

Killing of LGBTIQ+ persons in military-controlled Myanmar

Human Rights Myanmar - Response to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions – June 2024

The military coup in Myanmar on 1 February 2021 dramatically altered the human rights landscape in the country, significantly affecting the LGBTIQ+ community, leaving between five and 12 individuals dead. The coup disrupted the fragile progress made in protecting LGBTIQ+ individuals and plunged the nation into a state where the rule of law is often disregarded. This submission details the legal, institutional, and societal frameworks under military rule that endanger the right to life of LGBTIQ+ persons, highlights the failures in the protection of their rights, and provides recommendations for improvement.

Discriminatory laws and policies

Since the military coup, Myanmar's legal framework has continued to uphold laws and policies that directly violate international human rights obligations concerning the right to life of LGBTIQ+ persons:

Criminalization of homosexuality

Section 377 of the Penal Code criminalizes same-sex relations with punishments of up to 10 years in prison. This law remains a significant barrier to the protection and dignity of LGBTIQ+ persons. The military regime has not only maintained this law but has also intensified its enforcement, using it as an aggravating factor further marginalizing and criminalizing LGBTIQ+ persons, which indirectly sanctions violence against them.

Militarized policing and arbitrary detention

The military's control over law enforcement has led to increased harassment, arbitrary detention, and abuse of LGBTIQ+ persons. Individuals are also often targeted under broad and vague public decency laws, which are used to justify or aggravate their detention and mistreatment. Such practices create a climate of fear and impunity, making it difficult for LGBTIQ+ persons to seek justice or live openly.

Civil society monitors have identified at least 12 LGBTIQ+ persons killed by the military since the coup started. Most were killed during protests against the coup or advocating for the civil disobedience movement. Dozens more, perhaps as many as 100, have been detained and subjected to violence including torture and other forms of cruel, inhuman, or degrading treatment. There are at least 13 persons who define as LGBTIQ+ still detained at the time of submission, and there are likely to be many more who do not openly identify as LGBTIQ+ or have not been recognised during monitoring. These persons are likely to be the tip of the iceberg.

Aggravated forms of violence targeted at LGBTIQ+ persons include:

- Torture specifically targeted including hot irons placed on breast implants, cigarette burns to nipples, implements inserted into genitals

- Shaved heads, being stripped naked, and paraded on the streets in public
- Nude images and images showing military abuse shared on social media

Regression in nascent protections

Any efforts to introduce anti-discrimination measures and practices have been stifled by the military. The military has shown no interest in protecting any human rights including LGBTIQ+ rights, and existing discriminatory practices have intensified everywhere as a result. LGBTIQ+ persons cannot call upon the military-controlled police or courts to protect their rights, even in areas seemingly unrelated to their LGBTIQ+ status. This rollback has nullified the limited progress made in previous years, leaving LGBTIQ+ persons, many of whom opened up their status publicly during the optimistic years of the nascent democratic transition, more vulnerable to violence than ever.

Violent suppression of civil society

Human rights defenders and organizations advocating for LGBTIQ+ rights face increased surveillance, intimidation, and arrests under the military. The shrinking civic space under military rule makes it difficult for these groups to operate and support their communities effectively. Many activists have been forced into hiding or exile, further weakening the advocacy for LGBTIQ+ rights within the country. Despite the oppressive environment, some efforts have been made to raise awareness about LGBTIQ+ issues. These campaigns aim to educate the public and reduce stigma and discrimination. However, their reach and impact are limited by pervasive cultural prejudices and the military's censorship and attempts to control large parts of the media and public discourse.

Failed investigations and prevention of unlawful deaths

The mechanisms for investigating and preventing unlawful deaths of LGBTIQ+ individuals have largely collapsed under military rule. Any legal protections that may have been in development prior to the coup have been halted. The military regime has dismantled the rule of law, making it impossible for LGBTIQ+ individuals to seek protection or justice through legal means. This suppression of legal and civil protections has left LGBTIQ+ persons more vulnerable to violence and abuse.

The military and police forces in Myanmar exhibit deep-seated prejudice against LGBTIQ+ individuals. Crimes against LGBTIQ+ persons are frequently ignored or inadequately investigated, with many victims fearing further victimization if they report abuses. This systemic bias leads to underreporting of crimes and a lack of accountability for perpetrators. Impunity is rife.

Myanmar lacks specific hate crime legislation to protect LGBTIQ+ individuals. Under military rule, there is little to no political will to address hate crimes, leaving victims without legal recourse or protection. This absence contributes to a pervasive environment of violence and discrimination against LGBTIQ+ persons, as crimes motivated by homophobia or transphobia are not properly recognized or prosecuted.

Successes since the coup

Despite the oppressive environment, various grassroots initiatives have continued to provide critical support and advocacy for LGBTIQ+ individuals facing significant violence. These efforts include offering legal aid, psychological counselling, and safe spaces for those in need. The resilience of these initiatives demonstrates the importance of community-based support in the face of authoritarianism. By documenting abuses and offering aid to victims, these initiatives play a crucial role in mitigating the immediate impacts of violence and discrimination.

Local and international organizations and advocacy groups have increased pressure on various stakeholders, including the military, to uphold human rights, including those of LGBTIQ+ persons. While the impact of such advocacy is constrained by the military's resistance to external influence, it has helped to bring international attention to the plight of LGBTIQ+ individuals in Myanmar and provided some support and solidarity. Most importantly, the situation could have been far worse without such civil society efforts.

Conclusion

The military coup in Myanmar has dramatically worsened the situation for LGBTIQ+ persons, stripping away the rule of law and increasing the prevalence of violence and discrimination. Immediate and sustained international action is necessary to protect the lives and rights of LGBTIQ+ individuals in Myanmar. By supporting civil society, exerting diplomatic pressure, and providing safe havens, the international community can help mitigate the human rights crisis faced by Myanmar's LGBTIQ+ community. Long-term strategies focusing on legal reforms, societal change, and the strengthening of civil society are essential for creating a safer and more inclusive environment for all.

Recommendations

- Continue to apply **sustained diplomatic pressure** on the military to respect human rights and protect LGBTIQ+ persons. This includes condemning abuses in international forums, supporting UN resolutions, and engaging in bilateral and multilateral discussions.
- Implement **targeted sanctions** against military leaders and entities responsible for human rights abuses. Sanctions should focus on limiting the military's ability to finance and perpetuate violence against marginalized groups.
- Provide resources and support for the **systematic documentation and advocacy** on human rights abuses against LGBTIQ+ individuals. This includes funding for NGOs, training for activists, and platforms for sharing information internationally.
- Increase **humanitarian assistance** for LGBTIQ+ individuals affected by the violence and instability in Myanmar. This includes funding for shelters, healthcare, and psychosocial support.
- Offer **asylum and refugee support** for LGBTIQ+ individuals fleeing persecution in Myanmar. This involves expedited asylum processes, financial support, and integration assistance for those seeking refuge in other countries.