thailand>.

RANGSIMAN ROME

“

Parliament must be an example to society. If we can't speak openly about our country inside parliament, how can people outside be expected to?

”



Thai lawmaker Rangsiman Rome sits during an interview at the new Parliament in Bangkok, Thailand. © EPA-EFE

In 2017, Rangsiman Rome was languishing in detention in Bangkok when he started questioning what he was doing with his life. As one of the most high-profile student activists opposing the military junta and the 2014 coup d'état, he had long been a target for authorities and was arrested multiple times. He was eventually jailed after campaigning against the new constitution the military regime attempted

to push through. *“When I was in prison, I started feeling jealous of my friends who could lead nice and normal lives. I was supposed to be a law student, but I felt like my full-time job was as a prisoner. I thought about doing something else, but I realized I had to continue. Thailand had been stuck in a cycle of military coups for so long, the country would never change unless we changed.”*

Rangsiman thought it was “time to do something bigger,” and did not hesitate to join the newly formed FWP when the opportunity presented itself. In the 2019 elections, despite the balance being heavily tilted in favor of pro-military parties, the FWP won 81 seats, including one for Rangsiman who was elected to the House of Representatives. After the FWP was arbitrarily disbanded in 2020 and many of his colleagues stripped of their seats, Rangsiman moved to the newly formed Move Forward Party, vowing to keep pushing a progressive agenda.

Despite the threat of arrest and an almost constant stream of online abuse from pro-government trolls, Rangsiman has continued to champion human rights. He is among the MPs to have pushed through a new Prevention and Suppression of Torture and Enforced Disappearance Bill, which is currently being discussed in the House of Representatives. Rangsiman says that last year’s “disappearance” of exiled Thai activist Wanchalearm Satsaksit in Cambodia really highlighted why more legal protections were necessary: “I knew

Wanchalearm personally, and I could not believe that this could happen to someone just because they criticized the government. We need a law to prevent this from ever happening again, but also to end the fear that so many activists in Thailand live with, that they could be next.”

His activities as a lawmaker have come at a personal cost. In February, after he exposed government corruption during a no-confidence motion in parliament, he hired a bodyguard and moved to a safehouse to protect himself. A few months later, what he suspects were plainclothes intelligence officers came to his home in an attempt to harass him and his family. Rangsiman has also been sued for defamation after implicating Deputy Prime Minister Prawit Wongsuwan in alleged corruption, which could lead to a two-year jail sentence if he is found guilty. Rangsiman is concerned about the effects of cases like these on the general climate for debate: “Freedom of expression is under threat in Thailand, especially for young activists. If this country sees young people as the enemy, what future do we have?”¹⁰⁶



Demonstrators hold banners and flash three-finger salutes during a rally calling for the monarchy reform in Bangkok, Thailand. © EPA-EFE

106 APhR interview with Rangsiman Rome, 25 October 2021.

The Election Commission in January 2021 also opened a new investigation against the former FWP senior members Thanatorn, Pannika Wanich, and Piyabutr Saengkanokkul for alleged violations of the Political Party Act. The investigation relates to a complaint filed by a pro-monarchy activist in November 2020, accusing the trio of using the Progressive Movement, a social movement established

after the FWP's disbandment, as a political party while campaigning for local elections in December 2020. If found guilty, the three could face a fine and/or imprisonment of up to three years, as well as an additional five-year ban from participating in politics (all three already serving a 10-year ban from politics). As of the publication of this report, hearings in the case were ongoing.¹⁰⁷

CONCLUSION:

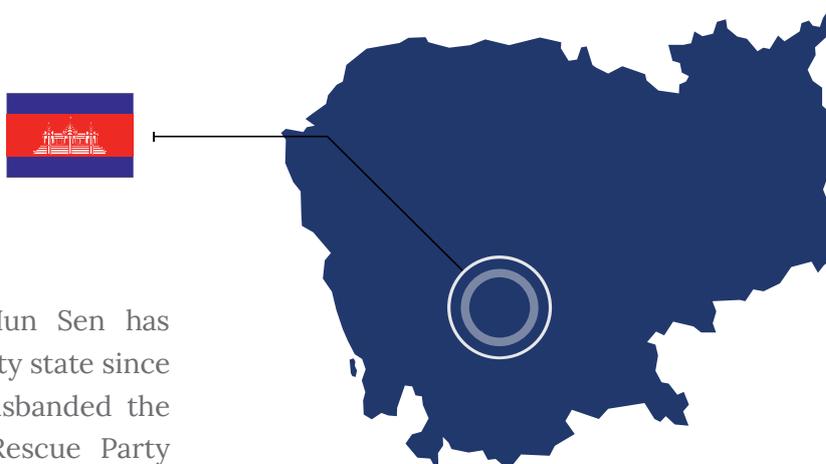
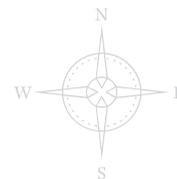
The continued harassment against the MFP lawmakers and former lawmakers of the FWP, whether through the judiciary or through online targeting, appears to be part of a concerted and systematic effort by the government to discredit and silence the party. Despite the personal costs involved and the ever-present threat of arrest and even imprisonment, its MPs have continued to challenge the role of the military in Thai politics and promote a human rights agenda in parliament. The most recent example of this is the proposed Prevention and Suppression of Torture and Enforced Disappearance Act, which is currently being debated in parliament.

**FREEDOM OF
EXPRESSION IS
UNDER THREAT
IN THAILAND**



¹⁰⁷ Thai PBS, Progressive Movement to be investigated for actions related to local elections, 30 November 2020, available at: <https://www.thaipbsworld.com/progressive-movement-to-be-investigated-for-actions-related-to-local-elections/>; information from Progressive Movement provided to APHR.

6. OTHER COUNTRIES



In **Cambodia**, Prime Minister Hun Sen has ruled what is effectively a one-party state since the Supreme Court arbitrarily disbanded the opposition Cambodia National Rescue Party (CNRP) in 2017 and banned its 118 MPs from politics for five years. Since then, the judicial harassment of former CNRP MPs has only continued. On 14 January, courts in Cambodia began a series of mass trials against 136 former CNRP MPs, members and supporters who have been charged with crimes including “plotting” and “incitement to commit felony” under Articles 453, 494, and 495 of the Cambodian Criminal Code.¹⁰⁸

Politicized criminal trials against CNRP activists have continued throughout the year. Nine exiled senior CNRP leaders and former MPs were on 1 March sentenced *in absentia* on charges of “attempt to commit felony” and “attack” under articles 27 and 451 of Cambodia’s Penal Code. The case relates to false allegations that the leaders planned to stage a coup after announcing their return to Cambodia in 2019. Those sentenced include Sam Rainsy, the acting CNRP leader, and

deputy leaders Mu Sochua and Eng Chhay Eang who were given between 22 and 25 years in prison.¹⁰⁹ The convictions follow illegal efforts of the Cambodian government dating back to 2018 to prevent the exiled leaders from returning to the country.¹¹⁰

On 26 October, four CNRP members including the former MP Ho Vann, now in exile, were fined and sentenced to two years in prison for “incitement” after they demanded the release of a jailed trade unionist.¹¹¹ Meanwhile, CNRP President Kem Sokha remains under house arrest following his arrest in September 2017 on charges of “conspiracy with foreign powers” under Article 443 of the Criminal Code, which could lead to 30 years in prison. His trial has been delayed indefinitely due to the COVID-19 pandemic.¹¹²

108 APHR, Cambodia: Drop charges against opposition members and supporters, allow those in exile to safely return, say regional MPs, 13 January 2021, available at: <https://aseanmp.org/2021/01/13/cambodia-drop-charges-against-opposition-members-and-supporters-allow-those-in-exile-to-safely-return-say-regional-mps/>.

109 HRW, Cambodia: Quash Conviction of Opposition Leaders, 3 March 2021, available at: <https://www.hrw.org/news/2021/03/03/cambodia-quash-conviction-opposition-leaders>.

110 For background see APHR, Parliamentarians call for the immediate release of Mu Sochua and an end to Cambodia’s relentless assault on dissent, 9 November 2020, available at: <https://aseanmp.org/2020/11/09/cambodia-mu-sochua-immediate-release-end-assault-dissent/>.

111 UCA, Cambodian court convicts 14 activists over protests, 26 October 2021, available at: <https://www.ucanews.com/news/cambodian-court-convicts-14-activists-over-protests/94714#>.

112 Kasit Piromya in the Bangkok Post, Cambodia must strike a new path, 3 November 2021, available at: <https://thediplomat.com/2021/11/cambodia-must-change-course-on-democracy-to-avoid-myanmars-international-isolation/>.

7. CONCLUSION AND RECOMMENDATIONS



A protester covered himself with Thai national flag flashes three-finger salute next to a sentence written on the street during a street protest in Bangkok, Thailand. © EPA-EFE

In many ways, 2021 was a dark year for human rights in Southeast Asia. Myanmar descended into chaos after the coup on 1 February and the crackdown that followed. Elsewhere, including in Cambodia, Malaysia, the Philippines and Thailand, the climate for freedom of expression remained severely restricted, with governments using the COVID-19 pandemic to suspend parliament and further criminalize criticism. A broad range of government opponents are facing trumped-up criminal charges, arrest and harassment.

In all of these countries, elected lawmakers were among those targeted and subjected to a wide range of human rights violations to silence their voices. Unfortunately, in 2021 APHR must report that the situation facing MPs has only deteriorated further. This is not only due to the crisis in Myanmar, but also because of how governments have manipulated the pandemic to undermine opposition MPs and erode the oversight they exercise on executive powers, as well as through orchestrated campaigns of judicial harassment, threats, and disinformation to discredit and silence them.



AN ATTACK ON A PARLIAMENTARIAN IS AN ATTACK ON DEMOCRACY

As space for democracy in ASEAN recedes increasingly every year, it is crucial that governments across Southeast Asia and others take immediate steps to better protect the human rights of all parliamentarians.

It is important to also note that attacks on parliamentarians have lasting impacts on the future space and prospects for political engagement by both constituents and representatives of democratic systems. Each case mentioned in this report unfortunately serves as a warning to other MPs who would seek to contribute to genuine, transparent, and rights protecting actions, which often lead to accountability for those in power. All relevant stakeholders must engage, in order to protect the rights and freedoms of MPs who remain an essential element for democracy as well as sustainable development in the region.

An attack on a parliamentarian is an attack on democracy. Parliaments and parliamentarians can play crucial roles in promoting human rights but must be free to exercise their mandates without fear of reprisals to do so. Indeed, lawmakers are often human rights defenders in their own right. This is particularly important in the context of elections, such as the ones coming up in the Philippines in 2022 and in Cambodia in 2023, but also in times of emergency and crisis as during last year when the COVID-19 pandemic increasingly affected the region.

TO THE MYANMAR MILITARY:

- Immediately end all illegal killings, arbitrary arrests, torture or other ill-treatment, impeding of humanitarian assistance and other human rights violations against people across Myanmar. Immediately release all those detained arbitrarily since the coup, including lawmakers; and
 - Respect the results of the 2020 elections and commit to reinstate democratic institutions immediately, including the lawmakers arbitrarily stripped of their seats.
-

TO MALAYSIA, THE PHILIPPINES, THAILAND, AND CAMBODIA:

- Immediately end all forms of politically-motivated harassment of opposition lawmakers, including the use of criminal charges, threats, surveillance, disinformation, and ensure MPs are able to fulfill their mandate effectively without fear of reprisal;
- Immediately drop all politically-motivated investigations and charges against lawmakers, including those documented in this report;
- Ensure that prompt, impartial, and thorough investigations are carried out into allegations of such threats and harassment and the perpetrators held to account;
- Ensure that parliamentary immunity and the right to freedom of expression for all parliamentarians are effectively upheld;
- End all use of threatening, sexist, and misogynist rhetoric against lawmakers, and take concrete steps to prevent gender-based harassment from occurring again in the future, including by holding perpetrators to account;
- Publicly condemn “*disinformation*” campaigns targeting lawmakers online, and develop a comprehensive plan to curb such disinformation through collaboration with media outlets, civil society, social media platforms, national human rights institutions, and other stakeholders;
- Initiate reforms of all laws that have been identified as restricting the rights to freedom of expression, association, and peaceful assembly with a view to bringing them in line with international human rights law and standards;
- Urgently end all attacks and drop all politically-motivated charges against human rights defenders, media, and peaceful political activists;

- Ensure that parliaments remain open and can perform their vital oversight functions during the COVID-19 pandemic, including by exploring remote working methods; and
- Enact legislation ensuring that the responsibility for declaring states of emergency lie with elected assemblies and that the suspension of parliament during emergencies is illegal.

TO PARLIAMENTARY SPEAKERS AND PARLIAMENTARY HUMAN RIGHTS STANDING COMMITTEES ACROSS ASEAN MEMBER STATES AND TIMOR-LESTE

- Ensure that all parliamentarians are able to carry out their parliamentary mandate effectively and without fear of retaliation, and that the right to freedom of expression for all parliamentarians is effectively upheld; and
- Ensure that systematic protection measures, including parliamentary immunity, are promptly granted and effectively put in place by the relevant authorities whenever parliamentarians are under threat.

TO PARLIAMENTARIANS IN SOUTHEAST ASIA:

- Use your position in parliament to ask your government about actions it is taking on human rights violations documented in this report, including to address the human rights crisis in Myanmar;
- Systematically call for the immediate and unconditional release of all those detained arbitrarily, including parliamentarians in Myanmar and Senator Leila de Lima; and
- Work to repeal or amend all laws that have been identified as restricting the rights to freedom of expression, association, and peaceful assembly with a view to bringing them in line with international human rights law and standards.

TO ASEAN AND ITS MEMBERS STATES:

- Publicly and forcefully condemn the military coup in Myanmar and the widespread human rights violations by the junta since. Publicly call for an immediate end to such violations and the release of all those arbitrarily detained, including lawmakers;
- Ensure that no ASEAN actors or institutions are used to afford the Myanmar junta legitimacy, including by not extending invitations to junta officials at ASEAN official meetings, such as ASEAN Summits or the General Assembly of the ASEAN Inter-Parliamentary Assembly;
- Publicly recognize that the 2020 elections in Myanmar were reflective of the will of the people, that the CRPH and the NUG are the legitimate representatives of the people of Myanmar, and immediately publicly and officially meet with their representatives;
- Ensure the prompt implementation of ASEAN's Five Point Consensus agreement; and
- Support, in speech and action, international calls for a global arms embargo on Myanmar and targeted sanctions on military officials implicated in human rights violations and economic entities affiliated with them, as well as all international justice efforts related to Myanmar, including ongoing processes at the International Criminal Court and the International Court of Justice.

TO INTERNATIONAL PARTNERS, ESPECIALLY ASEAN DIALOGUE PARTNERS:

- Use all available means to pressure military officials in Myanmar to end all human rights violations, release those arbitrarily detained and respect the results of the 2020 election, while ensuring that perpetrators are held to account through international justice processes; and
- Use all available means to persuade other governments in Southeast Asia to respect human rights and democratic principles, including by ending all politically-motivated harassment of opposition lawmakers.

TO SOCIAL MEDIA COMPANIES, IN PARTICULAR FACEBOOK:

- Strengthen efforts globally and in Southeast Asia to monitor and prevent disinformation, hate speech and other harassment, including by strengthening monitoring in local languages and including abuse directed against lawmakers, in particular female lawmakers.

PARLIAMENTARIANS AT RISK:

Reprisals against opposition MPs in Southeast Asia in 2021

The last year has seen a dramatic rise in the number of MPs detained across Southeast Asia, from just one in 2020 to 91 in 2021, largely due to developments in Myanmar, where the military seized power in a coup in February. Scores of other MPs in Myanmar have been driven into hiding where they remain at risk of arrest. Governments used responses to COVID-19 to unjustifiably silence democratic debate, including by bringing politically-motivated cases against critics and lawmakers who expressed dissenting views. In Malaysia, COVID-19 was used as an excuse to suspend elections and parliament for more than seven months, as part of apparent efforts to keep an unpopular government in power. Judicial harassment against MPs continued in countries like Thailand and the Philippines, and escalated substantially in Malaysia. Legal cases rarely lead to convictions but are instead filed to harass and muzzle freedom of expression. Online abuse and harassment of MPs continued at an alarming rate throughout the region, often through coordinated disinformation campaigns. In the Philippines, such abuse spiked ahead of the upcoming elections in 2022.

Across Southeast Asia, parliamentarians are increasingly at risk. Lawmakers who use their mandates to defend human rights or to hold power to account have for years been targeted through trumped-up criminal charges, threats and harassment, physical violence, and detention. In 2021, we continued to see MPs targeted, to a large extent because of the military coup in Myanmar and its devastating aftermath, but also due to alarming developments elsewhere.