



Week 9: Freedom of Expression in Myanmar in Comparison with International Standards

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Review

Review of the Course

- Freedom of expression: scope
 - All forms of expression; access to information
- Content restrictions: three-part test
- Media freedom and media regulation
 - Independence and diversity
 - Special rules for different categories
(broadcasters, print media, public service media)
- Online speech/ digital rights



Content

Criminal

Civil

Administrative

Online
Content

Media Regulation

Independence of Regulatory Bodies

Journalists

Print
Media

Broadcasting

Digital Space

Public Service
Broadcasters



Media Regulation

*Media Freedom, Independence, Diversity

Journalists:

- No licensing / registration
- Protection of sources
- Accreditation
- Protection from attacks

Print Media

- No licensing; technical registration
- Complaints (press council)
- Right of reply

Private Broadcasters:

- Licensing
- Code of conduct

Other issues:
competition rules; media sustainability

Public Service Broadcasters:

- Independence
- Mandate
- Funding



Digital Space

Online Content:

- No special online content restrictions
- Only if specific to online harms

Other issues:

- Content filtering
- Blocking orders
- No strict liability for intermediaries

Online Media:

- No licensing

Internet access:

- Promoting access
- No Internet shutdowns
- Net neutrality

Privacy Protections:

- Data protection
- Limits on surveillance



Freedom of Expression in Myanmar

- Legal framework
 - Pre-coup
 - Post-coup
- Today: what is the reality in Myanmar now? Can we apply the principles we've learned to demonstrate freedom of expression violations?





Scenarios

Scenario 1

- “On January 7th, 2023, the military junta in Myanmar shut down all mobile networks in Mindat and Matupi townships located in Chin State, where there was an ongoing conflict. They also shut down all mobile networks even before and after conflicts. Mindat township in Chin State experienced mobile data and network shutdown for 20 days earlier before the military did air bombardment in the area on 21 January 2023.”
 - Source: Athan, [Disconnections and Vanishing Rights](#)



Scenario 2

- “A 29-year-old woman from rural Sagaing explains: ‘There were some cases after the coup where people were jailed for 2-3 years when they [the military] found out that they had been using VPNs. So, I uninstall Facebook, VPN and all social apps before I travel.’”
- Source: IMS [Report](#)



Scenario 3

- “Daw Nyo Aye, chairwoman of the Rakhine Women’s Network, was taken from her home in Sittwe by police on Tuesday afternoon and has reportedly been charged under Section 505(b) of the Penal Code ...Daw Nyo Aye was arrested for attending an event to mark the 56th anniversary of “rice crisis day” in Arakan State on August 13”.
- Source: [DMG News](#)



Scenario 4

- “On March 8 Myanmar’s military junta, which seized power in a coup last month, announced that it had revoked the licences of Mizzima, Democratic Voice of Burma (DVB), Khit Thit Media, Myanmar Now and 7Day News and that these media outlets should stop publishing and broadcasting immediately. Earlier that day, the offices of Myanmar Now were raided by police and soldiers, who seized computers, servers and other equipment.”
- Source: IPI [article](#), 9 March 2021



Scenario 5

- “Online rhetoric has spilled into real world terror, with military supporters using social media to harass and incite violence against pro-democracy activists and human rights defenders,” the experts said. “Women have been targeted and severely harmed,” they said. ... pro-junta accounts regularly use hateful, sexualised, and discriminatory rhetoric in an attempt to discredit women activists and human rights defenders.
“Gendered abuse has caused many women to cut back their online activism and retreat from public life,” they said.
- Source: UN [Expert Statement](#)



Scenario 6

- “The new military rulers of Myanmar on Friday ordered mobile operators and internet service providers to block access to Twitter and Instagram in the country until further notice, Norwegian telecom Telenor said. The government had already ordered internet providers on Thursday to block Facebook, which counts half of the population of 54 million as users, until Feb. 7. The Ministry of Communications and Information Technology did not immediately answer a request for comment, but said previously it had blocked Facebook for the sake of "stability".
- Source: [Reuters](#)





Exercise



CENTRE FOR LAW
AND DEMOCRACY

Advocating Using Human Rights Law

International Human Rights Law

- International human rights treaties place binding legal obligations on States who are parties to a treaty
 - But enforcement is a challenge
 - There are also debates about the scope of rights and how they evolve over time
 - Certain authorities are authoritative or persuasive for interpretation



International Human Rights Law

- Authoritative sources:
 - Courts and committees established by the treaties themselves
 - Like the European Court of Human Rights, Inter-American Court of Human Right (binding powers); Human Rights Committee (makes recommendations)
 - Other influential sources: UN special rapporteurs; non-binding standards



Myanmar

Treaty	Ratified?
ICCPR	
Covenant on Economic, Social and Cultural Rights	YES
Racial Discrimination (CERD)	
Elimination of Discrimination against Women (CEDAW)	YES
Convention against Torture	
Rights of the Child (CRC)	YES
Protection of Migrant Workers	
Enforced Disappearances	
Persons with Disabilities	YES



Monitoring and Enforcing Human Rights Law

- UN Human Rights “Treaty Bodies”:
 - Human Rights Committee for the ICCPR
 - Other Committees for Other Treaties (i.e., Committee on the Rights of the Child)
- Roles:
 - Receiving State Reports
 - Hearing Individual Communications
 - Some other roles



Monitoring and Enforcing Human Rights Law

- HOWEVER, some of these functions only triggered by “additional protocols”
- “Individual communications” not available for any treaty bodies for Myanmar
- State reporting process is, however



Other Options at the UN Level

- Human Rights Council Procedures:
 - Working Group on Arbitrary Detention
 - Working Group on Enforced or Involuntary Disappearances
 - Special Rapporteurs (Expression, privacy, Myanmar)
 - Universal Periodic Review
- Other special actions taken by General Assembly, Office of the High Commissioner for Human Rights, etc.
- Independent Investigative Mechanism for Myanmar
- But overall, limited options



So Does Human Rights Law
Matter?



So Does Human Rights Law Matter?

- Advocacy tool
- Means of validating claims against international standards
 - Helps to establish legitimacy
- Mobilising international pressure
- Engagement at the international level
 - Myanmar voices matter in shaping evolving international standards
- Looking to a future Myanmar





Contact Information

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