



FREEDOM OF EXPRESSION
ACTIVIST ORGANIZATION

Athan – Freedom of Expression Activist Organization

“A Chance to Fix in Time”

Analysis of Freedom of Expression in
Four Years Under the Current Government

Research Report

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Organisational Background

Athan was founded on January 15th 2018 and led by youths who value and respect freedom of expression. Athan is a merger of Research Team for Telecommunications Law and We Support Journalists, with an aim to promote freedom of expression in a more systematic and wide-spreading manner.

Athan compiles the lawsuits filed under Telecommunications Law, Peaceful Assembly and Peaceful Procession, Unlawful Associations Act, Section 505(b) and Section 505(c) of the Penal Code; compiles the number of journalists charged; monitors, documents and reports the violations of freedom speech and prosecutions over free expression; conducts advocacy to legislative body and relevant ministries in order to implement legal reform and organises awareness raising programmes, trainings and workshops in necessary areas to promote freedom of expression.

Research Methodology

“**A Chance to Fix in Time:** Analysis of Freedom of Expression in Four Years Under the Current Government” is a research report on violations of the right to freedom of expression from April 1, 2016 to March 31, 2020 under the new government. The report was conducted by monitoring daily newspapers, news from journals, and news from solid online sources, recording on news and cases, which are analyzed and documented by sector. In addition, we also conduct in trial visits, telephone interviews and field work organizing data on demonstrations. We also reference on previous published reports, reports from other civil society organizations, and the Government's official statements.

Copyright of Photos

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Introduction

Chapter (1): Introduction

1.1 Background

Myanmar has stayed in the nightmare of freedom of expression since 1962. It is widely said that the 1947 Constitution could guarantee the right to freedom of expression and opinion after independence. Burma was ranked at the top places among Asian countries in terms of media freedom in 1950. However, human rights including the right to freedom of expression were dashed under the one-party authoritarian system led by the Burma Socialist Programme Party (BSPP) that was formed under the regime led by General Ne Win after a coup d'état in 1962. The repressive one-party system, loss of fundamental human rights, economic crisis and worsened socioeconomic status resulted in 8888 nationwide democracy revolution with a mass mobilisation across the country. The 1990 multi-party general election was held after the revolutionary uprising, however, the entire country was ruled

again by the dictatorship of the Tatmadaw (Myanmar Army) that still preserved, not to hand over the power to the winning party. The military regime established the State Peace and Development Council (SPDC) to rule the country with tyrannical system, leading it to the absolute loss of free speech.

The 2010 general election followed the adoption of the 2008 Constitution drafted by the military dictatorship. The Union Solidarity and Development Party (USDP), a political vehicle of former military generals, won in the election and the political system of the country started transitioning from military dictatorship to quasi-democracy. Even though Section 354 guarantees the right to freedom of expression, publishing and distribution and Section 365 guarantees the freedom of art, the 2008 Constitution states restrictions must be established, in a phrase “if (the expression and assembly) are not contrary to the existing laws”. Hence, it only seems that the 2008 Constitution respects and fulfils the right to freedom of expression in euphoria but impedes the freedom of expression in practice.

The constitution lacks of provisions protecting media freedom and freedom of information too. Free speech is limited, not even protected by the constitution, a pivotal stem of a legal system of the country.

The situation apparently improved a little under the previous government led by U Thein Sein compared to its predecessor NaAhPha military dictatorship (State Peace and Development Council) led by U Than Shwe because direct censorship of private media agencies was abolished, ban on Thangyat performance was lifted and peaceful protests were regulated through a legislation. More expectations for human rights and freedom of expression emerged after the National League for Democracy (NLD) led by Daw Aung San Suu Kyi won with landslide victory in the 2015 general election. This report includes the findings on freedom of expression violations within four years from April 1, 2016 to March 31, 2020 under the NLD-led new government.

1.2 Overall Analysis of Prosecutions within Four Years

The government's four years in power have seen a vast number of free speech violations. The violations took various forms. The most obvious form is prosecution under an existing law while other forms include order, instruction, imposing ban on protests, events, ceremonies, assemblies or silencing the people's voice in one way or another.

(a) Lawsuits and Affected Individuals

There are a total 539 lawsuits against no less than 1,051 individuals in four years.

The number of lawsuits has been steadily increasing year by year. The number of lawsuits in the second year in government's term of office raised by 19 percent than the first year. Most lawsuits were found in the third year when the number of lawsuits was 49 percent higher than that of the first year. There is a slight difference of number between the third and fourth year but the latter is significantly 46 percent higher than the first year in terms of lawsuits number.

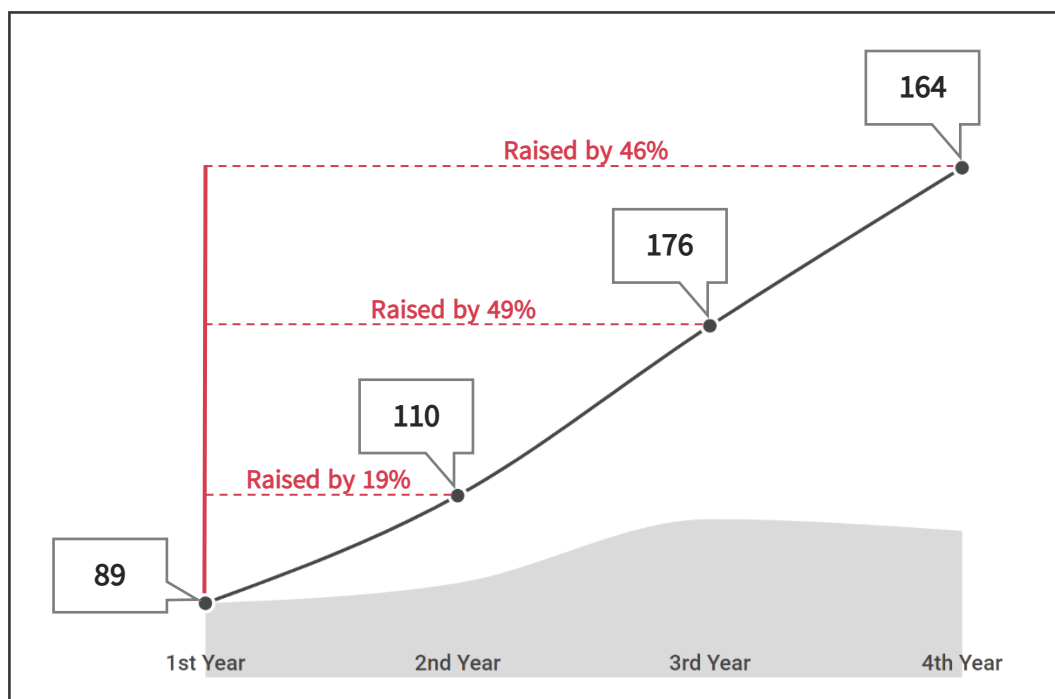


Figure: Increasing number of lawsuits year by year

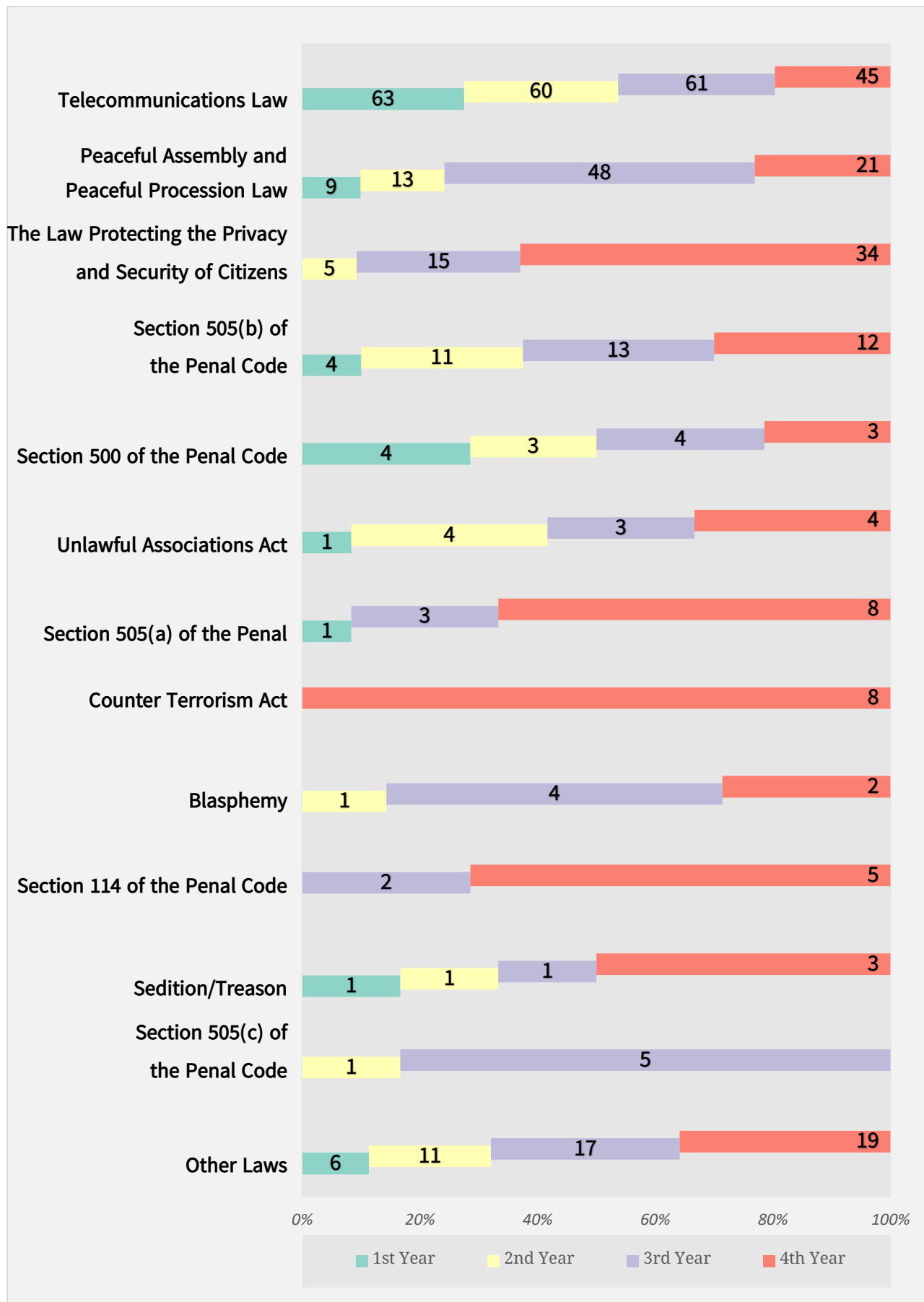


Figure: Types of law used in filing lawsuits and number of lawsuits by years

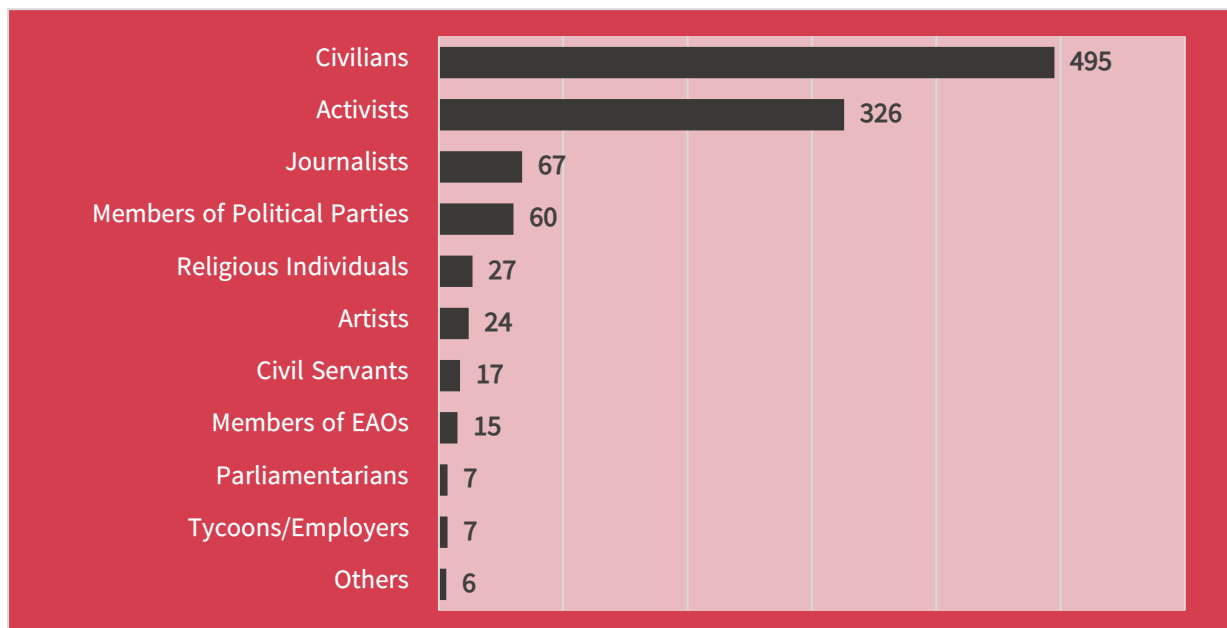
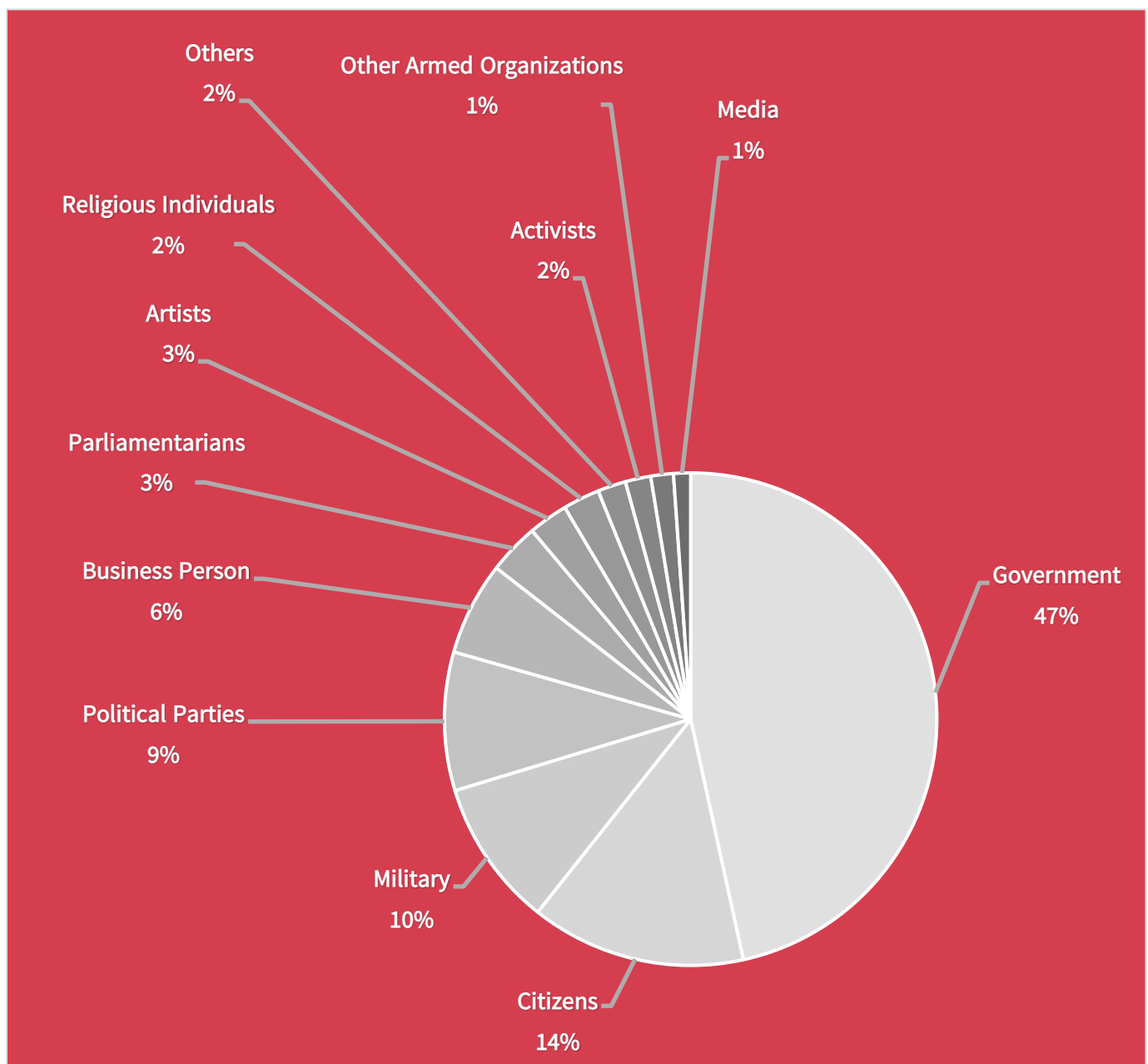


Figure: Types of accused and number of lawsuits

(b) Perpetrators

The complainant who filed the most lawsuits is the government. The second most common complainants in lawsuits are civilians who typically filed lawsuits against the critics of the State Counsellor, the government, NLD and USDP as third-party plaintiffs on their behalf.

Exceptionally, lawsuits filed by journalists or media personnel were found among the lawsuits violating the free expression. In 2016 and 2017, many civilians were sued under the Telecommunications Law for criticising the news media agencies, media proprietors or different forms of news coverage. Some lawsuits were withdrawn by the media agencies.



Types of complainants and proportion of lawsuits

Freedom of Expression



Chapter (2): Freedom of Expression

Freedom of expression is not only a most fundamental human right but a foundation for the development of a democratic society. Myanmar is encountering many challenges and pressures on its initial stage of transitional process. Freedom of expression is controlled and fettered by the constitution that is a supreme law of a nation to existing laws, by-laws, orders, instructions and procedures.

An assured condition for freedom of expression was expected under the government formed by NLD after it won power with support of the vast majority in the 2015 general election. In terms of legal reform, superficial amendments of Peaceful Assembly and Peaceful Procession Law and Telecommunications Law were made while The Law Protecting the Privacy and Security of Citizens was enacted in order to be used as a weapon to charge people over the criticisms of the government. Prosecutions of journalists and lack of amendment to News Media Law despite the repeated demands of the journalists for a long time are the proof of NLD's unwillingness for freedom of expression. This chapter describes free speech violations under NLD-led government by using existing laws and legal provision in detailed case by case.

2.1 Lawsuits under Telecommunications Law

Telecommunications Law has turned six years and five months since it was enacted on October 8, 2013. Section 4 in Chapter 2 of the law describes that the objectives of the law as “to enable to support the modernization and development of the nation..., to enable to give more opportunities to the general public..., to enable to protect the Telecommunications Service providers and users in accord with law and to enable to supervise Telecommunications Service, Network Facilities and Telecommunications Equipment which require license...”. Although the original objective of the law was to regulate the foreign telecommunications companies it became a threatening weapon to people’s intrinsic right to freedom of expression in 2015 before the election period. The deteriorating cycle of lawsuits under Telecommunications Law began from Tatmadaw’s filing lawsuit against a citizen for his online criticism of Tatmadaw in the 2015 election campaign. There were 11 Telecommunications cases under the previous government but there were 102 cases filed before the amendment of the law and 127 cases after the amendment under the incumbent government. Many accused faced the trial staying in custody for several months until the trial ended because they could not get bail according to the Code of Criminal Procedure by which no one can get bail as the offence of Section 66(d) is punishable up to three years in prison.

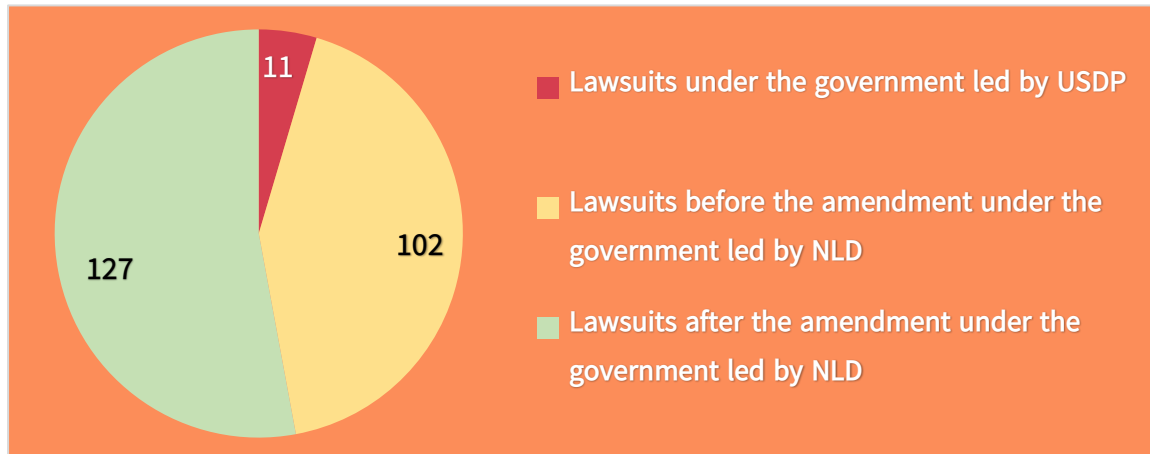


Figure – Lawsuits under the Telecommunications Law by period

The amendment of Telecommunications Law followed the consecutive attempts of civil society organisations, legal experts and activists in August 2017. The amendment included this provision, “whoever commits act of 66(d) shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not more than one million or to both”. Despite the decreased penalty and right to bail without detention, defamation clause, the main problematic part of the law was not removed. The Penal Code already prescribes the offences, punishment and legal provisions for defamation at Chapter 21, Section 500. The

2015 amendment of Evidence Act also references Section 500 of the the Penal Code for online defamation with intent to damage the reputation of an individual or an organisation. But the inclusion of defamation offences in Telecommunications leads to conflicts of laws. Moreover, legal procedure to open a lawsuit under Telecommunications Law has a lot of complicated steps.. It also has negative impacts on accused because you need to pass several procedures to even withdraw a lawsuit or make a settlement. According to Athan's findings, the trial process lasts for almost one year, even withdrawing a lawsuit lasts for six months. Thus, Sections 66(d) and 68(a) should be abolished.

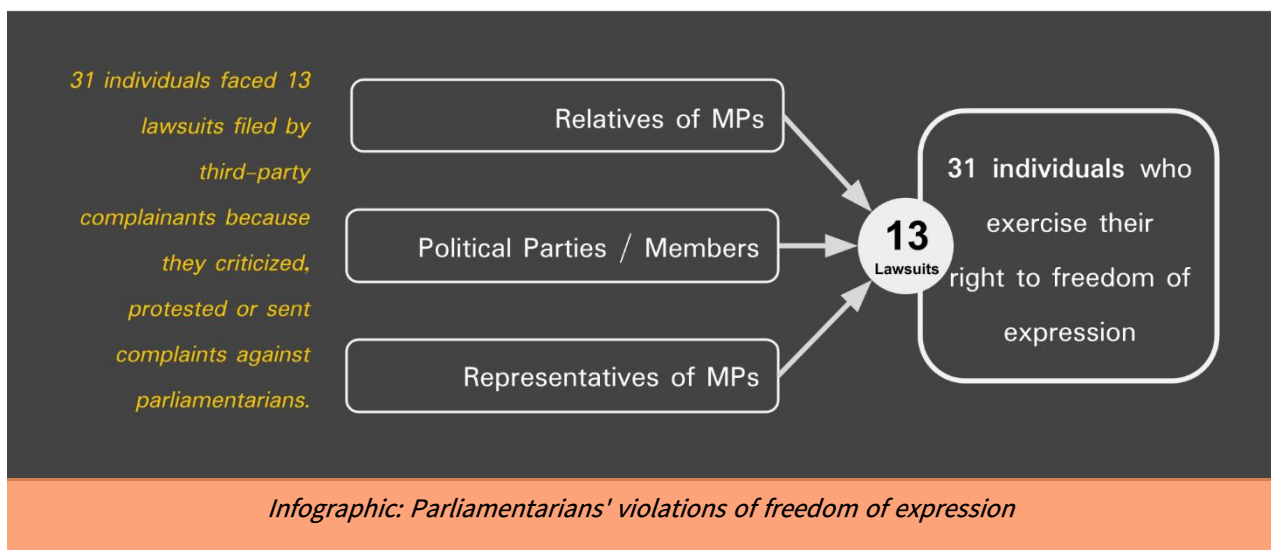
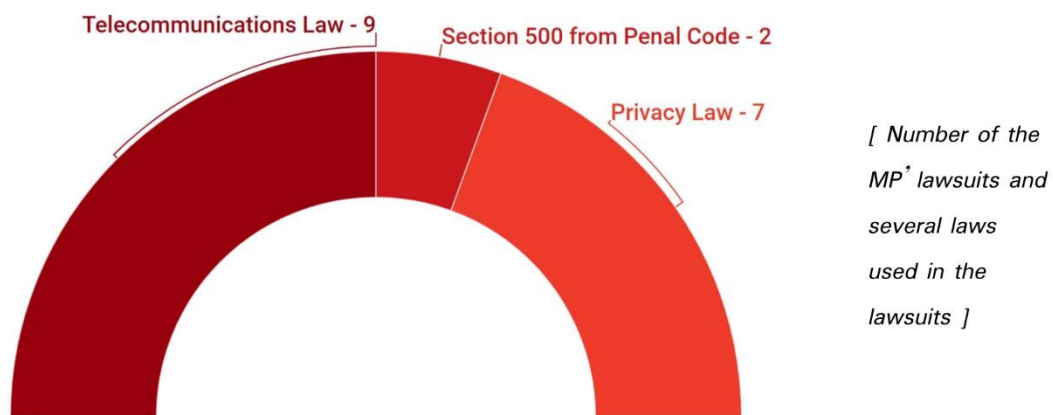
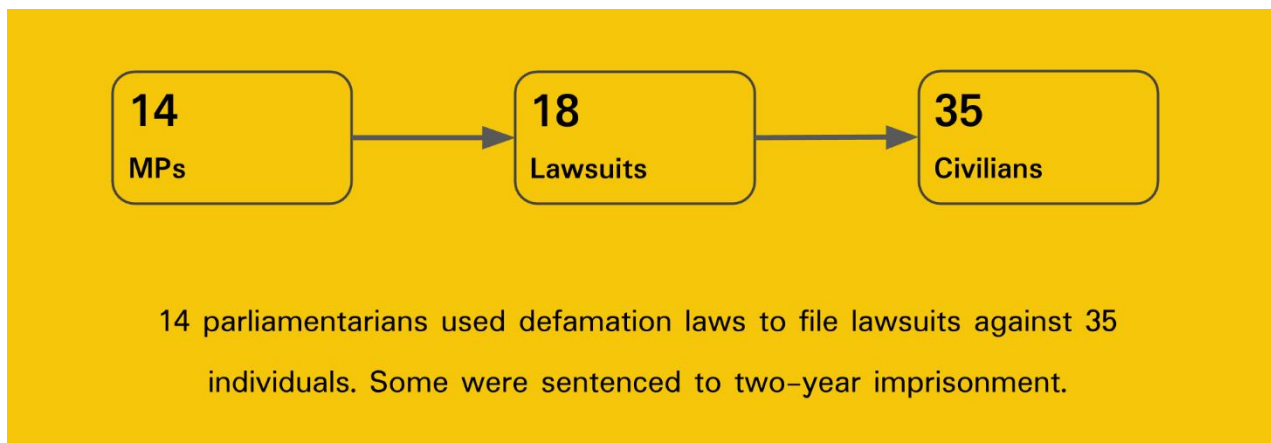
The Ministry of Transport and Communications gave an official order to telecommunications service providers to cut off the internet connection in nine townships in Rakhine State and Chin State on June 21, 2019 as per the Section 77 of Telecommunications Law. A government is not supposed to have authority to sever the internet and mobile phone communications in any conditions according to the human rights standards. Thus, Sections 77 and 78 that entitle the government to suspend the communications services -- of Telecommunications Law should be abolished too.

Significant Cases

2.1.1 Critic Jailed for Two Years Over Online Criticism of MP

On July 2 2017, MP U Zaw Zaw Htoo of No.2 constituency of Paung township, opened a lawsuit at Paung township police station against U Aung Hsan Oo, the owner of "LarHtar Kay" Facebook account for offensive posts that said (the MP is a) "downgraded drunkard, a flattered lunatic" in a Facebook group named Paung, getting more than twenty thousand views. The MP said the reason of his lawsuits is "the Facebook user portrayed the civilians as fools so his writing is defaming" him. Paung township court sentenced him to two years imprisonment with labour on July 1, 2019, making it one of the most severe cases among Telecommunications cases since the time the law was amended. This case also proves that an elected MP does not endure or want any criticisms from the public. Filing lawsuits and accusing any criticism on social media of defamation is hindering the right to freedom of expression of a civilian.

U Aung San Oo, the accused asked U Zaw Zaw Htoo to address a land issue but had no specific explanation. This also highlighted that the Telecommunications Law is being used as a weapon by a handful of powerful people instead of protecting the people.



2.1.2 Journalists Charged for Reporting News

Majority of accused charged under Telecommunications Law are civilians, activists and journalists. To respond to the disputed issues with journalists, government mostly uses Telecommunications Law to arrest and jail the journalists instead of using the News Media Law.

A land dispute erupted between the Tatmadaw's Logistics and Transport Battalion (121) and resident peasants after the battalion fenced the 173 acres of land as their dairy cattle project area at Min Te field, Wah Net village, Lun Kaung village tract, Area (3), Pyin Oo Lwin township, Mandalay Region on April 29 2019. A press conference was held at Takhon Farmers' Union's office in Mandalay on May 19. Then, major Ye Ko Ko Win of Tatmadaw's Logistics and Transport Battalion (121) lodged lawsuits under Section 66(d) of Telecommunications Law against seven peasants and Ko Win Naing Oo, a video journalist who presented about the dispute with the title, "Residents Will Protest Over Tatmadaw's Occupying Land in the Name of Cattle Project" via Channel Mandalay TV. Such filing lawsuits under Telecommunications is restricting the freedom of information and violating the freedom of expression.

2.1.3 Film Maker Jailed for Allegedly Spreading Incitement to Mutiny

U Min Htin Ko Ko Gyi, the founder of Human Rights and Human Dignity International Film Festival (Myanmar) was one of the victims of Section 66(d) of Telecommunications Law. The Tatmadaw's Yangon Command brought a lawsuit against him in April 2019, claiming his comments posted on social media between February 15 and March 22 are affronting the reputation of the Tatmadaw. He was sued under two separate charges; another charge was under Section 505(a) of the



U Min Htin Ko Ko Gyi seen at a court appearance

Penal Code. Despite cancer disease, he had to face the trial staying in jail for more than five months and his application for bail was repeatedly denied by the court. Insein court sentenced the filmmaker to one-year imprisonment with hard labour, on August 29, 2019.

2.1.4 An Individual Prosecuted for Criticising Parliamentarians

Daw Myat Thet Mon, a stray-dog rescuer in Yangon, faced a trial under a defamation charge for three years for criticising parliamentarians. Daw Thida Maung, a MP of Yankin township constituency (1) in Yangon Region filed a lawsuit against her under Telecommunications Law at Yankin township court in November 2016. The accused was charged on May 31, 2017 but got bail. Furthermore, U Thein Zaw, a MP of constituency (2) of Yangon Region Parliament also filed a lawsuit under Section 500 of the the Penal Code at the same court in September 2016 after she wrote “disgraceful office, unqualified parliamentarian” on social media because she was not satisfied with how the NLD officials managed the case of the young domestic worker who said she fled from Daw Myat Thet Mon’s house. The court decided she was not convicted for the Penal Code charge but she must be fined Five hundred thousand Kyat (500,000 MMK) or sentenced to three-month imprisonment for Telecommunications charge. Daw Myat Thet Mon chose to pay the fine and claimed to appeal at the court.

2.1.5 Buddhist Monks Facing Trial with Bail For Criticising the Tatmadaw

The Tatmadaw filed a lawsuit against a Buddhist monk, Sayadaw U Sein Tita of Malikha Wahso temple, Maha Vijita Rama monastery in Pyi Gyi Tagon township, Mandalay, under Section 505(b) of the Penal Code on May 27 2019 for his online posts allegedly defaming the reputation of the Tatmadaw. The court rejected the lawsuit on July 23 but the Tatmadaw opened another lawsuit under Section 66(d) of Telecommunications Law. The trial began on March 5, 2020 and the monk got bail with five million Kyat (5,000,000 MMK).

Similarly, the Tatmadaw’s Central Command opened a lawsuit against Sayadaw U Sobhita (also known as Alinka Kyal) from Mandalay city under Section 505(b) of the Penal Code at Amarapura township court. The lawsuit was rejected too but the monk was sued in another lawsuit under the Telecommunications law.



Sayadaw U Sorbhita (Thaw Bita) seen at a court appearance

2.2 Lawsuits under the Law Protecting the Privacy and Security of Citizens

States have an obligation to provide full protection to people in a democratic society and must respect the privacy of every single person in the country. Article 12 of Universal Declaration of Human Rights (UDHR) also states “No one shall be subjected to arbitrary interference with his or her privacy”.

The Law Protecting the Privacy and Security of Citizens was enacted on March 8, 2017. Although the law was enacted for prevention of stalking eavesdropping, Myanmar Police Force’s Special Branch (SB) and military intelligence still conduct pursuing and inquiries to activists and politicians meanwhile the original objective of the law is not implemented. The law becomes a misused law in reality while its objectives are only in utopia.

Section (8) of the privacy law is criminal defamation clause and Section (10) is the penalty clause. Anyone who commits the offence prohibited in Section (8) will have to face trial without getting bail because the maximum penalty for offences in Section (8) is three-year imprisonment. In some cases, the third-party complainants file lawsuits on behalf of someone as there is no specific or clear legal provision on “legal representative”. Furthermore, Athan found in trial records that courts make decisions on the cases without

hearing the people who are allegedly defamed in those cases as witnesses. This highlights that critical expressions did not harm reputations in reality.

Legal reform of a democracrac country needs to be in accordance with international and democracy standards. In international and democracy standards, government leaders, civil servants, politicians, parliamentarians and civil society organisations rather should hold press conferences than prosecute the critics to respond to besmirching. If the government always uses legal prosecution over every criticism it will only lead to free speech violations.

The privacy law cannot provide a full protection of every single person's information from accessing, watching and stalking in practice although it is said the law guarantees the privacy and security of every citizen. People still need to give their personal information when they deal with public service departments and the privacy law obviously does not include the perspective of legal and ethical management of personal information of citizens.

Now, the total number of cases under the Law Protecting the Privacy and Security of Citizens rises to 54.

Significant Cases

2.2.1 A Local Charged for Uploading the Chief Minister Speaking Video Clip

The very first victim of the privacy law since the enactment of the law is U Aung Ko Ko Lwin from Thaton township, Mon State. U Aung Ko Ko Lwin was charged under Section 8(f) of the privacy law for uploading a video clip in which the Chief Minister of Mon State told people to “reduce one dish of curry” at a public gathering event where local people, Mon State authorities and parliamentarians attended. U Aung Ko Ko Lwin received a one year jail sentence on September 27, 2019, after a four-month trial.

2.2.2 Farmer Jailed for two years

The case of U Nyein Maung who suffered the harshest penalty within three years since the enactment of the privacy law erupted between the residents of Palaung village and Orchard company owned by Dr. Myint Sein over a disputed land. While the “Hundred Households Head” from Palaung village announced that all farmers harvesting and cultivating on the land must leave, U Nyein Maung took a photo of him announcing with a hand loudspeaker. Then U Nyein Maung was sued under the privacy law. He was sentenced to two years in prison by the Ma-U-bin township court on January 9, 2020 after a one-year trial.

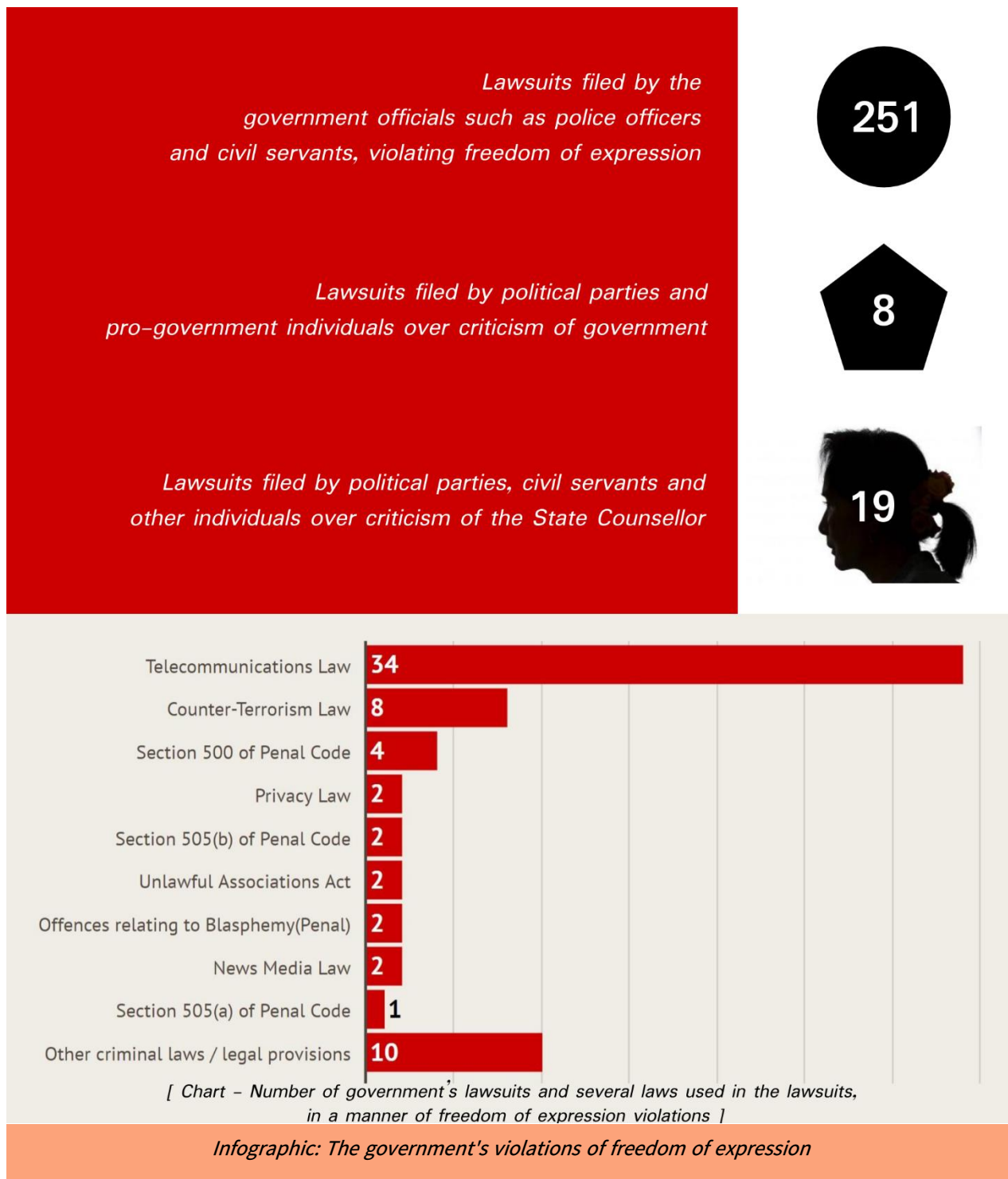
2.2.3 People Charged over Calling the State Chief Minister and Other Ministers Traitors

Thousands of Karenni residents (estimatedly 3,000 people) marched at Kantarhaywon park, Loikaw township, Kayah State in a protest against February 12, 2019. At somewhere, 20 protesters got injured because police officers responded to them with rubber bullets and water cannons. At 10:00 am, Karenni activists organised a sit-in in front of Kantarhaywon park waiting to meet the State Chief Minister. The protesters had a chance to meet the State government and ministers after waiting for a long time. Then they had agreements at 03:00 pm.

Later, the State government broke the agreements they made. Thus Karenni activists issued a statement in which the State Chief Minister U L. Phaung Sho; State Minister of Commerce U Maw Maw and members of General Aung San Bronze Statue Committee were called “national criminals”, “Karenni national traitors”, “enemy of national solidarity” and “ungrateful people”. As a response to that declaration, Deputy Director of Kayah State Government Office filed lawsuits against Ko Myo Hlaing Win (aka) Pascarqulel, Ko Dee De (aka) Sitt Mone, Ko John Paul (aka) Pya Lay, Khun Thomas, Khuu Reedu and Khun Bernard under the Law Protecting the Privacy and Security of Citizens, through the official instruction of State Chief Minister. The six young activists were sentenced to six-month by Loikaw township court on October 7.

2.2.4 A Civilian Charged Over Criticising General Aung San

A business owner named U Thura Soe who owns Zaburit jewelry shop in Magway township wrote “I have learned the history of Aung San. Has Aung San ever combated at battles?” on his Facebook account “Thu Ya Soe” on March 29, 2019. Following his post, he was hit by a lawsuit filed by U Soe Moe, the chairperson of Magway township NLD branch under Section 10 of the Law Protecting the Privacy and Security of Citizens on April 1. U Thura Soe apologised in a video clip at his Facebook timeline on June 19. However, U Soe Moe said in a media interview that he would keep going with legal procedure as he has not got any new instructions from the party.



2.3 National Record and Archive Law

National Record and Archive Law was enacted in December 2019 to replace the National 1990 National Record and Archive Law that had been enacted by the State Peace and Development Council of the military regime. The newly enacted law only allows people to

access and utilise the information after the secrecy period ends. Secured terms of information are classified as; 30 years for “top secret” status, 25 years for “secret” status, 20 years for “internal affair” status and five years for “restricted” status in chapter 12 of the law. According to Section 13, the Directorate of National Archive has authority to restrict the people’s right to access and utilise the archives. Hence, this law empowers the government to refuse and restrict the people’s right to information.

The government can classify any information as “top secret” and control them no less than 30 years according to the current law. The law creates no option to review the government’s decision. The “top secret” classification system can easily be misused to cover the corruption, mismanagement and human rights violations of the government.

Hence, the National Record and Archive Law should be amended in accordance with human rights standard and democratic standard to enforce the enactment of Right to Information Law.

2.4 Lawsuits under Sections 505(a), (b), (c) of the Penal Code

Section 505 of the Penal Code states that “Whoever makes, publishes or circulates any statement, rumour or report -(a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force to mutiny or otherwise disregard or fail in his duty as such ; Or (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any Section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to two years, or with fine, or with both.”

Free speech violations through lawsuits under Section 505 of the Penal Code have been increasing under the NLD-led government. Athan documented 12 lawsuits under Section 505(a), 40 lawsuits under Section 505(b) and six lawsuits under Section 505(c). The majority of lawsuits were filed by the Tatmadaw for “damaging the reputation of the Tatmadaw”. Section 505(b) was also frequently used to prosecute protesters and critical people against the government. Section 505(c) was used in lawsuits against young Karenni activist protesters.

Significant Cases

2.4.1 The Tatmadaw's Filing Lawsuits For Damaging Its Reputation

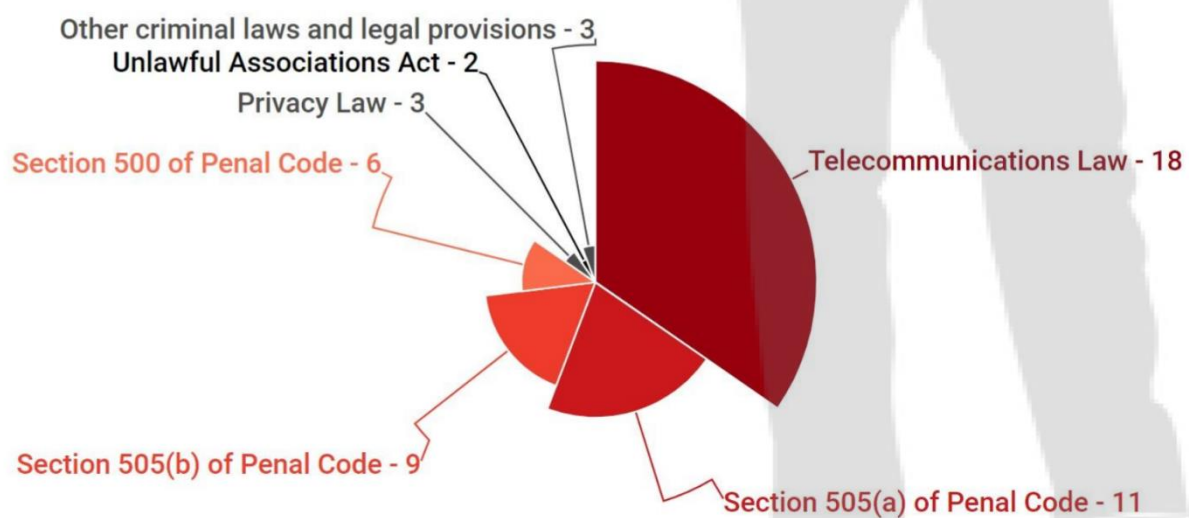
It was found that the Tatmadaw also committed many free speech violations through filing lawsuits under the current government. The reason widely used in the Tatmadaw's lawsuits under Sections 505(a) and 505(b) is "damaging the reputation of the Tatmadaw" and "defaming the Tatmadaw".

Lieutenant Colonel Zaw Zaw of Kha Mout Gyi military camp in Kawthaung township opened lawsuits on April 3, 2019 against advocate U Kyee Myint, former political prisoner and poet Saw Wai and former military general U Nay Myo Zin at the township court for their speech at a rally organised in Tanintharyi Region's Kawthaung township to show support for Constitution Amendment Joint Committee. Kawthaung township court summoned the accused of three in December 2019 seven months after the rally. But the lawyer and the poet were each granted 5,000,000 (five million Kyat) bail by the court on February 3, 2020.

Lieutenant Colonel Toe Lwin of No.(1) Tatmadaw Special Training in Taikkyi township filed a 505(a) charge against the political activist Nay Myo Zin alleging that he criticised the morality of army leaders at a literature talk show organised on a lawn near the General Aung San statue in Aphyout sub-township, Taikkyi township on April 1. The activist was jailed for one year after facing trial in prison for more than five months.

The Tatmadaw also sued U Nay Myo Zin under Section 505(a) of the Penal Code at Khin-U township court of Sagaing Region and Wakema township court of Ayeyarwady Region again. So, U Nay Myo Zin was sued at three courts that are hundred-miles far away from each other but all decided he was convicted. He was sentenced to one year under Section 505(a) by Taikkyi court; one year under Section 505(a) and another one year under 505(b) by Wakema court; and two years under Section 505(a) by Khin-U court.

The Tatmadaw open a lawsuit at Pyigyidagun township court in Mandalay against a Buddhist monk called Myawaddy Min Gyi Sayadaw Ashin Ariya Vamsa Bivamsa under Section 505(b) and criminal defamation Section 500 of the Penal Code alleging his speech in a media interview besmirched the Tatmadaw. The accused was charged under Section 500 on October 24.



[Chart – Number of the Tatmadaw's lawsuits and several laws used in the lawsuits]

Infographic: The Tatmadaw's violations of freedom of expression

2.4.2 Dr. Aye Maung and Writer Wai Hin Aung Jailed for Saying “Rakhine Sovereignty”

The government prosecuted a Rakhine politician and lawmaker Dr. Aye Maung and a Rakhine writer Wai Hin Aung under Section 17(1) of Unlawful Associations Act, Section 122 “offence of high treason” and Section 505(b) of the the Penal Code alleging their speech at an public event held in Rathedaung township on January 15, 2018 to mark the fall of Rakhine kingdom were unlawful.

The government’s statement said that “Dr. Aye Maung told the audience that Bamar people considered the Rakhine people as their slaves and did not give them equal rights; some people were doing armed revolution to gain sovereignty; and Rakhine people should take the advantages of currently unstable politics to achieve the goal and nurture a mindset of regaining sovereignty”. After 41 court hearings, the two ethnic Rakhine men were given the concurrent sentence of 20 years imprisonment -- 20 years for high treason under Section 122 of the Penal Code and two years for incitement under Section 505(b).

2.4.3 Former Child Soldier and His Supporters Charged

Ko Aung Ko Htwe was sued under Section 505(b) of the Penal Code after recalling his experiences of being recruited as a child soldier when he was 13 years old in a media interview with Radio Free Asia in August 2017. While facing trial, he made a protest at a court appearance. Therefore, he was sentenced to six months for contempt of court on February 14, 2018 and two years under Section 505(b) on March 28, 2018.



Caption – Ma Nay Zar Tun seen on the day she was sentenced

At court appearance on January 17, Ko Naung Naung and Daw Lay Lay activists who supported the former child soldier were arrested for allegedly standing on a copy of the 2008 Constitution at a court appearance. They were charged under Section 505(b) and Section 153 of the Penal Code for allegedly organising riot in the court and calling the judge "a cow" and sentenced to one year and a half in prison by Dagon Seikkan township court on September 11.

Additionally, Ma Nay Zar Tun (elder sister of Ko Aung Ko Htwe), political activist Ko Zaw Gyi and Ma Khin Cho Naing who all had participated in a protest that supported Ko Aung Ko Htwe were charged under Sections 505(b) and 153 of the Penal Code and Section 7 of Union Seal Law for alleged sedition, organising riot and standing up on the constitution. Dagon Seikkan township court decided to sentence Ma Nay Zar Tun to one year and the two others to one year and a half on December 24.

2.4.4 Prosecutions of Anti-Government Protesters under Section 505(b)

U Kyaw Myo Shwe who was arrested for participating together with nationalist Buddhist monks and civilians in a protest in Mandalay in 2017 was sentenced to one and a half years in prison by Mandalay's Chanmyathazi township court on July 25. Since U Kyaw Myo Shwe was arrested on August 7, 2017, he already spent almost one year in Obo prison and needed to stay for seven more months in prison when the court sentenced him. Six Buddhist monks who also participated in the protest were sentenced to 16 months imprisonment with labour in December 2017.

2.4.5 Daungdoh Myoset Thangyat Troupe Charged under Both 505(b) and 66(d) for Criticising the Tatmadaw

Daungdoh Myoset (Peacock Generation) Thangyat troupe performed satirical Thangyat criticising the situations of the current era in several townships during Thingyan festival in April, 2019. Then the Tatmadaw sued the members of the troupe alleging the words they recited during their performance damaged the reputation of the Tatmadaw and incited discords within the Tatmadaw. Unlike other cases, more charges were added at other courts in different townships during the trial process though the lawsuits started with only one charge. Two 66(d) charges, two 505(a) charges, one 66(d) charge, three 505(b) charges were added in Yangon Region. The troupe members are now serving a sentence of two and a half years with labour for two charges under Section 505(a) of the Penal Code and two charges under Section 66(d) of Telecommunications Law. Daungdoh Myoset members have stopped defending for the remaining charge, protesting against the courts as they no longer believe the judicial system.

2.5 Lawsuits under Section 500 of the Penal Code

Section 500 of the Penal Code says “Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.” Myanmar has six defamation laws. It would be useful if Section 500 is amended systematically because Section 499 mentions “ten types of exemption” of offence prescribed in Section 500 which is being misused to prosecute those who politically criticise the government and the Tatmadaw nowadays. Majority of defendants under Section 500 are activists, writers and journalists.

Significant Cases

2.5.1 Protesters Calling to Save IDPs Charged under Section 500

U Zau Jat, U Lum Zawng and Daw Nang Pu marched and opened protest camps, calling to save the trapped thousands of IDPs in battles in Kachin State in April 2018. Lieutenant Colonel Myo Min Oo of Northern Command of the Tatmadaw filed lawsuits at Myitkyina township court against them claiming that their speech “Villagers are fleeing because the Tatmadaw launched offensive operations”, “To open ways for the trapped villagers is the Tatmadaw’s responsibility” and “Stop aerial bombing right now!” damaged the reputation of the Tatmadaw. Myitkyina court imposed a sentence of six months and a fine of five hundred thousand (500,000 Kyat) to each. About 50 young Kachin activists protested at Myitkyina township court against the verdict. Then the organisers of the protest Ko Bran Mai, Ko Seng Khun Aung, Ma Sut Seng Htoi were sued by temporary police major Myint Moe under the Peaceful Assembly and Peaceful Procession Law.

2.5.2 A Writer Encouraging Constitutional Reform Charged under Section 500

Lieutenant Colonel Kyaw Min Oo of the Tatmadaw’s Coastal Region Command filed a lawsuit at a court on June 4, 2019 against a writer called Man (Taung Lone Pyan) alleging he delivered a speech that defamed the Tatmadaw and persuaded the audience to misunderstand about the Tatmadaw at a literature talk show in Myeik township, Tanintharyi Region on May 9, 2019 supporting the attempts to amend 2008 Constitution. The complaint was filed under Section 505(a) of the Penal Code but the court accepted the complaint under Section 500. The court imposed a sentence of three months or a fine of thirty thousand Kyat (30,000 MMK) at 19th court appearance on January 23, 2020. The writer chose to pay the fine.

2.5.3 Anyeint Performers Charged for Military's Torture Scene

Lieutenant Colonel Myint Oo of the Tatmadaw's Naypyidaw Command opened lawsuits under Section 500 of the Penal Code at Zabuthiri township court in April 2019 against the four comedians of Zwe Anyeint performance - Ar Lu, Sein Lan, Zout Htoo, Doe Pauk and Anyeint leader Ko Pan Thee alleging one of the scenes of Anyeint damaged the Tatmadaw's reputation. The Anyeint included a scene in which a man wearing a military uniform put his feet on a civilian's shoulder when they performed the Anyeint in March 2019. Ko Pan Thee, one of the accused, responded that "it was a plot of a story depicting a romance between a soldier and an Anyeint actress and there was no words insulting or damaging the Tatmadaw". The court found they were guilty and imposed a sentence of four-month imprisonment or a fine of one hundred thousand Kyat (100,000 MMK). They chose the latter.

2.6 Electronic Transactions Law Must Be Repealed

The State Peace and Development Council (SPDC) adopted Electronic Transactions Law on April 20, 2004. Section 34(d) of the law states "creating, modifying or altering of information or distributing of information created, modified or altered by electronic technology to be detrimental to the interest of or to lower the dignity of any organization or any person". Electronic Transactions Law became notorious along with prosecutions and arrests in the 2007 Saffron Revolution. The law was amended in February 2014. The minimal jail term was reduced to five years and maximum jail term was reduced to seven years too in Section 33. The imprisonment was also changed into a fine from five million Kyat (5,000,000 MMK) to 10 million Kyat (10,000,000 MMK). However, the law is still an obstacle for freedom of expression and a subject of misusing with its unchanged objectives. The government and the Tatmadaw have potential to oppress people anytime as the law is still effective although a few Electronic Transactions Law cases were found under the current government. Therefore, the law should be repealed as soon as possible and a cyber crime law should be adopted in accordance with human rights standards in order to take actions on probable crimes committed by using the internet.

2.6.1 Prosecution Over Criticism of Police Force

With Myanmar Police Force's official instruction, Pyinmana police force brought a lawsuit against Thaka Moe Nyo (aka) Dr. Win Ko Ko Thein under Section 34(d) of Electronic Transactions Law on July 10, 2019. Dr. Win Ko Ko Thein was released on 10 millions Kyat (10,000,000 MMK) bail from Pyinmana police force after a three-hour interrogation.

Myanmar Police Force claimed that his writings on Facebook related with a sexual abuse of a three-year old toddler damaged their reputation but did not exactly assert which terms and words he used damaged the reputation.

2.6.2 Facebook User Charged for Writing About Navy

The Tatmadaw sued Maung Tin Chan, a resident in Sittaw village, Kyauk Phyu township, Rakhine State in July 2019 under Section 33(b) of Electronic Transactions Law, stating he disseminated information related to the Tatmadaw on social media. Captain Pyae Phyo Aung of Dhanyawaddi Naval Base filed the lawsuit alleging Maung Tin Chan used a Facebook account named “A Rakhine Boy From Japanese Era” in Burmese and wrote about the security of the navy. However, the Captain did not explain any details about his Facebook posts.

Section 33(b) of Electronic Transactions Law states “Whoever receives or sends and distributes any information relating to secrets of the security of the State or prevalence of law and order or community peace and tranquillity or national solidarity or national economy or national culture, by using electronic transactions technology shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 7 years to a maximum of 15 years and may also be liable to a fine”.

2.7 Lawsuits with Sedition Charge Under Section 124(a) of the Penal Code

Section 124(a) of the Penal Code states “Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, bring or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards [the Government established by law for the Union or for the constituent units thereof,] shall be punished with transportation for life or an shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine”. There are six prosecutions under Section 124(a) of the Penal Code.

Significant Cases

2.7.1 Charges Over Criticism of The State Counsellor

A columnist named Ngar Min Swe (aka) U Min Swe was charged under Section 124(a) of the Penal Code and arrested by the Hlaing township police force on July 12, 2018 for his posts on social media that described the State Counsellor Daw Aung San Suu Kyi as a woman who is more inferior than a prostitute and allegedly incited enmity between the Tatmadaw and

people. Western Yangon District Court punished him with a sentence of seven years and a fine of one hundred thousand Kyat (100,000 MMK) in September after the two-month trial.

The Second case is related to U Wirathu, an ultranationalist Buddhist monk who is apparently known as a person spreading incitements to religious conflicts and racial hatred. The monk offensively criticised the State Counsellor at nationalistic public events organised in Myeik township of Tanintharyi Region and Kyauktada township of Yangon Region showing support for 2008 Constitution before he was sued by U San Min, Yangon Western District deputy administrator under Section 124(a) of the Penal Code at Western Yangon District Court. The associate judge U Kyaw Kyaw of the court issued an arrest warrant for U Wirathu as he went into hiding and avoided attending the court.

The third case is a lawsuit against pro-Tatmadaw Buddhist ultranationalist and former parliamentarian Bullet U Hla Swe who also showed strong support for the 2008 Constitution and insultings of Daw Aung San Suu Kyi. Bullet Hla Swe was sued by township deputy administrator with sedition charge under Section 124(a) of the Penal Code at Western Yangon District Court on August 7. The prosecution followed his comments in which he used metaphysical words to blame on the government and Daw Aung San Suu Kyi at a public event held opposite the town hall in downtown Yangon.

2.8 Lawsuits Under Section 295(a) of the Penal Code

Section 295(a) of the Penal Code states “Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [persons resident in the Union]⁵, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

Many lawsuits filed under Section 295(a) of the Penal Code were found under the NLD-led government. Seven lawsuits were violations of free expression among all lawsuits under Section 295(a). Even the journalists and columnists who wrote news and satires for newspapers and journals were also sued under the blasphemy Section. Bago township local police station (2) filed lawsuits against Ko Aung Soe Moe, chief editor of Bago Union journal; Ko Lwin, a journalist of Thuriya Alin journal and two other netizens, four in total, for quoting a social media content that said “htan yae” (local Burmese toddy wine) were sold at a religious site in April 2017. Ko Aung Soe Moe was granted bail for the Section 295(a) charge and 66(d) charge three months after detention.

Kaung Sett Naing, a columnist who wrote a satire titled “I am gonna almost say” about the tarnishing gold plates of Shwedagon stupa; chief editor and publisher of Standard Time newspaper were charged under Section 295(a) of the Penal Code. The plaintiff U Soe Min Oo who is from North Oakkalar township said the terms “Ngwe Dagon” (Silver Dagon) and “Bor Dagon” (Spangle Dagon) used in the satire to ironically refer the tarnishing gold plates of Shwedagon stupa is blasphemy against Buddhism.

2.9 Three States Where Free Expression Violated Most

This report describes the violations of freedom of expression of people in all States and Regions across the country. Among the regions, Yangon and Mandalay encountered the vast majority of violations while Rakhine, Kayah (Karenni) and Kachin are the three most violated States.

(a) Rakhine State

Protests erupted in Rakhine’s Mrauk-U township after a scheduled annual memorial event to mark the anniversary of the fall of Rakhine kingdom on January 15, 2018. The protests were violently cracked down by the police when the ethnic Rakhine locals protested in front of the police station. Seven innocent people died and 12 people got injured because of the brutality that also impeded the peaceful assembly and freedom of expression of people. Hence, a literature talk show that marked the “memorial anniversary of the fall of Rakhine kingdom” was conducted on January 15, 2018. Dr. Aye Maung, ethnic Rakhine politician and a parliamentarian of Ann constituency and Wai Hin Aung, an ethnic Rakhine writer delivered speech at the event. They were later charged with high treason under Section 124(a) of the Penal Code, Section 505(b) of the Penal Code and Section 17(1),(2) of Counter Terrorism Act then sentenced to 20 years in prison.

Right to information is still devastatingly violated in Rakhine State. The Tatmadaw sued Radio Free Asia (RFA) and U Ye Ni, editor in charge of Irrawaddy news agency under Section 66(d) of Telecommunications Law. Then Myanmar Police Force’s Special Branch (SB) filed a lawsuit against Ko Aung Mann Oo, editor-in-chief of Rakhine-based local Development Media Group (DMG) under Section 17(2) of Counter Terrorism Act at Sittway township local police station 1 on May 1. Other private news agencies Narinjara and Voice of Myanmar (VoM) were charged under Sections 50(a) and 52(b) of Counter Terrorism Act for communicating with Arakan

Army (AA), an ethnic Rakhine armed organisation. Such ban on local news media agencies during COVID-19 pandemic is both hindering right to access and impart the information and violating freedom of expression.

Furthermore, Myanmar government started internet shutdown in nine townships - Ponnagyun, Kyauktaw, Maungdaw, Butheedaung, Rathedaung, Mrauk-U, Minbya, Myebon townships in Rakhine State and Paletwa township in Chin State - from June 21, 2019, with a justification that armed conflicts between the Tatmadaw and AA continued. Internet access was temporarily restored in five townships among the nine aforementioned townships on September 1 after two months until cut off again in all townships in January 2020. Mobile internet service is truly essential for local people who suffered from the civil war especially during the pandemic. Government's telecommunications shutdown during the emergency period is violations of freedom of expression and right to access and impart information.

(b) Kayah State

Similarly, Kayah State also suffers massive violations of free speech. Some cases are described as follows;

Myanmar's Tatmadaw troops of Regional Operations Command raided an outpost of the Karenni National Progressive Party (KNPP), an ethnic Karenni armed organisation, and reportedly burned three KNPP soldiers and one civilian. This atrocity was followed by a protest at which 15 young Karenni activists strongly condemned. The five young organisers of the protest were arrested and charged under Peaceful Assembly and Peaceful Procession Law. The Loikaw township court ordered them to pay a fine of thirty thousand Kyat (30,000 MMK) or a sentence of twenty days imprisonment and they opted for imprisonment.

New generation young Karenni activists led writing an open letter to Kayah State Government on June 18, 2018 opposing the erection of General Aung San statue. They marched in Loikaw township after notifying the officials on July 3, but they received no reply from the State government. The protesters met the police force's brutal crackdown and 16 youths arrested and charged under Section 19 and 20 of Peaceful Assembly and Peaceful Procession Law at Loikaw township court. The police force later added charges under Sections 505(b) and 505(c) of the Penal Code. Three journalists who were covering the "harrow strike" or "ploughing protest" of indigenous Karenni farmers against the Tatmadaw for confiscated lands in Loikaw township on June 19, 2019 were charged under the Law Protecting the Privacy and Security of Citizens. Peaceful assembly is prohibited in some parts of Kayah State's

Loikaw township. Kayah State Government announced the prohibited areas of protests in Loikaw on January 29, 2019. Kayah State became the second place where peaceful assembly is prohibited after Yangon.

(c) Kachin State

Kachin State that is plagued by the chronic civil war is suffering numerous violations of free speech too. Lieutenant Colonel Than Htike of Northern Command of the Tatmadaw filed a lawsuit at Myitkyina township court against Rev. Dr. Hkalam Samson, the president of ethnic Kachin Baptist Convention (KBC) after the religious leader shared about the religious oppression committed by the Tatmadaw when he met the president of the United States. Besides, ethnic Kachin activists Ko Pawlu and Ma Seng Nu Pan were arrested and charged under Section 19 of Peaceful Assembly and Peaceful Procession Law for their performance depicting the ethnic Kachin IDPs in the State.

U Zau Jat, U Lum Zawng and Daw Nang Pu who all organised a protest calling to save the trapped IDPs in battles between the Tatmadaw and Kachin Independence Army (KIA), an ethnic armed organisation, in Kachin State were charged under Section 500 of the Penal Code by the Tatmadaw. The trio was sentenced to six months and fined five hundred thousand Kyat (500,000 MMK) by the Myitkyina township court.



Freedom of Peaceful Assembly and Peaceful Procession

Chapter (3): Freedom of Peaceful Assembly and Peaceful Procession

Freedom of peaceful assembly and peaceful procession takes an essential role in order to expose the desire and opinion of people in democracies. In transitioning Myanmar, the law that hinders the extent of right to peaceful assembly and peaceful procession is Peaceful Assembly and Peaceful Procession Law.

Freedom of peaceful assembly, protest and freedom of expression were oppressed for several decades in the one-party state of authoritarianism from 1962 until 2010 general elections by which much optimism blossomed.

Peaceful Assembly and Peaceful Procession Law was passed on December 2, 2011 and amended two times in June 2014 and October 2016. The law requires the personal information of protest organisers, flags, posters, chants and the number of protesters in details, however, lacks of legal provisions for spontaneous protests; requires the protesters

to organise in accordance with the local orders, regulations and instructions in Section 10(k); as main obstacles of the freedom of expression, assembly and procession.

3.1 More Restrictions Included in Drafted Amendment Bill

The Bill Committee of Amyotha Hluttaw (the Upper House of Parliament) proposed a bill amending the Peaceful Assembly and Peaceful Procession Law in the parliament on February 20, 2018. The Section 4(d) of the amendment states “The estimated cost and name of organiser of the protest must be submitted to authorities” and Section 18 states “ anyone who instigates, tempts or persuades others intentionally or knowingly (to join a demonstration) that disrupts security, rule of law, tranquility and public morale by providing money or material support will face a maximum of three years’ imprisonment if found guilty”. It is obvious that the added provisions rather restrict than broaden the extent of freedom of peaceful assembly and procession. The punishment for the added offences in the draft amendment is three years imprisonment and possible fine so it is more likely threatening people not to participate in protests. U Thein Swe, the Union Minister of Labour, Immigration and Population on January 10, 2019 officially said in a workshop related to regulations to address conflicts between employers and employees that they would take action in accordance with existing Peaceful Assembly and Peaceful Procession Law if the labours make strike in public areas though they have rights to protest as per labour laws.

Significant Cases

3.1.1 Two Young Activists Charged for IDP Performance

June 9, 2019 was the 8th anniversary of the resumption of civil war between the Tatmadaw and Kachin Independence Army (KIA) after the 17-year old ceasefire broke. The prayer rally marking the 8th anniversary was held in Manau ground in Myitkyina township on June 8. Young ethnic Kachin people played a musical theatre at the rally. Then, police major Min Thant Zaw brought lawsuits against the two responsible organisers of the event, Ma Seng Nu Pan and Ko Pawlu under Section 19 of the Peaceful Assembly and Peaceful Procession Law.

The court sentenced Ko Pawlu and Ma Seng Nu Pan to 15 days imprisonment under Section 19 of Peaceful Assembly and Peaceful Procession Law on September 2, 2019

after four months. Ko Pawlu gave a pair of broken scales to the judge U Than Tun as a symbol of the broken judicial system before leaving the court. As a result, deputy judge Daw Tin Nwe imposed another three-month sentence on him under Section 228 of the Penal Code.

3.1.2 Eight Labour Activists Charged under Peaceful Assembly and Peaceful Procession Law

A gigantic group of 2,000 workers marched in a protest in Pyigyidagun, Chanmyathazi and Maha Aung Myay townships of Mandalay Region demanding to include their desire and opinion in the second amendment of the Settlement of Labour Dispute Law on February 17, 2019. Eight labour leaders of Confederation of Trade Unions of Myanmar (CTUM) and Myanmar Industries Craft and Services Trade Unions Federation (MICF-TUsF) were charged on 24 February under Section 20 of Peaceful Assembly and Peaceful Procession Law for organising march protest, assembly and delivering speech without the permission of district police force. The court ordered the seven activists to pay ten thousand Kyat (10,000 MMK) as per the legal provisions of Peaceful Assembly and Peaceful Procession Law although one activist was released on February 21, 2020, after the trial lasted for nearly one year.

3.1.3 Prosecution over Using the Word “Karen Martyr”

Ethnic Karen people including Karen activist Naw Ohn Hla organised a commemoration at the front of Mahabandula park in Yangon on August 12, 2019 to mark the day of Karen national leader Saw Ba U Gyi’s death. Police officer Myo Thant of Kyauktada police station’s chief Myo Thet filed lawsuits against Naw Ohn Hla, Saw Albert Cho and Sa Thein Min Zaw under Peaceful Assembly and Peaceful Procession Law for using the term “Karen Martyr’s Day”. The trio was sentenced to 15 days in prison on October 15, 2019.

3.1.4 Protester Arrested and Charged Despite Legal Notification

U Tin Maung Kyi, a member of central committee of Myanmar Democracy Current Forces (MDCF) was violently arrested by the police while he was protesting alone in front of Mahabandula park demanding International Criminal Court (ICC)’s

prosecution for Senior General Min Aung Hlaing and the Tatmadaw after the Kyauktada police force did not accept his legal notification to protest in advance. He was unprecedentedly charged under Section 20 of Peaceful Assembly and Peaceful Procession Law and Section 505(b) of the Penal Code although the police typically charged the organisers of unpermitted protests only under Section 20 of Peaceful Assembly and Peaceful Procession Law.

3.1.5 Organiser of Anti-War Prayer Rally Charged

An organiser named Ying Kyang of a prayer rally calling for the end of war in Kachin State was charged under Section 20 of Peaceful Assembly and Peaceful Procession Law for allegedly starting the prayer a few later than the permitted starting time so ended a few minutes beyond the permitted ending time and the performance of young IDPs. The rally was organised in Myitkyina's Manau ground on June 9, 2018 to mark the seventh anniversary of resumption of civil war in Kachin State. The rally was originally planned to start at 8 am and to end at 12 pm. However, raw weather led it to start lately and end at 12:50 pm. U ----- was fined ten thousand Kyat (100,000 MMK) under Section 20 of Peaceful Assembly and Peaceful Procession Law.

3.1.6 Activists Jailed for Reciting Peace Poems

Kyauktada township police force opened lawsuits against Ko Zayar Lwin, Ko Khant Min Htet and Ko Ye Wint Aung (aka) Shwe Kyal Moe under Section 19 of Peaceful Assembly and Peaceful Procession Law after they participated in a peace poetry event organised at Mahabandula park on 14 May, 2018 with the aim of demanding to halt battles between the Tatmadaw and Kachin Independence Army (KIA). The court imposed a fine of twenty thousand Kyat (20,000 MMK) or a sentence of 15 days imprisonment on them on September 19. Poets Khant Min Htet and Shwe Kyal Moe (aka) Ko Ye Wint Aung paid the fine but Ko Zayar Lwin chose to stay in prison as he believed peace was insulted and he would like to point out freedom of expression and judicial system were broken. Meanwhile, a poet named Klink (Mandalay) was also jailed for two months on May 10, 2018, after he recited poems in a public event held in Mandalay demanding peace.



Media Freedom

Chapter (4): Media Freedom

4.1 News Media Law Lacks of Protection for Media Freedom and Journalistic Rights

News Media Law was adopted on March 14, 2014 under the government led by U Thein Sein. Rights of journalists mentioned from chapter (4) to chapter (8) are restricted in reality. Journalists cannot have access to statistics, photos and records classified by authority through an existing law or authorised institutions according to the law.

News Media Law's chapter(3), Section 7 states "While a news media worker is trying to get news in compliance with regulations specified by relevant and responsible organizations, in the areas where wars break out, and where conflicts or riots and demonstration take place (a) he/she shall be exempt from being detained by a certain security related authority, or his/her equipment being confiscated or destroyed. (b) he/she shall be entitled to ask for

their safety and protective measures from the security related organizations.” However, access to information and cover news in areas where armed conflicts, uprising, riots and conflicts occur is still prohibited by authorities.

In Chapter (8), Section 21 states “If any of responsibilities or ethics required in Article 9 are considered to be breached by a News Media worker, the aggrieved department, organization or individual shall have the right to complain to the council first.” That means sending a complaint to the media council is not a mandatory but an option among other options such as filing lawsuits at a police station or court, resulting in loose protection of journalists. Therefore, those terms should be revised.

Professional media personnel including journalists and chief editors are charged under various laws and legal provisions due to such weaknesses in News Media Law. Commonly journalists are charged under Section 66(d) of Telecommunications Law, Sections 17(1),(2) of Unlawful Associations Act, Section 25(b) of News Media Law, criminal defamation Section 500 of the Penal Code and Counter Terrorism Law not because they break journalistic ethics but because they covered, presented or reported news. Hence, it is obvious that News Media Law cannot protect media rights, journalistic rights and media freedom in practice. News Media Law should be amended in order to fully promote and guarantee the media freedom.

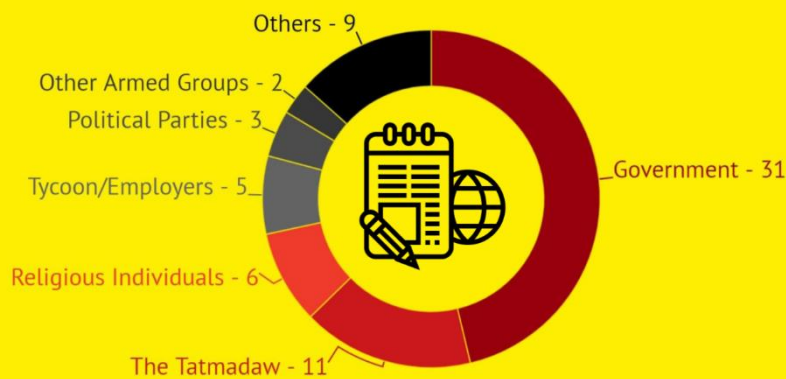
Under this government, media freedom is violated through both laws and government’s instructions. Telecommunications operators blocked more than two hundred websites on March 31, 2019 due to the government’s official instruction. Among those two hundred websites, some officially registered online media’s websites -- Rakhine-based Narinjara news agency, Development Media Group (DMG), Mandalay-based Mandalay In-Depth News and Voice of Myanmar (VOM), and Tachileik-based Mekong News were included.

There are dozens of violations of media freedom under the current regime. There are 67 lawsuits against 67 journalists.

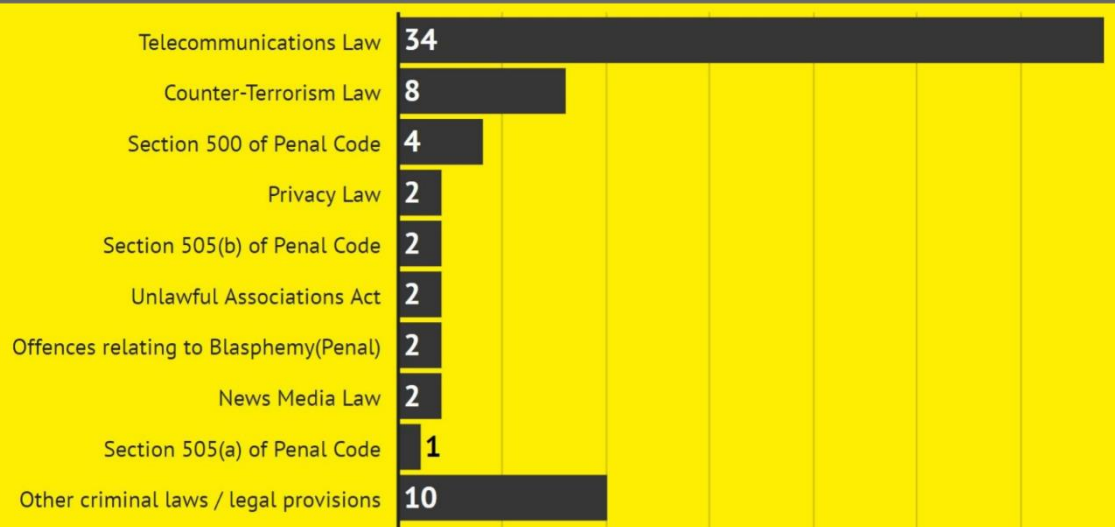
Ko Nanda, Channel Mandalay journalist was prosecuted and sentenced to two years in prison for covering protests in 2019. He is still in prison.



Note – In some cases, more than one journalist have been sued. We also found that a journalist has been sued for more than one lawsuit.



[Types of complainants against journalists and number of lawsuits]



[Chart – Number of the lawsuits in which journalists are prosecuted, and laws are used in the lawsuits]

Infographic: Prosecutions of Journalists

4.2 The Tatmadaw's Filing Lawsuits Against Irrawaddy and Reuters News Agencies

Lieutenant Colonel Zaw Min Tun of the Tatmadaw's Yangon Region Command sued U Ye Ni, editor of Irrawaddy's Burmese edition under Section 66(d) of Telecommunications Law due to a news article covering armed conflicts between the Tatmadaw and Arakan Army in

Mrauk-U township, Rakhine State. The Tatmadaw accused the article entitled “A Mrauk-U Record of A Journalist” of presenting biasly and damaging the Tatmadaw’s reputation. The Kyauktada township court began hearing the case and granted bail on ten million Kyat (10,000,000 MMK) on March 17, 2020. The Tatmadaw withdrew the lawsuit on March 18.

The Tatmadaw also brought lawsuits against Reuters news agency and its interviewee U Maung Kyaw Zan, a MP of Buthidaung township after Reuters made a news coverage about an artillery fire that killed two people and injured seven people on January 25, 2020 in King Taung village, Buthidaung township, Rakhine State. Myanmar Press Council said Tatmadaw dropped the lawsuit against Reuters on March 18. The council announcement stated that Tatmadaw would withdraw the lawsuits against those two media agencies because of the council’s request to keep a good relationship between the Tatmadaw and media and for the sake of independent media as the fourth pillar.

4.3 Journalists Charged Under Unlawful Associations Act After Covering News in Ethnic Area

Three journalists were arrested on Namhsan - Hsipaw road while coming back from northeastern Shan State to Yangon on July 26, 2017 after reporting news about a drug destroying event held in ethnic Ta’ang National Liberation Army (TNLA)’s area. Ko Lawi Weng, a Irrawaddy’s reporter and two journalists of Democratic Voice of Burma (DVB) were stopped and arrested by the army and charged under Section 17(1) of Unlawful Associations Act for communicating with outlaw associations. During the 67-day long detention, their application for bail was repeatedly rejected by the court. The lawsuit was among five lawsuits which the Tatmadaw withdrew on September 1, 2017.

The Special Branch of Myanmar Police Force filed a case at Sittwe township local police station 1 under Section 17(2) of Unlawful Associations Act against the editor-in-chief of Rakhine-based Development Media Group (DMG) on May 1, 2019. The police force interrogated the chief reporter and another reporter on May 5, 2019 about publishing a news article “Hidden Moon at Mrauk-U”. The article included facts that Myanmar Tatmadaw and AA staged battles against each other in Thamee Hla village in January 2019; armed people beat the local villagers; and a seven-year old child was shot dead in the conflict. The article also quoted that the local people said the government's security force looted cash and precious jewelry on January 26. The authorities did not officially inform the details of prosecutions of the accused for four months until September 2019. Anyone can face a maximum of three years and a minimum of two years or a fine or both under Section

17(1) and (2) of Unlawful Associations Act and can face a maximum of five years and a minimum of three years or a fine or both under Section 17(2).

4.4 Journalist Charged for Live-streaming A Protest

A major in Patheingyi township police force arrested Ko Nanda, a journalist working for Channel Myanmar, while he was livestreaming a protest demanding to end Alpha's cement factory project being built in Aung Thabyay village, Patheingyi township, Mandalay Region on May 15, 2019. Ko Nanda was sued under Section 147 of the Penal Code (punishment for rioting), Section 333 of the Penal Code (voluntarily causing grievous hurt to deter public servant from his duty), Section 332 of the Penal Code (voluntarily causing hurt to deter public servant from his duty), Section 353 (assault or criminal force to deter public servant from discharge of his duty) and Section 114 of the Penal Code (abettor present when offence is committed) by Patheingyi township police officer Myo Nyut Than at Patheingyi township court.

4.5 Two Reuters Journalists Charged Under Official Secrets Act for Exposing Inn Din Massacre

Two Reuters journalists, Ko Wa Lone and Ko Kyaw Soe Oo were arrested and charged under Section 3 of Burma Official Secrets Act on December 12, 2017, for uncovering a massacre committed by the Tatmadaw in Inn Din village in Rakhine State. Ko Wa Lone who was investigating and exposing the massacre of 10 Inn Din villagers in September, attempted to contact some police officers who had been assigned at Rakhine State, in order to strengthen the information in November and early December. Then, he got in contact with a police officer working at Htauk Kyant township police force who had been assigned to Rakhine State. That police officer made an appointment with him at a restaurant. Ko Wa Lone went to the place together with his colleague Ko Kyaw Soe Oo where they met some police officers including the one who gave them some documents although they did not ask. When they left the restaurant the waiting police officers arrested them, alleging they kept the information related to Rakhine issues and national security. Then the pair was charged under Section 3 of Burma Official Secrets Act by which they can face a maximum of 14 years imprisonment. The police lieutenant colonel Moe Yan Naing to whom they interviewed was also fired by Myanmar Police Force Maintenance and Discipline Law and sentenced to one year in prison.

After nearly 40 court appearances, deputy district judge of Northern Yangon District Court charged the two journalists on July 9, 2018 and sentenced them to seven years under Section 3(1)(a) of Burma Official Secrets Act on September 3. They were released in a presidential amnesty on May 7, 2019 after the local and international civil society strongly condemned the verdict.

4.6 Myanmar Now Chief Editor Ko Swe Win Charged

Myanmar Now's Editor-in-Chief, Ko Swe Win was sued under Section 66(d) of Telecommunications Law for allegedly defaming U Wirathu, a prominent ultranationalist Buddhist monk of Ma Ba Tha association after he shared a news story including interviews with the lawyer and general secretary of Ma Ba Tha and another Buddhist monk, U Sein Tita, slamming the monk that "I heard Wirathu has committed violation of the Parajika (code for Theravada Buddhist monk) and his monkhood has ended. Perhaps he committed violations of Parajika not just now." regarding to the murder of lawyer U Ko Ni, legal advisor of National League for Democracy (NLD). The plaintiff of this case was a member of Ma Ba Tha association called Ko Kyaw Myo Shwe who filed the lawsuit under Section 66(d) of Telecommunications Law at local police station (7) in Maha Aung Myay township due to U Wirathu's order on March 7, 2017

Ko Swe Win who dwells in Yangon had to regularly travel to Mandalay to attend the court appearance until the court dismissed the case on July 2, 2019 as there was no clear evidence that his act committed the offence in legal provision besides the complainants failing to attend the court hearing. After the case, Ko Swe Win continued writing investigative news related to the top leaders of Myanmar army for public interest. With controversy against the court decision, however, the plaintiff Ko Kyaw Myo Shwe appealed the case at Mandalay district court on August 26, 2019, the court accepted and decided to hand the case to the respective township court to resume it.

4.7 Satirist Sued for Making Funs of The Tatmadaw

Editor-in-chief of the Voice Daily, U Kyaw Min Swe and satirist British Ko Ko Maung were sued by the Tatmadaw under Section 66(d) of Telecommunications Law after publishing a satire entitled Kyi Htaung Su Thit Sar (the faith of bullet union) which literally mocks a propaganda film produced by the Tatmadaw entitled Pyi Htaung Su Thit Sar (the faith of union) on social media. The court later decided the satirist should be released because he is not the one who posted the satire online and U Kyaw Min Swe only remained to face the trial. However, the Tatmadaw filed another lawsuit under Section 25(b) of News Media Law

on July 21. U Kyaw Min Swe was granted bail on August 4, after eight denials. The Tatmadaw dropped the case on September 1, 2017.

4.8 Journalists Caught And Tortured for News Coverage

U Ding Sawng of Tha Khin Sit Mining filed lawsuits against U Brang Mai and U Zaw Khun, executive directors of Myitkyina News Journal; and reporter Ma Mun Mun Pan with defamation charge at Waingmaw township court, Kachin State on March 4 after the journal published an article expressing Tha Khin Sit Mining was planning to illegally plant banana trees on February 25, 2019. The article also included interviews with villagers who were worried about the company land clearance in Waingmaw township. A day after the article was published a representative from Tha Khin Sit company came to the journal office and asked to send reporters Mun Mun Pan and Ahje to their office in Waingmaw township. When they arrived, the two reporters were detained in separate rooms in the company compound. Ma Mun Mun Pan was slapped with a rolled journal and Ahje was forced to do 100,000 sit-ups as punishment but both were released as executive directors, a police officer and local administrator reached their office when he finished 300 sit-ups.

Free Speech VS Deterring, Restriction, Orders and Instructions

Chapter (5): Free Speech vs Deterring, Restriction, Orders and Instructions

It is found that various violations of freedom of expression have occurred in various forms that included but not limited to prosecutions under existing laws, issuing local orders to restrict, deter, block, ban and eventually to cut off the internet connection during the four years term of NLD-led government. Freedom of expression is violated and oppressed at every facet.

5.1 Deterring to hinder freedom of expression

Significant Cases

5.1.1 Karenni National Youth Conference barred

The Karenni National Youth Conference that was scheduled to be held from August 20 to 28, 2018 by Karenni National Youth Association, in the meeting hall of a Baptist Church in Zay Paing quarter, Shardaw township, Loikaw district, Kayah State, was barred. The State government released the notification on August, 2018 that stated “At the moment, KNPP is

trying to sign NCA; and according to the instruction of Union Government, the conference KNPP is trying to conduct cannot be allowed without submitting and applying for NRPC's permission”

5.1.2 Maha Pyinnyar Kyaw Dialogue Postponed

A dialogue named “How to solve Rakhine issues” under Maha Pyinnyar Kyaw, a discussion programme was scheduled to be held at Melia hotel on August 26, 2018, but the dialogue event was postponed after the Ministry of Home Affair and General Administrative Department prohibits. The panelists who would participate in the dialogue were Yebaw Than Ge, the chairman of ABSDF, U Sai Nyunt Lwin, general secretary of SNLD party and U Mg Mg Soe, a critic of political and ethnic affairs.

5.1.3 Committee for Shan State Unity's Meeting Barred

On August 27 2018, U Sai Aik Pao, chairman of Committee for Shan State Unity (CSSU) received a phone call from National Reconciliation and Peace Committee (NRPC) that gave a verbal order not to organise CSSU meeting on September 3 and 4 at Taunggyi hotel in Taunggyi township, Shan State. The Committee for Shan State Unity (CSSU) consists of representatives of Shan National League for Democracy (SNLD), Shan Nationalities Democratic Party (SNDP), Restoration Council of Shan State (RCSS), Shan State Army - South (SSA) and civil youth organisations.

5.1.4 Discussion of Student and Politic Prohibited

Authorities of Yangon University banned a discussion named “Student and Politics” which was scheduled to be held in front of the Yangon University's teacher office, Yangon Region on June 25, 2018. The proposed panelists were Dr. Thein Lwin of National Network for Education Reform (NNER) and Dr. Arkar Moe Thu of the Oriental Studies Department, Taungup University.

5.1.5 Event Marking 7th Anniversary of Resumption of Civil War Banned

The authorities pressured and deterred not to hold an event that would mark the 7th anniversary of resumption of civil war in Kachin State although it was scheduled to be held at Diamond condo, in Kamaryut township, Yangon Region on June 9, 2018, organised by the young Kachin people in Yangon. The event was aborted.

5.1.6 Organisers of Kayin Martyr Day Event Threatened to Sue

By claiming that 68th anniversary of Kayin Martyr Day was held on August 12, 2018, in Hinthada township, Irrawaddy Region without permission, the deputy administrator of Hinthada district came to deter the event saying that they would take legal actions against Phada Mahn Nyen Maung, a member of KNU's CEC and other five local organisers under Section 26 of Ward and Village Administration Law.

5.1.7 Women and Literature Talk Restrained

The administrator of No.6 quarter of Mayangone township restrained “Women and Literature” talk program which was scheduled to be held in commemoration of International Literacy Day on September 9, 2018, at No. 6 quarter's Dhamma hall, Mayangone township, Yangon Region. The administrator said the organisers need to submit an official request for permission. The talk was organised by HARP (Peace Process Based on Public Activities) and the panelists were Pandora, a writer and poet and Ma Khin Lay Nge, the director of Phan Tee Eain.

5.1.8 Private Hall Banned for Organising Events As It Hosted A Press Conference

The General Administration Department of Yamethin township officially prevent a private hall called Amay Htwe Hall which is located in the Shwesigone area, in Yamethin township, Mandalay Region, from hosting any ceremonies and event since August 13, 2018, alleging the hall hosted a press conference which was held without permission. In June 2018, the W.COM Company opened a free basic computer training at the Community Center of Information and Public Relations Central Department of Yamethin District. The class was banned a week before to complete on August 1, thus they organised a press conference at Amay Htwe Hall regarding the ban.

The general administration department of Yamethin township sent an official letter to hall owners, on August 10, 2018, in which it is stated that the halls cannot host public events including religious events, meeting, literature events, brand promotions, music entertainments events, public discussion events and opening ceremonies of road and bridges without permission; and if they do not follow this regulation, they will be punished in accordance existing laws. Let alone political activities, the public cannot gather even for religious and social affairs, without getting permission from regional governments, and it is the same situation compared with conditions of military Junta, resulting in deformities to the democracy principles.

5.2 NLD Issues Internal Instruction to Sue over Defamation Against Government Leaders

NLD's Magway State unit released an internal instruction within the party to make legal actions against those who defame State Counsellor Daw Aung San Suu Kyi, Union Government and State and Region Governments on social media and web pages. U Thein Zaw, chairman of Magway State NLD unit defended that instruction was issued to prevent the dissemination of misinformation that persuades the local people in Magway to reduce respect for the government. The letter also stated that they would consult with the legal experts whether to respond with a lawsuit for offensive accusation to the government or not and members of CEC of NLD township unit would decide regarding the legal actions.

5.3 Blanket Ban on Protests in Particular Areas

5.3.1 11 Townships in Yangon Banned on Protest

The Yangon Region Government issued a blanket ban on protests in 11 townships of Yangon on November 7, 2018. These townships covered by ban are Kyautada, Pabedan, Latha, Lanmadaw, Botahtaung, Bahan, San Chaung, Dagon, Alone, Mingala Taung Nyunt, and Pazundaung. Yangon Region Security and Border Affairs Minister Colonel Aung Soe Moe issued that ban with his sign on November 7, to avoid “public annoyance”, “anxiety” and “traffic jam” in those population-dense townships.

Anyone who organises a protest just needs to notify the local township police stations 24 hours in advance according to the 2016 amendment of the Peaceful Assembly and Peaceful Procession Law. NLD MPs and political activists criticised that Yangon Region Government intervened a union-level legislation with an official instruction and limited the areas of protests is hindering the right that the law rewards the people. Yangon Region Minister of Social Affairs U Naing Ngan Lin announced they issued the instruction for the sake of security for Pope Francis's visit to Myanmar. However, the instruction is not withdrawn after the Pope's visit and still used to oppress and prosecute the protests.

5.3.2 Kayah State Government released an order to limit some area not to conduct protestation

Kayah State Government officially banned the peaceful assembly and peaceful procession in some parts of Loikaw township, capital of Kayah State, including State Government office, other main departments and important areas to avoid “disturbance in governmental department procedures”, “public annoyance”, and “unnecessary problems in peace process

and other relevant issues” under Peaceful Assembly and Peaceful Procession Law and Section 4(f) of Pyidaungsu Hluttaw Law No.(48). The areas covered by the ban are the front and back sides of the State Government office, the front side of general hospital, collective office of different township offices, Myo Nam pagoda, Taung Kwe pagoda and Loikaw’s Shardaw street. These areas were banned on protests in exact measurement and anyone who violates the official instruction will be prosecuted under Section 118 of the Penal Code or an existing law, the General Administration Department warned in the announcement with the date of January 29, 2019.

5.4 Trainings and Rallies Warned

Demoso township administrator sent a warning letter to a village tract administrator for failure to apply for permission after a workshop on women and peace was organised by Kayan Women Organization in Mya Lel village, Demoso township, Kayah State on January 22, 2020. The letter stated that the organisers have to apply for permission from senior departments step by step and need approval to conduct dialogue, talk show and training.

In the letter, Demoso township administrator U Nyan Lin also warned it would take action effectively against the ward or village administrator and clerk if dialogue, talk show or training were found to be conducted without permission. A ceremony against gender-based violence and towards gender equality was forced to be cancelled by the police force in 2019.

5.5 Township Municipal Bans Human Rights Awareness Event

Taunggyi township municipal committee rejected an application for permission to organise a human rights awareness raising event at Bogyoke park in the township on 2018 International Human Rights Day in Shan State. The committee justified it as a public park, in the reply letter to event organiser Daw Hnin Nandar Aung from Human Rights Educator Network (HREN).

The event agenda included only distributing human rights awareness pamphlets, displaying human rights awareness movies, entertaining human rights songs and quizzes about human rights. On November 27 2018, the organiser submitted the letter directly to the Chief Minister of Shan State and copied to Minister of Ethnic Bamar Affair, Shan State government and the minister of municipality.

5.6 Internet Shutdown in Several Townships of Rakhine and Chin States

The government cut off mobile connection in nine townships in conflict-torn Rakhine and Chin States on June 21 2019 without prior notification. The internet blackout in the townships - Maungdaw, Buthidaung, Rathedaung, Ponnagyun, Mrauk-U, Minbya, Myebon in Rakhine State and Paletwa township in Chin State - devastatingly affected the public interest including human rights, economic, social, development and political situation of local people. The government ordered the telecommunications service providers to halt service pursuant to Section 77 of Telecommunications Law.

5.7 Department of Education Warns to Sue Over Criticism of Ministry of Education

General Director of Basic Education Department, U Ko Lay Win warned they would monitor the Facebook accounts who insulted the officials of Ministry of Education including the Minister and who dispersed disinformation about the ministry after the decisive announcement of the Ministry of Education on rescheduled examinations of 2019-2020 educational year and closing the schools until the end of March triggered a large amount of criticism.

Some accounts on social media shared manipulated photos and contents related to the Ministry of Education and Minister of Education. The general director added he would take legal actions if they became more provocative toward personal attack.

5.8 Mon State Government Warns Over Installment of Mon Revolution Signboard

Mon State government, on August 20 2018, called and warned New Mon State Party (NMSP) after a signboard that commemorated the 71st Mon Revolution Day with a slogan that meant “Revolute for Independence” in ethnic Mon language at a Mon Dhamma Hall and public park on Bogyoke street, Yangyiaung quarter, Ye township. A member of the Mon revolution day event organising committee of Ye township, Nai Myint Tun and his team installed the signboards to mark the 21 Mon Revolution Day on August 26.

5.9 Public Peace Dialogue Warned

A public dialogue on peace scheduled to be conducted at Yangon Kawechan School for the Blind in Mayangone township, Yangon on August 27, 2018 was warned by Mayangone township administrator Saw Nyi Nyi Win and a police officer of Mayangon police force. The officials told the principal of Yangon Kawechan School for the Blind; Dr. Thein Lwin; U Ngwe Lin and Daw Hnin Hnin Hmway from Democratic Party for A New Society; U Tun Win Nyein from Thakhin Kodaw Hmaing

5.10 Saffron Revolution Anniversary Event Forced to Relocate

Politicians and political activists who participated in significant Saffron Revolution plan to organised an event to mark the 11th anniversary of Saffron Revolution with the aim of abolishment of 2008 constitution, end of civil war, to improve the living standards of people and security of people's lives at Royal Rose hall on September, 2018. But the event was relocated to Dhamma Piya monastery in Thingangyun township after the authorities forced the owner of the hall. The Saffron Revolution occurred in 2017 when Buddhist monks led the mass protest against the rise of goods price and fuel.

5.11 Public Discussion for Reducing Crimes Canceled

Regarding the cases of the crime, the local people and civil society organisations in Mandalay organised a public discussion event which is related to the people reliance to be held on September 13, 2018, at Wai Za YanTar Maha Bandoola Dhamma hall, in the precinct of Thakya Thiha Pagoda, in Mandalay. The organisers officially submitted for permission to the responsible authorities of relevant townships, districts and Region but they had to cancel the event as there was no reply. The event has several good aims such as more cooperation from the local residents of the city, more active participation of the people to prevent and reduce crime cases, but they needed to submit to the authorities according to the red tape procedure. And they didn't get any reply from those authorities. Therefore, the event had to cancel inevitably. It is a certain kind of hindrance to violate the freedom of expression of the people.

5.12 Right to Partake in Discussion Denied

A discussion event, namely, “Farmland and Resource” was held at Shwe Ann Taung hall, in Ann township, Rakhine State on July 20, 2018. The organisers of the discussion had already got permission from the authorities, but the police officers from the township police station forced them to abort the event, claiming that some speakers were not allowed to partake in this discussion. During a public discussion event, some people were allowed but others were not, in a certain kind of discrimination among the civilians and violating the fundamental human rights.

Executive Summary

Chapter (6): Executive Summary

6.1 Key Findings

The NLD-led government to whom its predecessor handed over the power and duties in April 2016, has been doing lots of oppression and violations on freedom of expression, media freedom and freedom of peaceful assembly and peaceful procession when it enters four years in power. Under the government led by NLD, people's right to freedom of expression was violated not only by the government and Tatmadaw but parliamentarians who are supposed to be representatives of people. Every single citizen has the right to monitor and criticise the parliamentarians they elected to represent them in order to achieve good government and clean governance. When it comes to international standards in

advanced democracies, political figures, parliamentarians and members of political parties do not respond to criticism with prosecutions. Celebrities and public figures may respond to wrong accusations or disinformation through the media or some ways that can reach to the public easily. Hence, elected representatives rather should attempt for legal reform and respect human rights themselves to head towards advanced democracy instead of violating and hindering the people's right to freedom of expression by means of power they gain as a representative.

Laws Were Not Amended Effectively

There is no effective abolishment or amendment of laws that are used to violate freedom of expression in the current term of NLD-led government. Recently adopted Law Protecting the Privacy and Security of Citizens and National Record and Archive Law also restrict the freedom of expression. Moreover, Hluttaw ignored the presence of other repressive laws and legal provisions that should be abolished such as Section 505 (a), (b), 124(a) of the Penal Code, Electronic Transactions Law, Section 17(1) of Unlawful Associations Act, Section 66(d), 68(a), 77 and 78 of Telecommunications Law.

Peaceful Assembly and Peaceful Procession Law, News Media Law and Printing and Publishing Enterprise Law did not meet amendment pursuant with international human rights standards democracy principles as those laws should be done.

Furthermore, Right to Information Law which is highly demanded by journalists and civil society organisations has not arrived at the Hluttaw even as a drafted bill.

Internet Shutdown and Blocked Websites

People's right to seek, access and know information and media freedom are violated under the NLD-led government who calls themselves "democratic government" particularly in internet shutdown in Rakhine and Chin States. Surveys show that every single civilian has their economic, social, medical and educational rights violated because the government cut off the internet in conflict-torn States with an excuse of national security. The government ordered the telecommunications operators to block more than 200 websites. The blocked websites included some official news media agencies although the government and telecommunications operators did not announce the list of blocked websites. The worst thing is the

government's ignorance of civil society's demand to restore the internet in Chin State and Rakhine State as it is important for all of the people across the country to get health awareness and information promptly during the COVID-19 pandemic.

Continuing Arrests through Using Unjust Laws

The ongoing arrests of civilian protesters under the “democratic” government show the situations under current government and military junta are the same. Arrests of students in Rakhine State for demanding an end to internet shutdown; police's denial of permission for students to organise protests calling for the peace and end of civil; arrests and prosecutions of dissidents who are against the government and the Tatmadaw. Meanwhile, Naw Ohn Hla's case in which she was prosecuted for using the term “Karen Martyr's Day” in an event, also proves that discussion on ethnic affairs is still fragile alike under the previous government.

Similarly, in terms of media freedom, prosecutions against covering and reporting under several legal provisions including Unlawful Associations Act and Counter Terrorism Law; prosecution of two Reuters journalists Under Burma Official Secrets Act for uncovering the massacre in Inn Din village in Rakhine State are eroding the main foundation of democracy.

Based on the aforementioned facts, the incumbent government led by NLD does not acknowledge the importance of freedom of expression, a fundamental right of human rights, freedom of assembly, procession and media freedom, main parts of democracy.

Recommendations

To Hluttaw

1. Peaceful Assembly and Peaceful Procession Law should be amended again in accordance with international human rights standards.
2. Section 66(d), 68(a), 77 and 78 of Telecommunications Law, Section 505(a), (b) and 124(a) of the Penal Code, Section 8(f) of the Law Protecting the Privacy and Security of Citizens and Section 17(1) of Unlawful Associations Act should be permanently abolished.
3. Right to Information Law should be enacted and Burma Official Secrets Act and National Record and Archive Law should be abolished.
4. Defamation should be a civil offence in any laws and legal provisions.
5. Cybercrime Law should be enacted in order to protect the rights and cyber security of people.
6. A lawful interception framework should be established and monitoring telecommunications networks and eavesdropping should be implemented in accordance with that framework.
7. Hluttaw should have effective meetings and consultations with civil society organisations before enacting a new law or amending an existing law.

To Government and Military

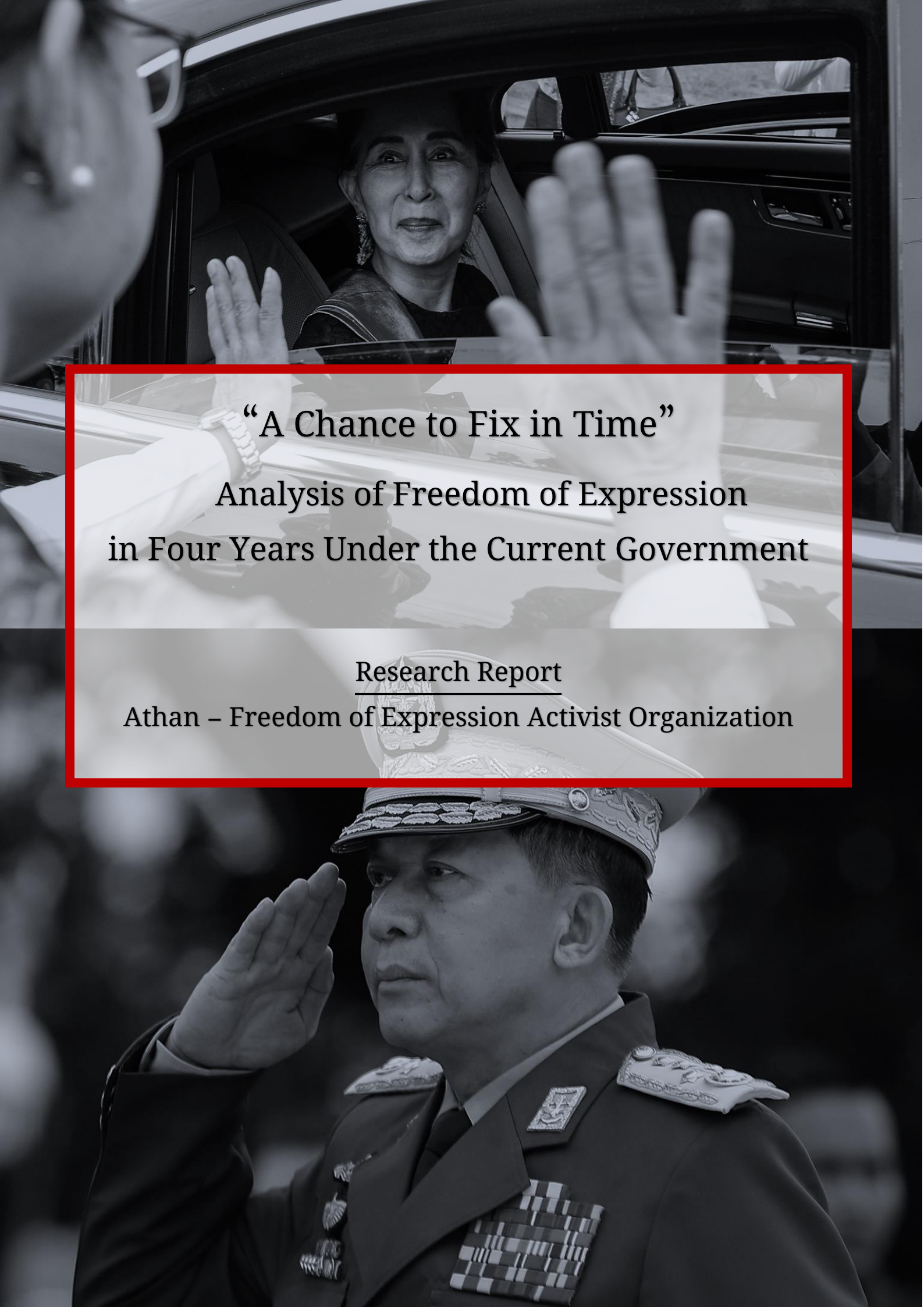
1. The government and the Tatmadaw should not prosecute for criticising them and should withdraw all of the prosecutions unconditionally.
2. The government and the Tatmadaw should submit complaints to Myanmar Press Council in case of any disputes relating to the news media.
3. The government should have a national strategy for digital, media and information literacy to conduct training and awareness raising programmes.

To The Judiciary and Courts

1. The rule of law and independence of the judiciary should be emphasized.
2. The judges should be trained about the right to freedom of expression in accordance with international standards.

To Myanmar Press Council

1. The council should organise (take part) in legal reform of News Media law, Printing and Publishing Enterprise Law and Television and Broadcasting Law.
2. The council should cooperate and coordinate with not only the government, the Tatmadaw and the Hluttaw but also the organisations working on media freedom.



“A Chance to Fix in Time”

Analysis of Freedom of Expression
in Four Years Under the Current Government

Research Report

Athan – Freedom of Expression Activist Organization