

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	206
Land:	Myanmar
Kilde:	Freedom house
Titel:	Freedom of the Press 2017 - Myanmar.
Udgivet:	1. november 2017
Optaget på baggrundsmaterialet:	1. februar 2018

Myanmar

Country:

Myanmar

Year:

2017

Press Freedom Status:

Not Free

PFS Score:

73

Legal Environment:

23

Political Environment:

29

Economic Environment:

21

Key Developments in 2016:

- The governing National League for Democracy (NLD) failed to pass a right to information law or enact legislation needed to implement the 2015 Broadcasting Law, which would allow private companies to enter the broadcast market.
- Journalist Soe Moe Tun was murdered in December while reporting on the illegal logging industry. Separately, two journalists were threatened by bomb blasts outside their homes.
- Media coverage of violence in Rakhine State was tightly controlled by the military and government, and a journalist was fired after reporting on security forces' alleged human rights abuses against the state's Rohingya ethnic minority.
- There was a sharp increase in the number of defamation cases filed against people who criticized the government online.

Executive Summary

Conditions for the media in Myanmar have improved significantly since the country began its ongoing transition from military dictatorship toward electoral democracy. However, the government maintains tight control over the media sector through the use of harsh defamation and other laws. In addition to prosecutions, media workers risk threats and

physical violence in response to critical or investigative coverage, particularly when it focuses on the government, the military, rebel groups, or the status and treatment of the Rohingya ethnic minority. The media are deeply polarized along political lines, and independent outlets struggle for financial sustainability.

The media landscape in 2016 was marked by the delay of legislative reforms, and the increasing use of litigious tactics to hamper media freedom. The 2015 Broadcasting Law, which would enable private companies to enter the broadcast market for the first time, had yet to take effect at year's end because lawmakers failed to approve legislation necessary for its implementation. Similarly, the parliament failed to undertake any noticeable work on a law that would guarantee the right to access government information.

There was a substantial increase in authorities' prosecution of online speech under the 2013 Telecommunications Law, which was frequently invoked against people who purportedly insulted or defamed the military, the president, or NLD leader Aung San Suu Kyi, who in April 2016 stepped into the powerful new position of state counselor. At least two journalists in 2016 were prosecuted for defamation under Article 500 of the penal code, which dates back to the era of military rule.

Authorities tightly restrict reporting on military activity in Rakhine State, where the armed forces have been accused of severe mistreatment of the Rohingya population. A journalist who was fired from the English-language *Myanmar Times* claimed that the government had pressured the paper to dismiss her following the October publication of her article on allegations that security forces had raped more than two dozen women in Rakhine State.

Legal Environment: 23 / 30

The 2008 constitution provides for freedoms of expression and of the press, while at the same time setting out broad and ambiguous conditions under which these rights may be curtailed. A number of laws include provisions that can be used to restrict journalistic activity. For example, the 1950 Emergency Provisions Act bans content that would "affect the morality or conduct of the public or a group of people in a way that would undermine the security of the Union or the restoration of law and order." The 2004 Electronics Transactions Law prohibits the electronic transfer of information liable to undermine national security and has been used to imprison journalists. The 2013 Telecommunications Law allows the government to intercept any information that threatens national security or the rule of law. Other laws, including defamation provisions in the penal code and the 1923 Official Secrets Act, have also been applied in ways that restrict media freedom.

A substantial increase in the number of defamation cases brought against journalists and social media users was documented in 2016. Since the NLD came to power in April 2016, 38 people have been prosecuted for defamation under Article 66D of the Telecommunications Law, which bans "extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence, or threatening any person using a telecommunications network" and provides for a prison sentence of as long as three years. Of those charged, 15 were in detention at year's end. (The previous government had invoked the 66D provision only seven times over the past three years.) In addition, at least

two defamation convictions under Article 500 of the penal code were recorded against journalists in 2016.

In 2015, parliament ratified the Broadcast Law, the third media-related law approved since the end of prepublication censorship in 2012. It maintains presidential control over the broadcasting sector, though it also enables private companies to enter the broadcast market for the first time, allocating licenses between public service, commercial, and community media sectors. Broadcasters were previously required to partner with the state-owned Myanmar Radio and Television (MRTV). The law establishes a Broadcast Council authorized to issue and revoke broadcast licenses, but the president will appoint its members, undermining its independence. Despite high expectations, in 2016 lawmakers failed to approve legislation necessary for the Broadcast Law's implementation.

The other two new media laws were approved in 2014. The Printers and Publishers Registration Law was drafted by the Ministry of Information. Although it removed the legal threat of imprisonment for journalists posed by its 1962 predecessor, it gave the government the right to withhold media licenses and ban reporting that is harmful to "national security, rule of law, or community peace and tranquility," or that "insults religion" or violates the constitution.

The Media Law was drafted by the interim Myanmar Press Council (MPC) and contains strong protections for press freedom, including the increased use of mediation to settle disputes. However, it has been invoked against journalists who published critical commentary about former president Thein Sein, with the Ministry of Information saying their remarks violated the law's code of conduct. (Thein Sein stepped down after the NLD candidate won a presidential election held in March 2016.)

The courts lack the independence to try media-related cases impartially.

There was no legislative movement in 2016 on a Right to Information law, and access to government officials and the military remained inconsistent. However, journalists' organizations are active in pressing for more openness by the authorities, and their efforts are supported by foreign embassies and international media development organizations.

The interim MPC formed in 2012 was replaced by the permanent, self-regulatory Media Council in December 2015. Though some members were elected, others were appointed by the government, media, and civil society groups; some media representatives said the process lacked transparency and refused to participate in the vote for the elected positions.

A number of internationally funded journalism training programs and local chapters of international media freedom organizations have been established since 2012 to support journalists in Myanmar.

Political Environment: 29 / 40 (↓1)

Media outlets are able to cover political news with relative freedom, addressing many topics that were once considered off-limits and scrutinizing the activities of the government

and legislature. However, Burmese-language state media continue to avoid criticism of the government or military, and interethnic tension remains a sensitive subject, especially with respect to Buddhists and Muslims and particularly in relation to conflicts in Rakhine State. Independent media organizations formerly in exile continue to assimilate into the media landscape. Outlets affiliated with ethnic minority groups continue to register and obtain licenses, and minority journalists continue to assert themselves at media conferences and other discussions and workshops on media pluralism.

Expectations that the new NLD administration would increase government communications with the press were not fulfilled in 2016; access to political leaders remains highly controlled, and few briefings have been held.

Although prepublication censorship was eliminated in 2012, many journalists and editors exercise self-censorship to avoid being punished for the content of their reporting.

Since 2012, a broader range of news and information has become available, particularly print media in urban areas and on the Facebook pages of new media organizations targeting Myanmar's growing number of internet users. However, the vast majority of Myanmar's people still rely on television and radio to get their news, and these sectors continued to be dominated by state-owned and state-affiliated media in 2016.

Physical violence, intimidation, and harassment directed against members of the press continued in 2016. Soe Moe Tun from the Eleven Media Group was found beaten to death in December after reporting on the illegal logging industry. Two journalists were also threatened by bomb blasts outside their homes in Rakhine State and Kachin State, respectively. Investigations were pending at year's end. Many journalists reported threats and harassment from Buddhist nationalist groups in response to coverage of the Muslim Rohingya minority. A journalist who was fired from the English-language *Myanmar Times* claimed that the government had pressured the paper to dismiss her following the October publication of an article on allegations that security forces had raped more than two dozen women in Rakhine State. The firing was said to come after a complaint by the Minister of Information about the report.

Economic Environment: 21 / 30 (↑1)

Although private ownership in the media sector has expanded in recent years, it remains highly concentrated, and state-affiliated outlets continue to hold a dominant position. Nevertheless, a number of private online and print outlets have been established in recent years. The country's press corps is lively and growing, but largely young and undertrained.

Most Burmese look to broadcast outlets for news. Broadcast media remain controlled by the state, although the Broadcast Law will permit diversified media ownership if implementing measures are passed. Six public television stations are available, with five controlled by the Ministry of Information and one by the armed forces. The eight domestic FM radio channels are controlled by the government or its allies. Radio programs transmitted from abroad by Voice of America and Radio Free Asia are accessible and popular. Because of high monthly subscription fees to access satellite television, many viewers install the receivers illegally.

Media ownership is generally transparent, but media literacy among the general population is low. High levels of poverty and illiteracy, along with poor infrastructure and distribution networks, mean that print media are accessible mainly in urban areas.

Infrastructure for production and distribution of print and broadcast media is largely monopolized by the state, so only those with significant resources can compete in the commercial market. The *Mandalay Alinn Daily News* and the daily *Pyi Myanmar* both halted production in 2016 due to a lack of funds.

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