

MYANMAR: THE RIGHTS OF PROTESTORS AND THE MEDIA WORKERS WHO COVER THEM

The right to protest and the right to report on protests

The right to protest is an internationally protected human right that applies when people express themselves through protesting peacefully. This right is also known as “the right to peaceful assembly”. According to General Comment 37 of the UN Human Rights Committee, the right to peaceful assembly includes the following protections:

- Protests should not require prior permission and spontaneous protests are legitimate.
- While protest organisers can be required to notify State authorities about protests, a failure to notify should not, on its own, be used to ban a protest.
- Media workers have the right to monitor and report on protests, even illegal ones.
- Law enforcement should only resort to force during protests when this is absolutely necessary.

Protests are matters of significant public interest, and journalists and other media workers have a right, as part of their right to freedom of expression, to inform the public about the latest protest-related developments. Another important role the media plays in relation to protests is acting as watchdog over how law enforcement and other authorities treat protesters. With the media watching, officials are less likely to act with impunity and may ultimately be held accountable if they do.

Authoritarian governments view protests as a threat and seek to limit them through various illegitimate methods. These include legally banning protests, using the police and others to intimidate, detain, charge, beat and even using lethal force against protesters. Since the media can expose this sort of behaviour, they are often a special target of the authorities.

What to do

- If you are arrested or detained, do your best to obtain the protection of a lawyer to improve your chances at trial and deter the authorities from subjecting you to arbitrary abuse while in detention. If you cannot contact a lawyer, ask friends and family to help and remind those who detained you of your right to a lawyer.
- Given that arrests and detentions during protests are now very common, it might be useful to make arrangements with lawyers who may be willing to help before you participate in a protest.
- Even if you are not a media worker, try and record instances of violence and other excessive behaviour by officials, but only if it is safe to do so.

Background

Myanmar’s **Penal Code** and **Peaceful Assembly and Peaceful Procession Law (PAPPL)** place numerous illegitimate restrictions on protests.

Section 4 of the **PAPPL** makes spontaneous protests illegal by requiring protesters to obtain permission from the police before protesting. The **PAPPL** also imposes broad and vague

MYANMAR: THE RIGHTS OF PROTESTORS AND THE MEDIA WORKERS WHO COVER THEM

conditions on protests. For example, section 12(a) requires protesters not to “talk or behave in a way to cause any disturbance or obstruction, annoyance, danger”. Since protests often cause – and are indeed designed to cause – some degree of disturbance, the law effectively criminalises protesting, leaving all protesters open to conviction and being sentenced to up to 6 months’ imprisonment and/or a fine of 10,000 Kyats.

Chapter VII of the **Penal Code** bans a number of protest-related activities. Sections 141-160 criminalise actions such as gathering in groups of five or more to resist “any legal process”, joining a protest after it has been commanded to disperse and harbouring protesters, subject to imprisonment for between six months and three years, and/or fines.

Some of the **Penal Code** provisions that were amended on 14 February 2021 contain broad wording that could be used to charge protesters and media workers. For example, section 124A criminalises the making of statements that create hatred or contempt, or excite disaffection towards the Government or the military. Section 124C prohibits hindering the success of military or law enforcement efforts to preserve the stability of the State, while section 124D prohibits hindering or disrupting army or government personnel who are carrying out their duties. The language of these provisions is broad enough to criminalise the goals which are the point of many legitimate protests. Breach of these sections may lead to fines, jail terms of up to seven years (124D) and twenty years (124A and 124C), or both.

Other **Penal Code** provisions could be used to target media workers who cover protests. For example, section 505(c) criminalises the circulation of information that causes “fear or alarm to the public” and that might induce persons to “commit an offence against the State or against the public tranquillity”. Section 505-A(a), also added on 14 February 2021, prohibits causing fear while 505-A(b) prohibits spreading “false news”. These could both cover reporting on protests. Convictions can result in a fine, jail time (two years for 505 and three years for 505-A), or both.

These provisions breach the *Universal Declaration of Human Rights* (UDHR), which guarantees the rights to peaceful assembly (Article 20) and to freedom of expression (Article 19). The UDHR requires any restrictions on these rights to be both “determined by law” and necessary to protect a legitimate interest. Vague rules such as the ones quoted above do not qualify as being “determined by law” and fail to provide citizens with clear notice about what is prohibited. These rules are also not “necessary” to protect legitimate interest such as public order or public morals which require more than just “any disturbance or obstruction”.



Centre for Law and Democracy

info@law-democracy.org

+1 902 431-3688

www.law-democracy.org