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Myanmar: News Media Council is the Place for Media Complaints

In Myanmar, the establishment of the News Media Council (NMC) as an independent co-regulatory complaints system was a major landmark on the road to democracy. However, a recent complaint by Eleven Media Group Chief Reporter, Mann Thu Shein, against Mizzima Editor-in-Chief and Managing Director, Soe Myint, and Mizzima Editor-in-Charge of Myanmar Edition, Myo Thant, seeks to avoid the NMC entirely and rely instead on a criminal defamation charge under section 34(d) of the Electronic Transactions Law (ETL).

"The article in question, which is about an important matter of public debate, does not contain defamatory content as that is understood under international law," said Toby Mendel, Executive Director of CLD. "Any complaint against the article should have been lodged with the NMC, which has jurisdiction over press complaints and is clearly the more appropriate venue for this case."

In Indonesia, defamation cases involving the media must first go through the Press Council, an approach Myanmar might wish to consider. In addition to the fact that it was not filed with the NMC, this case highlights a number of problems with the framework for freedom of expression in Myanmar, including the following:

- That the country still has and actively uses criminal defamation laws, despite the fact that these represent a breach of the right to freedom of expression as guaranteed under international law, among other things because they provide for harsh sanctions, including imprisonment, for defamation.
- That the country has special defamation provisions, with harsh sanctions, in the ETL.
- The failure of the administration of justice authorities to weed out cases like this, which should never go to court.

CLD calls on private actors to use restraint in taking cases involving statements on matters of public concern to court and to use the NMC complaints procedure instead, on police and prosecutors to refuse to lodge criminal cases which would unduly limit freedom of expression, and on the government to repeal all criminal defamation provisions and to replace them with appropriate civil defamation laws.

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