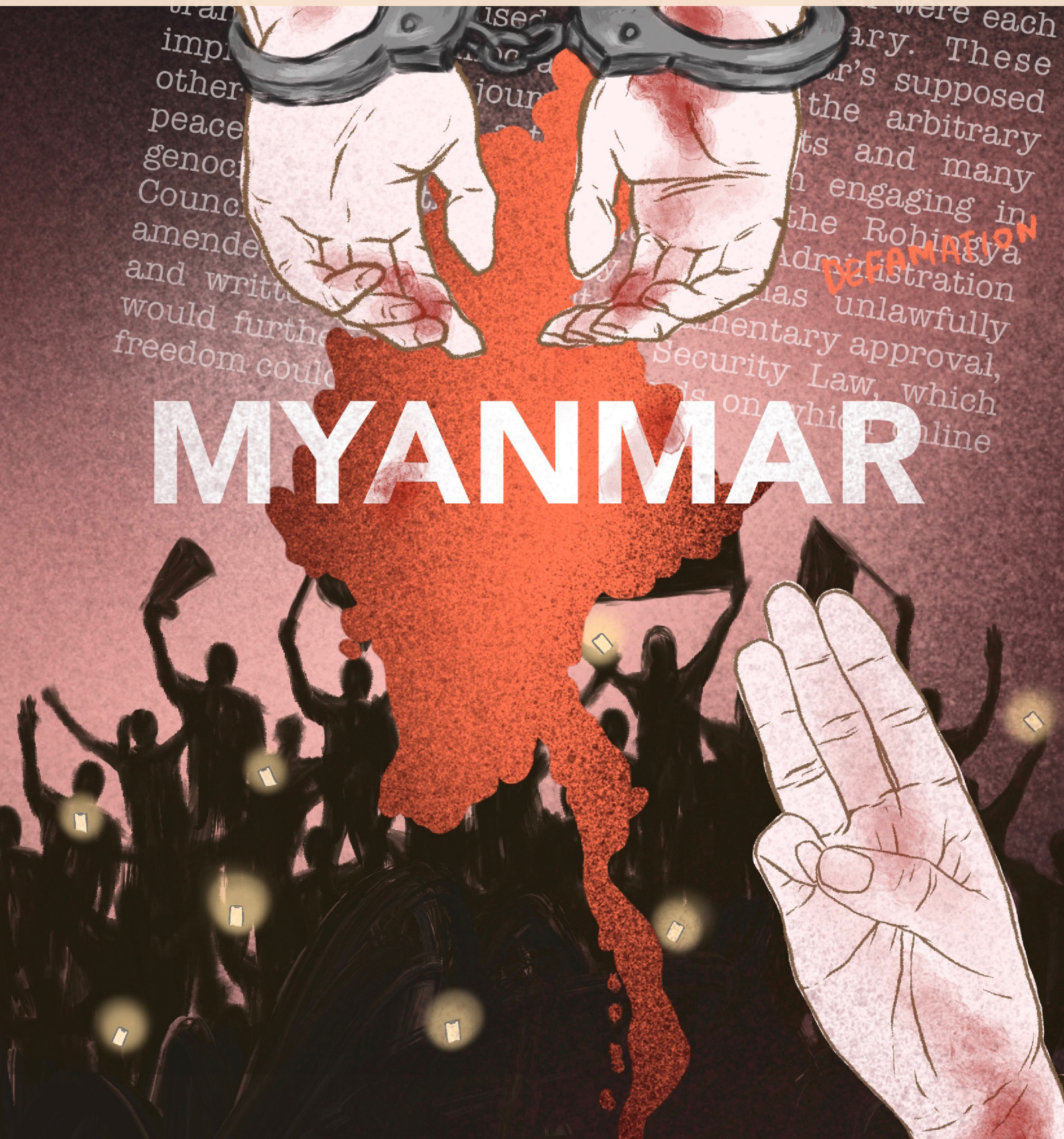


**DAWN OF DIGITAL DICTATORSHIP:  
WEAPONISING THE LAW AGAINST ONLINE SPEECH**

**MYANMAR**







# What is the ASEAN Regional Coalition to #StopDigitalDictatorship?

The ASEAN Regional Coalition to #StopDigitalDictatorship was established in 2020, by human rights and digital rights activists from Southeast Asia, on a mission to decolonize digital rights and restore our online democracies.

Together, we stand in solidarity with one another, with people from the Global Majority, resisting and pushing back against authoritarian governments and complicit tech companies.

We tell our realities from the ground, and we develop solutions together.

## Our truths. Our Stories. Our Solutions. Our Liberation.

**Fighting back online authoritarianism in Southeast Asia is, and shall always be, decolonial, grounded on feminist values, centred on our voices and our collective power.**

Listed alphabetically, members of the Coalition include: ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Free Expression Myanmar, Foundation for Media Alternatives, ILGA Asia, Manushya Foundation, Viet Tan, The Rohingya Maïyafuñor Collaborative Network, SAFEnet, and Women's Peace Network.

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# List of Abbreviations

<b>ETL</b>	Electronic Transactions Law
<b>IIFMM</b>	Independent International Fact-Finding Mission on Myanmar
<b>MNHRC</b>	Myanmar National Human Rights Commission
<b>NUG</b>	National Unity Government
<b>OGBV</b>	Online gender-based violence
<b>NLD</b>	National League for Democracy
<b>PDF</b>	People's Defence Forces
<b>IASC</b>	the right to freedom from torture or cruel, inhuman or degrading treatment, and the right to life
<b>SAC</b>	State Administration Council
<b>UN</b>	United Nations
<b>VK</b>	Vkontakte
<b>VPN</b>	Virtual Private Network

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This project would not have been possible without the help of the authors below, as well as reviewers who asked to remain anonymous, in validating our desk-research and in some cases, contributing content that informed this report.

# Chapter I.

## Introduction

The digital space is quickly emerging as one of the key spaces in which human rights are threatened. In Southeast Asia, the internet is no longer a free, safe, and secure space for expression. Restrictive legislation, intimidation, and even the murder of human rights defenders, activists, and journalists tarnishes the commitment to freedom of expression of the countries in the region. In this light, the need for our rights to be respected, including online, becomes greater.

**T**his report is the outcome of the collaborative work of the ASEAN Regional Coalition to **#StopDigitalDictatorship** (“the Coalition”).

After its establishment in 2020, with the coordination of Manushya Foundation, virtual discussions were initiated to discuss challenges faced, while determining collaborative and inclusive efforts to assess, amend, and monitor implementation of legislations affecting digital rights. The Coalition has established itself as a leading regional expert voice on digital rights in the region and is now a key player, powering local and regional voices to speak their truth to power and to resist digital dictatorship.

A core group of members of the Coalition has collectively developed the research and analysis framework of a regional ASEAN Study, which is divided into three thematic reports. This report is part of the series of three thematic reports and focuses on the right to freedom of speech and expression in the digital space.

The aim of this report goes far beyond merely analysing the legal framework related to freedom of expression online and documenting rights violations in the nine Southeast Asian countries covered. The main goal is to increase public understanding of how important digital rights are to everyone’s lives and to strengthen netizens’ knowledge of those rights. But there is more to consider. As intersectional feminists, we recognise the internet is not equal for everyone. While the digital realm offers immense opportunities, it is far from being neutral or egalitarian, and it remains susceptible to persistent backlash against the rights of women and LGBTIQ+ people. Like other social spaces, it reflects and reproduces power relations and inequalities, including those related to gender.

Coalition members dedicate their work to make Asia a safe and peaceful place for all. While they have different goals and perspectives, the cultivation of an open, safe, and inclusive digital space for all is a key priority for them. At **Manushya Foundation**, we place “equality” at the core of our activities, apply a gender lens to all of our work, and focus on powering women activists and human rights defenders, youth, and LGBTIQ+ individuals to tell their very own stories in a powerful manner for their advocacy. Likewise, **ILGA**

**Asia**, a regional federation of more than 204 member organisations, works for the equality of all people regardless of sexual orientation, gender identity, and sex characteristic, as well as liberation from all forms of discrimination and stigmatisation. **Women’s Peace Network** has “equality” as one of its core visions and works to protect the rights and increase the inclusion of marginalised women, youth, and communities in the Rakhine state and across Myanmar. **The Foundation for Media Alternatives** focuses on the intersection between information and communication technology (ICT) and gender rights, including tech-related gender-based violence.

We also recognise that gender inequality intersects with other forms of oppression, such as race, class, sexuality, and disability, and women exposed to intersecting forms of discrimination are particularly vulnerable to violence in the digital world. Understanding the intricate ways in which power operates, we apply an intersectional feminist lens to explore and tackle the multifaceted dynamics within the digital realm. With this report, we shed light on this and the patriarchal power dynamics that hold our world back from fulfilling a society where everyone is treated with fairness and dignity.

However, that is not where our work ends. The ultimate objective is to call, as a strong and unified voice, on governments, the Burmese military junta, policy-makers, and tech companies to move the needle forward from commitments on paper to concrete measures to respect their international human rights obligations—in order to restore our only democracy. Recommendations are also extended to civil society, which provides a critical foundation for holding governments, the Burmese military junta, and businesses accountable, and promoting human rights and democracy.

Following **Chapter II: Methodology**, which will clarify our research and compilation process, **Chapter III: Summary of International Human Rights Laws and Standards** will provide important context for the rest of the report with a table addressing the right to freedom of expression; the rights of human rights defenders; the right to privacy; and the right to effective remedy, and indicates the ratification status by country of each convention, where appropriate. Following, **Chapter IV:**



## What is the ASEAN Regional Coalition to #StopDigitalDictatorship?

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**Fighting back online authoritarianism in Southeast Asia is, and shall always be, decolonial, grounded on feminist values, centred on our voices and our collective power.**

**Country Overviews (Analysis)** is originally split into nine sections, each one focused on a specific country: **Cambodia, Indonesia, Lao PDR (Laos), Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.** Each section explains how laws and legal frameworks are being used to target free expression and information online, censor or regulate content, and monitor online activities. Each section includes cases of individuals arrested and charged for their online activities, as well as instances of online censorship, monitoring, and surveillance. However, in this booklet, the focus is solely on Myanmar.

In this booklet, a section is dedicated to the impact of COVID-19 and democracy in Myanmar. Although the pandemic has brought the world grinding to a halt, Southeast Asian governments and the Burmese military junta took it as an opportunity to tighten their grip over civic space and implemented self-serving laws and policies. Under the banner of safeguarding public health, they exploited emergency powers and other legal tools, including “fake news” laws, in restrictive

and repressive ways, to advance their authoritarian agendas, suppress freedoms and critical speech, silence political opponents, control the flow of information, and attack media freedoms. While national circumstances differed in how the pandemic was governed, the states covered in this report had extensive repressive powers and used COVID-19 as a pretext to limit democratic space both offline and online.

Further, another section draws particular attention to cases of online gender-based violence and harassment experienced by women, including those who are more susceptible to online violence because of their jobs, race, ethnicity, religion, or identity, such as women activists and human rights defenders, women journalists, women belonging to religious or ethnic minorities, young women, women with intersecting identities (Indigenous, ethnic and minority, migrant women; lesbian, bisexual, transgender and intersex women; women with disabilities).

The report concludes with a number of **recommendations** for the primary actors identified as holding key functions in enhancing the state of digital freedoms in Myanmar, specifically that of online expression. International and regional governments, members of Parliament, tech companies, and civil society have—each one to a different extent—a crucial role to play to uphold human rights and fundamental freedoms in the digital space. Since civil society are front and centre in representing the factual needs of the people and they can power citizens by providing civic education on human rights, a series of recommendations is likewise made to them. People are more likely to resist attempts to suppress their rights if they are aware of them.

Creating a safe internet space for everyone is crucial for promoting inclusivity, respect, and equal opportunities.

**Only together can we foster a more inclusive and respectful internet culture where everyone can engage, express themselves, and participate without fear of discrimination or harassment. None of us are free until we are all free.**

# Chapter II.

## Methodology

This Thematic Report is a culmination of four years of monitoring, research, writing, reviewing, and examining the digital rights space in nine ASEAN countries: Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, The Philippines, Singapore, Thailand, and Vietnam. Our research does not cover Brunei Darussalam and Timor-Leste due to the lack of coalition members in these countries. As mentioned previously, this booklet will, however, focus solely on Myanmar.

**T**he methodology used in this report encompasses both primary and secondary sources. Primary data was gathered by Manushya Foundation, together with organisation members of the ASEAN Regional Coalition to #StopDigitalDictatorship. We have entrusted our coalition members to write thorough country-specific analyses, based on their expertise in the digital rights landscapes of their respective countries. It must thus also be noted that as these coalition members are specialists in their own rights, with a wealth of information obtained through lived experiences and field research, not every source will be cited, as a lot of information was first-handedly provided by the author and not obtained from elsewhere. We included voices from the ground and experts' insight from panel discussions, including sessions we held as part of RightsCon, such as the 2022 "Thailand: Digital Authoritarianism Rising" session, the 2021 "Online Freedom Under Attack: Weaponising Misinformation, Disinformation, and 'Fake News' for Censorship in Southeast Asia" session, as well as a series of other webinars hosted by the Coalition. Participants of the webinars and discussions consisted of citizens, experts, representatives of academia, and civil society groups. For some countries, our Coalition members also conducted independent investigations and compiled data from open sources published by the relevant authorities, government agencies and the judiciary. The report's coverage spans the years 2020 through 2023, except for the chapter on Laos (**Chapter IV, 3. Lao PDR**), where egregious human rights breaches instances prior to 2020 are

also included. Similarly, for Myanmar (**Chapter IV, 5. Myanmar**) and Cambodia (**Chapter IV, 1. Cambodia**), countries for which we are also incorporating elements from 2024 due to the rapidly evolving events. We focused our inquiries on different target areas, which were ultimately synthesised into primary themes featured in the reports in this series: criminalisation of defamation and lack of human-centred cyber laws and policies; online monitoring and content moderation; threats to privacy and data protection; harassment of activists and human rights defenders (HRDs); and internet shutdowns.

This report is also composed on the basis of desk research, including a systematic literature review of relevant legislation and regulations; reports, studies, and recommendations by UN human rights mechanisms and NGOs; online news articles; policy and white papers; and independent publications. Data was also obtained from studies and external civil society organisations. We carried out interviews with a wide range of stakeholders to receive the most accurate insight on the state of digital rights on the ground relating to the target areas specified above. The study's ultimate objective is to provide a comprehensive analysis on the state of digital rights in the Southeast Asia region, including during the COVID-19 pandemic, by looking at existing national laws, policies and measures; recorded cases of violation; as well as previous recommendations or proposals made in line with international human rights laws and standards.

# Chapter III.

## Summary of International Human Rights Laws and Standards



*Fig. G: Summary table of international human rights laws and standards.*

FREEDOMS OF EXPRESSION AND TO HOLD OPINION		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	<b>Article 19:</b> “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law. as a matter of customary international law
ICCPR	<b>Article 19:</b> Upholds the right of every individual to freedom of expression, including the freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media” without interference.	<b>Ratified</b> Cambodia (May 26, 1992)  Indonesia (Feb. 23, 2006)  Lao PDR (Sept. 25, 2009)
	<b>Article 19(3):</b> Articulates a three-part test, stipulating that any restrictions on expression must be “provided by law”, proportionate, and necessary for “respect of the rights and reputations of others,” “for the protection of national security or of public order, or of public health and morals.”	Philippines (Oct. 23, 1986)  Thailand (Oct. 29, 1996)
	<b>General comment no. 34: Article 19</b> (freedoms of opinion and expression): States that criminalize defamation must decriminalize it given that “imprisonment is never an appropriate penalty” for, and is neither necessary nor proportionate to the aim of protecting others. <sup>2</sup>	Vietnam (Sept. 24, 1982)  <b>Not signed or ratified</b> Malaysia, Myanmar, Singapore
UDHR	<b>Article 12:</b> “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights lawBinding as a matter of customary international law

Fig. G: Summary table of international human rights laws and standards.(continuous)

ICCPR	<p><b>Article 17:</b> “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” It also upholds the right of persons to receive legal protection from such interference or attacks.</p>	<p><b>Ratified</b> Cambodia (May 26, 1992)</p> <p>Indonesia (Feb. 23, 2006)</p> <p>Lao PDR (Sept. 25, 2009)</p> <p>Philippines (Oct. 23, 1986)</p> <p>Thailand (Oct. 29, 1996)</p> <p>Vietnam (Sept. 24, 1982)</p> <p><b>Not signed or ratified</b> Malaysia, Myanmar, Singapore</p>
	<p><b>General comment no. 16: Article 17 (right to privacy):</b> This Article is intended to protect against said infringements, both by states and private individuals. Further, “interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.” The principles of legality, necessity and proportionality also apply to privacy limitations.<sup>3</sup></p>	
Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (2016) juncto Report of the OHCHR on the right to privacy in the digital age (2014)	Legitimate surveillance, where intended to limit the freedom of expression, requires states to demonstrate the risk that the expression “poses to a definite interest in national security or public order.” <sup>4</sup> All interference with the right to privacy must also be authorised by an independent oversight body through careful review, and be accompanied with an assurance of effective remedy in case of a breach. <sup>5</sup>	<b>Non-binding</b> (interpretive)
RIGHTS OF HRDS		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UN Declaration on Human Rights Defenders	<p><b>Article 6:</b> Provides for the right of persons to seek, obtain, receive and hold information about all human rights and fundamental freedoms; freely publish or impart or disseminate information and knowledge on all human rights and fundamental freedoms; and to study, discuss and hold opinions on the observance of these rights.</p> <p><b>Article 7:</b> “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.”</p> <p><b>Article 9:</b> Everyone whose rights or freedoms pursuant to the Declaration are allegedly violated must be able to access an effective remedy and have their complaint heard by an independent, impartial and competent authority.</p>	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law

Fig. G: Summary table of international human rights laws and standards.(continuous)

RIGHT TO AN EFFECTIVE REMEDY		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	<b>Article 8:</b> “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law
ICCPR	<b>Article 2(3):</b> Provides for the obligation of states to ensure that those individuals whose rights have been violated have access to an effective remedy whether the violation(s) were committed by a person acting in their official capacity. Further, the effective remedy is to be determined by a competent judicial, administrative, legislative or other authority as mandated by the national legal system. The bottomline is that, regardless of the authority in charge, remedy must actually be granted.	<b>Ratified</b> Cambodia (May 26, 1992)  Indonesia (Feb. 23, 2006)  Lao PDR (Sept. 25, 2009)
	<b>General comment no. 31 (the nature of the general legal obligation imposed on States Parties to the Covenant):</b> Judicial and administrative mechanisms must be set in place to “investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.” Reparation to individuals can take the forms of “restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.” <sup>7</sup>	Philippines (Oct. 23, 1986)  Thailand (Oct. 29, 1996)  Vietnam (Sept. 24, 1982)  <b>Not signed or ratified</b> Malaysia, Myanmar, Singapore

# Chapter IV.

## Chapter

## Country Analysis



## 4. Myanmar

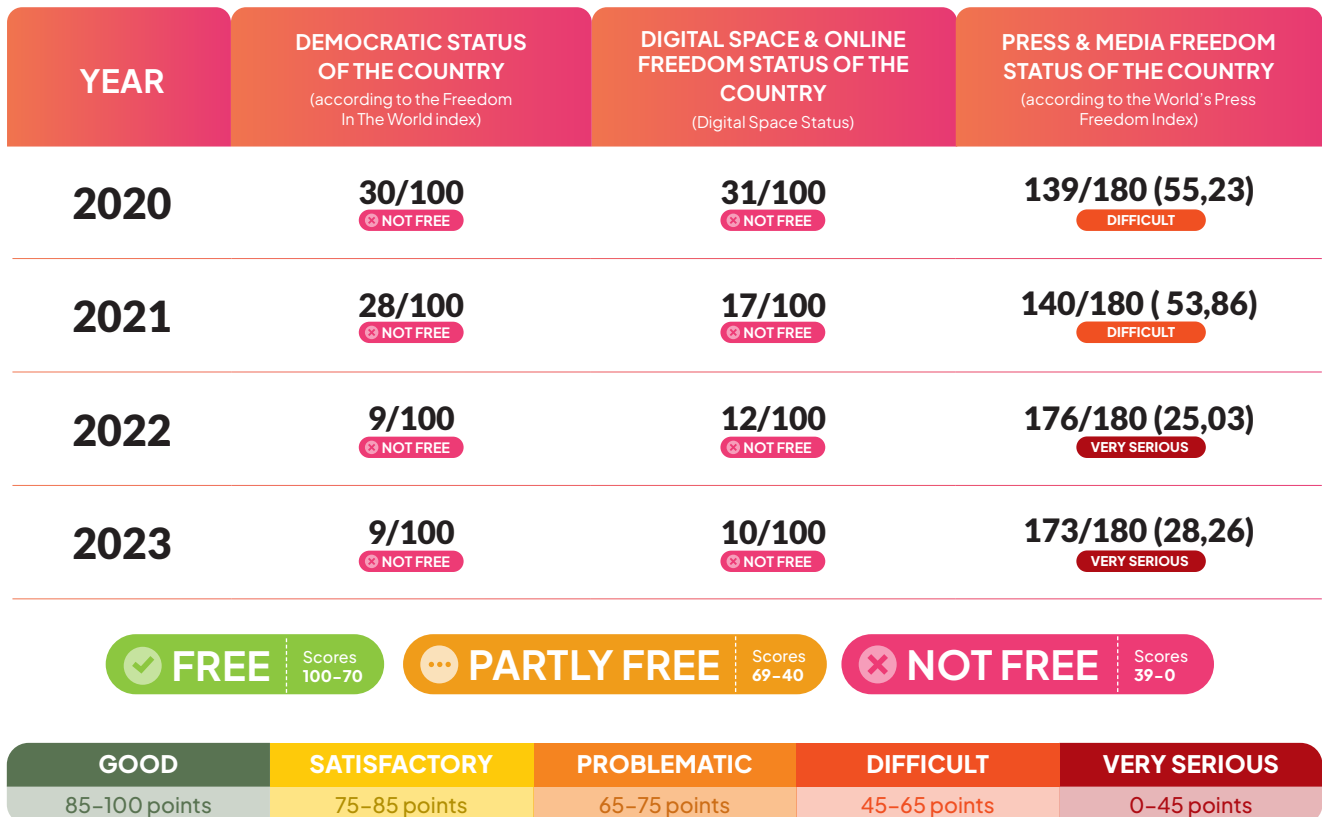


Fig. 4.1: Summary of freedom ratings for Myanmar, 2020-2023.<sup>1</sup>

### 4.1 Legal Framework

#### Freedom of Expression: Not Recognised by Law, Yet Legally Restricted

In Myanmar, the revolutionary government – the National Unity Government (NUG) – alongside its associated pro-democracy actors, has repealed the military-authored 2008 Constitution and replaced it with a temporary one with the aim of adopting a publicly mandated constitution in the near future. Article 354 of the 2008 Constitution guaranteed the right to freedom of expression to Burma citizens insofar as it is not “contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquillity or public order and morality.”<sup>2</sup> It

is noteworthy that Article 354 only granted this right to Burmese citizens, in a country where many ethnic groups—notably the Rohingya—have been stripped of citizenship. Additionally, the Unlawful Associations Act delegates the “President” to decide which groups are considered unlawful. Their members and anyone contributing to one of these groups face up to three years’ imprisonment according to section 17(1). Since its implementation in 2015, the Act has been frequently used to target groups.<sup>3</sup>

A large number of restrictions excessively infringe upon online freedom, including the 2013 Telecommunications Law. Excessive restrictions are also found in the Electronic Transactions Law (ETL), the 2014 Printing and Publishing Law and the Penal Code (1861) which

were each unlawfully amended by the military. These legislations were used during Myanmar's attempted transition to democracy to justify the arbitrary imprisonment of journalists, human rights defenders, students and many other civilians for acts ranging from criticising the government to reporting on the 2017 attacks of genocide against Rohingya, and the waves of state-sponsored violence leading up to it. Since the coup, the State Administration Council (SAC)—the military junta—has unlawfully amended a few laws without parliamentary approval,<sup>4</sup> and made worse a draft Cyber Security Law, which would further expand the grounds on which online freedom could be curbed.<sup>5</sup>

### **Criminalisation of Defamation: the Penal Code, 2013 Telecommunications Law, Anti-Corruption Law, the 2014 News Media Law, and the Privacy Law**

Sections 499-502 of the Penal Code punishes defamation by a maximum of two years' imprisonment or a fine or both. It is the only law that defines defamation and provides potential defences against it. Nevertheless, these defences are weak, limited in scope and fall short of the international standards.<sup>6</sup> A criminal defamation clause is also found in the 2013 Telecommunications Law. Section 66(d) of the Law criminalises the "extorting, defaming, disturbing or threatening [of] any person by using any telecommunications network." Violators could be imprisoned for up to two years, fined or both. Although it contains a range of grounds for prosecution, defamation is the one that has been used most frequently, especially when it involves the use of a telecommunications device. The provision does not define what constitutes defamation or outline any defences.<sup>7</sup>

Likewise, Section 34(d) of the ETL criminalises the "creat[ion], modif[ication] or alter[ation] 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 organisation or any person," and carries a prison term of three

years.<sup>8</sup> Under Section 46 of the Anti-Corruption Law, on the other hand, an informer or complainant can be punished if they "give[] the information or complaint intentionally for the purpose of any person aggrieved or to be defamed without credible evidence."<sup>9</sup> Similarly, Section 9(g) of the 2014 News Media Law makes it a crime to write news that "deliberately affects the reputation of a person or organisation or that disrespects their human rights, unless the writing is in the public interest," which is essentially tantamount to a broadly formulated crime of defamation. The provision carries a fine of up to MMK 1 million (\$476).<sup>10</sup> Similarly, Section 8(f) of the Law Protecting the Privacy and Security of Citizens (Privacy Law) states that "no one shall act in any way to slander or harm [a citizen's] reputation." Violators can be sentenced to between six months and three years and fined between MMK 300,000 (\$142) and 1.5 million (\$714).<sup>11</sup> In a nutshell, these articles lack precision and impose disproportionate criminal sanctions, contrary to the right to freedom of expression.

### **Sedition Law and New Loosely Defined Provision in the Penal Code to Muzzle Critics**

Section 124(a) of the Penal Code criminalises sedition, defined as behaviour that brings "or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection" against the "government." The provision was unlawfully expanded by the military in the 2021 amendments to include comments relating to its defence services and defence services personnel. Violations are punishable by up to 20 years in prison. Moreover, Sections 295(a) and 153(a) punish with up to two years' imprisonment the acts of "outraging religious feelings" and promoting feelings of enmity or hatred between groups of people respectively. A provision newly introduced in 2021 by the military, Section 505A, expands the scope of its previous version by criminalising expression that "cause[s] fear," spreads "false news, [or] agitates directly or indirectly a criminal offence against a Government employee" and punishing it with a maximum of three

years. Section 505(b) prohibits statements made “with intent to cause, or which is likely to cause fear or alarm to the public.”<sup>12</sup> These constitute yet another example of a loosely formulated prescription which prevents individuals from predicting the kind of expression which would be considered criminal. These provisions are a tool for the military junta to suppress any form of public online dissent or debate as well as any attempt to hold its officials accountable for their activities. It has notably been used to a great extent against those partaking in the pro-democracy movement.



*The amendments to the Penal Code imposed by the military junta unreasonably infringe upon fundamental rights protected by international law, including freedom of expression. By stripping the people of Myanmar of their rights, the military once again displays its lack of respect for international human rights<sup>13</sup>*

- Human Rights Watch

## Crackdown on Media: Licensing Requirements, Stifled Press Freedom, and Unlawful Amendments to ETL and Broadcasting Law

The 2014 Printing and Publishing Law establishes a licensing regime for news agencies and websites that are required to register prior to producing content, including for publishing online. Vague and overly broad administrative and criminal sanctions can be imposed against those running a website without a licence. The 2014 News Media Law sets out a code of conduct and punishments applicable to media workers which are formulated with insufficient precision which can be misused to control media and arbitrarily criminalise those who report on critical news.<sup>14</sup> A year later, the Broadcasting Act was enacted. This legislation applies the same licensing framework mentioned earlier, but specifically to the broadcast media rather than the print media.<sup>15</sup>

Several other laws that criminalise free expression contravene lawful restrictions provided under international law. Section 68(a) of 2013 Telecommunications Law states that “communication, reception, sending, distribution, or sharing of incorrect information with dishonest intention” is subject to a maximum of one-year imprisonment or a fine or both. The broad criminalisation of maliciously communicating false information without precise definitions makes the provision vulnerable to arbitrary enforcement.<sup>16</sup> Section 3 of the 1923 Official Secrets Act imposes a maximum term of 14 years for a wide range of activities including obtaining, collecting, recording, publishing of secret official code or password, or any sketch, plan, model, article or note or other document or information which can be “directly or indirectly, useful to an enemy”. Similarly, Section 5 states that anybody who has, controls, communicates, uses, retains, or receives information classified as “secret” under the law, can be punished with a prison term of two years.<sup>17</sup> The overbroad language alongside the lack of definition for terms employed therein

results in potential abuse to prosecute activists and journalists.

The 2014 amendment and the military's unlawful 2021 amendment to the ETL restrict expression through electronic transactions technology and establish harsh criminal sanctions for those convicted. The ETL had already been deemed restrictive prior to the coup as its Section 33 criminalises the use of electronic transactions technology to receive, send or distribute electronic information which harms state security, law and order, community peace and tranquillity, national solidarity, the national economy or the national culture, with a prison term ranging from five to seven years. The 2021 amendment adds several problematic provisions that enhance the preexisting risks for crimes to be misconstrued and curtail online expression. Particularly, Section 38B punishes individuals "obtaining, disclosing, using, destroying, modifying, disseminating, or sending someone's personal data to anyone else without approval," with one to three years in prison. Under Section 38C, the creation of "misinformation or disinformation with the intent of causing public panic, loss of trust or social division in cyberspace" is subject to one to three years' imprisonment in addition to fines.<sup>18</sup> As is the case with the abovementioned laws, these provisions are imprecise and could be employed to limit the exercise of expression online and prevent the disclosure of information.

In November 2021, the military introduced so-called amendments to the Broadcasting Law, expanding licensing requirements to include online media. It requires news websites that publish videos and individuals sharing news videos on social media to obtain a licence from the Ministry of Information. It is above all law no. 63/2021, the Second Amendment Law to the Television and Radio Broadcasting Law, that is drawing attention. Non-compliance with the law could lead to harsher penalties such as imprisonment for a maximum period of five years.<sup>19</sup>

## **Draconian Cyber Security Law: More Oppression in the 2022 Amendment and the Outlaw of VPNs**

Its latest draft, as circulated on Jan. 13, 2022,<sup>20</sup> expands the scope of an earlier draft published in 2021<sup>21</sup> and grants the junta sweeping powers to further suppress free expression in the country. It confers unfettered authority to the junta to control internet service and police content online on grounds of "public interest." A variety of vague and overlapping crimes, such as online expression deemed to constitute "misinformation" or "disinformation" that causes hate and risks disrupting unity, stability and peace, and "written and verbal statements against any existing law," are punishable by three years' imprisonment, a fine or both. These provisions lack clear definitions for key terms, potentially enabling the military to prosecute individuals for posting online content deemed threatening without precise criteria or boundaries.<sup>22</sup> The 2022 draft outlaws the use of Virtual Private Networks (VPNs), infringing upon individuals' right to access information online. Harsh penalties are furthermore applicable to any person who encourages the use of VPNs. In addition, provisions permit the arbitrary blocking of digital businesses and social media without safeguards or judicial due process, in violation of the right to freedom of expression.<sup>23</sup> Similarly to the military's 2021 ETL amendment, accessing online content deemed "illegal" or "unauthorized", particularly if it is considered confidential for reasons of national, international, or multilateral security, with the intention of damaging the country's relationships with foreign nations, may lead to prosecution. This provision poses a threat to whistleblowers, investigative journalists, or activists who aim to expose materials that could undermine the regime via digital channels. In effect, this law permits the military to justify taking action against anyone who circulates information online which may threaten its unlawful, brutal authority.<sup>24</sup>



“

*A draft Cybersecurity Law would further empower authorities to block online content or restrict internet access without judicial oversight and would ban the use of virtual private networks (VPNs), with VPN users facing up to three years' imprisonment.*<sup>25</sup>

- UN human rights experts

## 4.2 Challenges and Cases

### Struggles, Legislation, and Repression in Myanmar (2020–2023)



#### LEGEND:

⚠️ : Alleged offense + (articles/provisions invoked against the individual)  
 - "Unknown": Either information is not available or no articles/provisions have been cited by the judiciary



: Legal and extralegal consequences  
 - "Status Unknown": Current status of the individual is unknown (detained, convicted, deceased, etc).

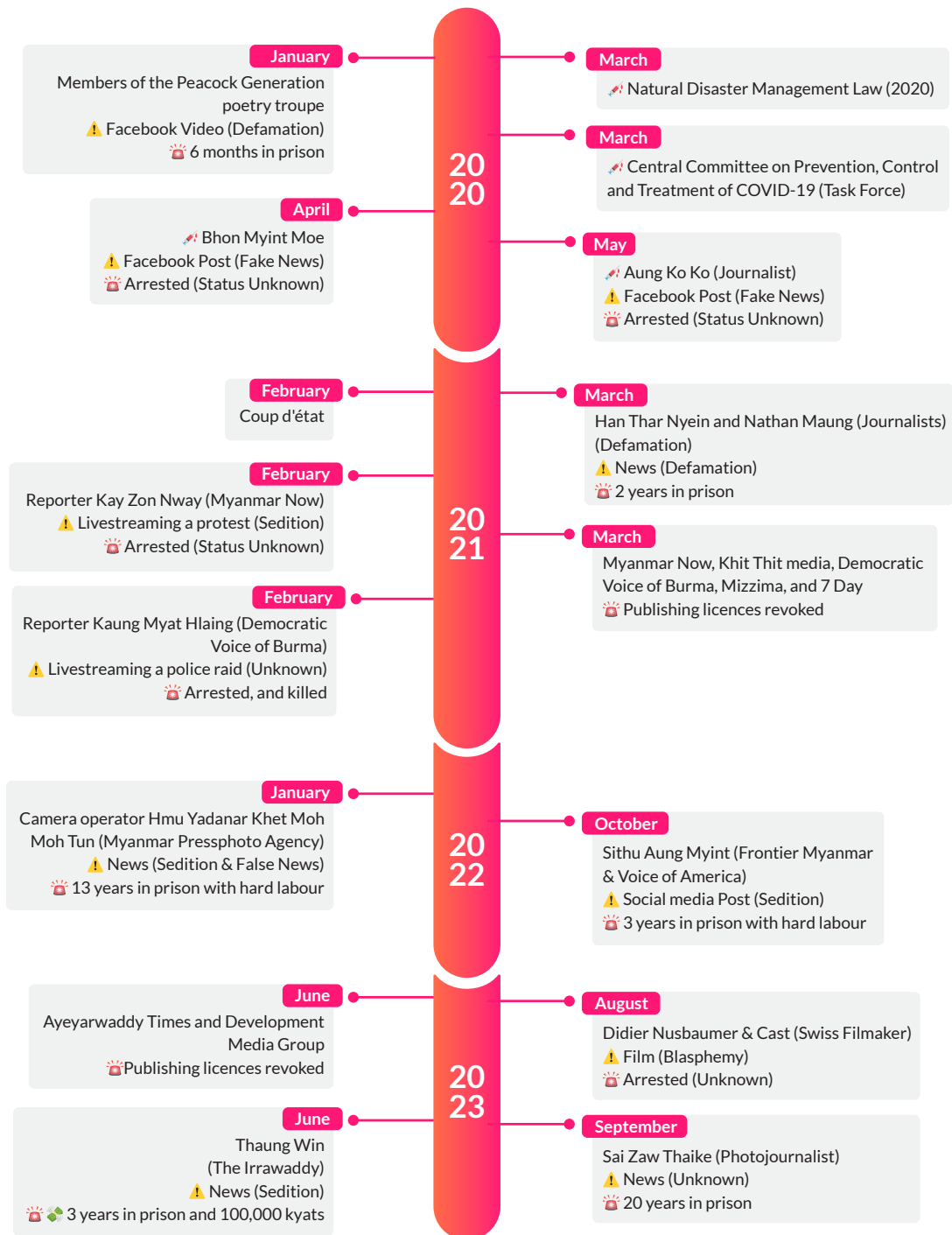


Fig.4.2A: Summary timeline for Myanmar, 2020-2023.




Country	Event	Contextualisation
 <b>MYANMAR</b>	 Cyber Security Law (2022)	This law outlaws the use of Virtual Private Networks (VPNs), infringing upon individuals' right to access information online.
	 Coup d'état (2021)	On February 1, 2021, the Burmese military overthrew the civilian government led by Aung San Suu Kyi, ending several years of democratic transition. The military declared a state of emergency, citing allegations of electoral fraud during the November 2020 elections, which were won by Aung San Suu Kyi's party, the National League for Democracy (NLD).

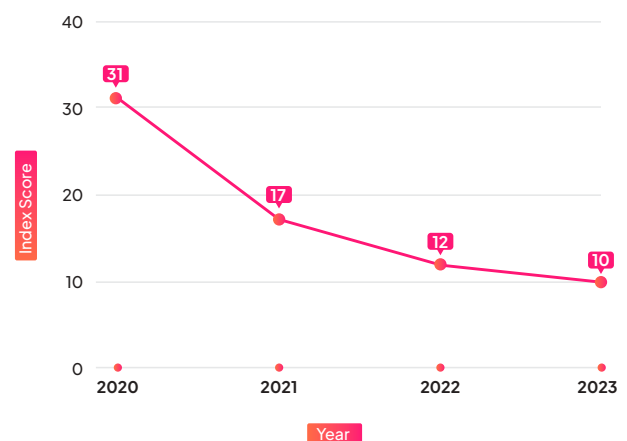
Fig. 4.2B: Contextualisation for Myanmar's timeline, 2020-2023

## Environment of Fear: Arrests, Executions, Lawsuits, and Everything Else in Between to Silence Pro-Democracy Movement

The military started its coup with the arbitrary detention of civilian heads of government on Feb. 1, 2021, when the Parliament was scheduled to convene for the first time since the November 2020 general elections. The military has since intensified its cracking down on dissenting voices, including netizens, human rights defenders, journalists, activists, social media influencers, and political leaders through torture, arbitrary arrest, detention, and sentencing of individuals, the blocking of websites and social media platforms, ban on news outlets, and increased military propaganda. With the execution of at least four people, including activists and politicians by the military in July 2022, and many more on death row or facing death sentences, rights abuses are surging on an unprecedented scale.<sup>26</sup> These regressions are also reflected in internet and press freedom indices: Freedom on the Net scored Myanmar 17/100 in 2021.<sup>27</sup> The score dropped to 12/100 in 2022.<sup>28</sup> Myanmar has been ranked as the second-worst country globally for infringing upon internet freedom, trailing only China, according to the latest annual report on online freedom of expression published by Freedom House in 2023 with only 10/100.<sup>29</sup> The World Press Freedom Index ranked Myanmar 176th out of 180 countries in 2022, with a score of 25.03 and in 2023, Myanmar climbed up to 173rd position,

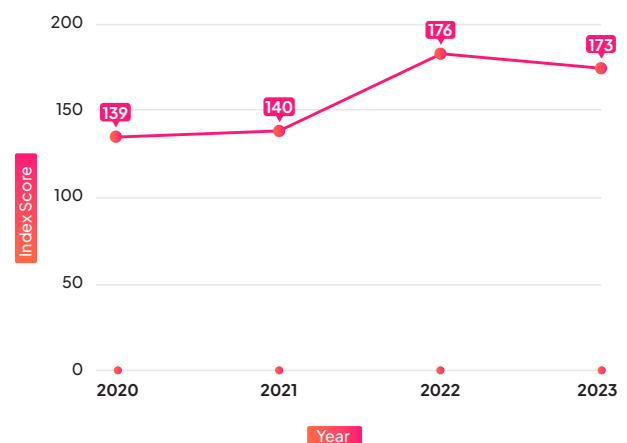
with a score of 28.26. However, it continues to be among the 10 most oppressive countries in the world in terms of media freedom.<sup>30</sup>

### Digital Space & Online Freedom Status: Myanmar



Freedom House, *Explore the Map*, (n.d.), available at: <https://freedomhouse.org/explore-the-map?type=fiw&year=2023>

### Media & Press Freedom Status: Myanmar



Reporters sans frontières, *Classement*, (n.d.), available at: <https://rsf.org/fr/classement>

Fig. 4.3: Digital Space & Online Freedom Status (Freedom on the Net) and Media & Press Freedom (World Press Freedom Index) Ratings for Myanmar over the years, 2020-2023.

While the erosion of freedom of speech in Myanmar had already commenced before the coup, its complete absence has become apparent since the coup. In the four years leading up to February 2021, at least 539 lawsuits related to speech freedom were brought against 1,051 individuals in relation to expression. Of these, 495 were individuals unassociated with civil society, 326 activists, and 67 journalists or media professionals.<sup>31</sup> Since it took power in February 2021 to November 2022, the junta has arbitrarily arrested and detained over 16,000 people for allegedly violating established speech freedom restrictions and continues to expand the grounds on which it could effectively eliminate the right to freedom of expression in Myanmar.<sup>32</sup> As of June 20, 2023, the number reached 23,386 people arrested and detained.<sup>33</sup> According to a military source, from January until the end of October 2022, more than 900 Facebook users were arrested for their posts and comments on the pages of public personalities or news organisations.<sup>34</sup> In all, from the coup in February 2021 to December 2023, 25,883 people have been arrested, of whom 19,966 are still being held, and 8,585 are serving sentences. A total of 80,000 homes have been burnt down since the coup by the military junta, displacing 3,800,000 civilians.<sup>35</sup>

Criminal defamation provisions have long been wielded by public officials, politicians, religious and military leaders and even businesses to charge journalists, activists and ordinary citizens perceived as critics of the government and the military. Proceedings are lengthy and courts tend to side with the prosecution and impose heavy penalties against defendants. Additionally, defences included in the Criminal Code are regularly overlooked.<sup>37</sup>

Internet users are frequently penalised, and Section 66(d) of the 2013 Telecommunications Law is commonly invoked.<sup>38</sup> In February 2020, three members of a performance group were sentenced to six months under this Section for posting photos, videos, and livestreaming on Facebook satire performances allegedly related to the military.<sup>39</sup> In January 2021,

“  
After the military  
coup happened, we  
lost our freedom of  
speech, freedom of  
expression and our  
access to information.  
We have also lost  
the democratic  
space created by the  
media in the country.  
Also, reporters are  
always at the centre  
of protests with  
shooting, tear gas and  
water cannons. This  
is dangerous as now  
there is no institution  
that journalists and  
media can turn to in  
this situation.”<sup>36</sup>

- Tin Tin Nyo, Managing Director of  
BNI Multimedia Group



editor U Ne Win San and reporter Ma Hnin Nwean at the Sittwe-based Development Media Group were sued by the military for publishing a news story about alleged military corruption.<sup>40</sup> After the coup, the situation took a turn for the worse. On Feb. 3, 2021, renowned monk U Thawbita, who repeatedly posted messages on Facebook criticising the military, was sentenced to two years under Section 66(d). He has been facing multiple charges brought by the military for several offences, including defamation, since pre-coup times.<sup>41</sup> More recently, Ye Htut was sentenced to three years in prison for sedition under Article 124(a) of the Penal Code, following his “subtle ridiculing” of the military on Facebook. Before his arrest in October 2023, he had previously held the posts of Minister of Information and Presidential Spokesman under the military-backed administration of President Thein Sein.<sup>42</sup> In November 2023, five individuals were arrested in connection with the start of a major anti-regime offensive in neighbouring Shan State two weeks earlier. One man was arrested for confirming curfew rumours on social media. A woman was taken into custody after sharing a video of herself with an eugenics plant, widely used to express support for People’s Defence Force groups. The circumstances of the arrests of the other three people in November, as well as the articles or laws used against them, remain unknown to date. However, it has been reported that the arrests were linked to their online activities.<sup>43</sup>

### Exiled or Detained: The Plight of HRDs and Activists

Targeting by the military has pushed many HRDs and activists into exile.<sup>44</sup> Those unable to flee the country ended up being detained in most cases. In addition, their residences are frequently invaded, their belongings taken, and family members threatened and harassed.<sup>45</sup> Even when they are in exile, activists remain exposed to danger. For example, Thuzar Maung, her husband and their three children were reportedly abducted from their home in the Malaysian state of Selangor in July 2023, according to CCTV footage.

Thuzar Maung is the head of the Myanmar Muslim Refugee Community and has over 93,000 followers on her Facebook page, where she regularly criticises the alleged abuses committed by the Burmese junta.<sup>46</sup> For those who actively oppose the military junta, the penalties are extremely severe. Activist Kyaw Thet, aged 30, holds the sad record of being sentenced to 225 years in prison and the death penalty as a member of the People’s Defense Force. Activist Aung Khant Oo is close behind, second only to Thet in receiving the heaviest sentence. Facing several terrorism-related charges, he was given a total sentence of 203 years by the Magway District Court, under the control of the regime.<sup>47</sup>

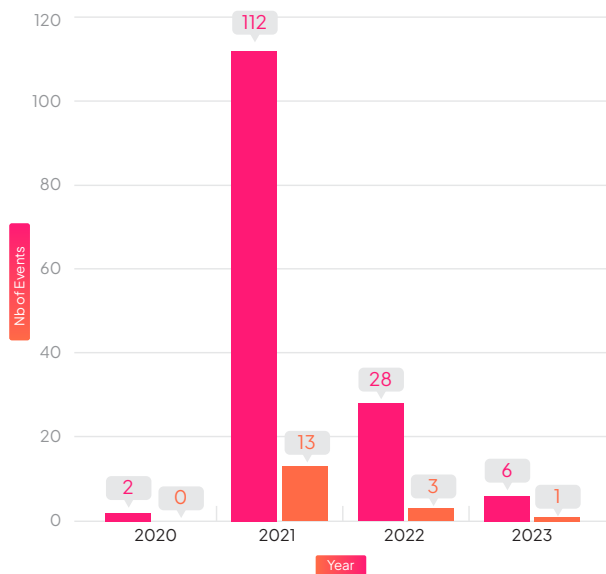
“

*[Our] empowerment was for a fleeting moment. There are so many activists like me. They are jailed, they are detained, they are sexually harassed. Many of them are fleeing the country ... Many people died, and many people are grieving.*<sup>48</sup>

- Nandar, a women’s rights activist and podcaster who fled Yangon and is now in hiding

## Targeting of Journalists and Media Opposing the Military Regime

### Disorders involving the Media in Myanmar



The Armed Conflict Location & Event Data Project (ACLED), *Disorder Involving the Media*, (10 February 2024), available at: <https://acleddata.com/data-export-tool/>



Fig. 4.2B: Disorders involving the Media in Myanmar, 2020-2023.



The information used to construct this infographic is sourced from the ACLED database, specifically the dataset titled "Disorders involving Media." Within this database, we have exclusively selected relevant countries from the ASEAN region, namely Indonesia, Thailand, Myanmar, and the Philippines. However, this infographic only focuses on Indonesia. The events were further filtered based on an additional criterion: date. As our report focuses on events from 2020 to 2023, only those occurring between January 1, 2020, and December 31, 2023, have been included.

“

We, who are based in Thailand, are also not safe online. Our family members are still in Myanmar. So even a single trace of our names could risk our family's detention by the military regime. And even here, a lot of us journalists don't share our online identity with anybody.<sup>53</sup>

- May (Pseudonym) & founder of the Myanmar Women Journalists Society

Many journalists, including citizen journalists, and media professionals, are threatened by the military junta and are being forced to go into hiding or leave the country.<sup>49</sup> Under the junta, journalists face life threatening conditions. Myanmar has become the world's second biggest jailer of journalists. Since the coup, the junta has detained more than 140 journalists, 64 of them are still jailed and four died in custody.<sup>50</sup> On May 3, 2023, the junta pardoned 2,153 prisoners detained based on article 505(A) of the Penal Code.<sup>51</sup> Five of those freed are journalists.<sup>52</sup>

TV and junta-run newspapers broadcast and publish the names of those accused of violating the Section 505A of the Penal Code, including bloggers, vloggers and social media influencers who showed support for anti-junta demonstrations. Those on the wanted list had to go underground and hide.<sup>54</sup> For example, in February 2021, the junta announced that seven prominent opposers of the coup were being hunted for their comments on social media, claiming that these individuals had threatened national stability in violation of Section 505(b) of the Penal Code.<sup>55</sup>

“  
*Today, no journalist  
inside Myanmar is  
safe. They could be  
arrested at any time  
and potentially face  
decades in prison.*”<sup>56</sup>

- Thomas Kean, Editor-in-chief at  
Frontier Myanmar

On Feb. 12, 2021, Myanmar Now reporter Kay Zon Nway was charged with incitement under Section 505A of the Penal Code and arrested while livestreaming a protest in downtown Yangon. She was released towards the end of June that year.<sup>57</sup> In March 2021, journalists Han Thar Nyein and Nathan Maung were both charged under Section 505A for “spreading fake news.” The charges against Nathan Maung were dropped in June 2021,<sup>58</sup> while Han Thar Nyein was sentenced to two years in March 2022.<sup>59</sup>

In November 2021, Danny Fenster, managing editor of Frontier Myanmar, was arrested and subsequently convicted on allegations of endangering the interests

of the armed forces under Section 505A, illegal association under section 17(1) of the Unlawful Association Act, and violating immigration law section 13(1) of the Immigration Act. He received an 11-year sentence, as well as a MMK 100,000 fine (\$46).<sup>50</sup> According to Frontier, the charges were based on the false belief that he was employed at Myanmar Now, an independent news site critical of the military. After negotiations between the junta and Bill Richardson, former US ambassador to the UN, he was released on “humanitarian grounds” on Nov. 15, 2021.<sup>61</sup>

The case of Kaung Myat Hlaing, a reporter for the Democratic Voice of Burma, likewise proves that the life of the Burmese journalists is at stake. Kaung Myat Hlaing was detained and arrested, and brutally shot for livestreaming the police raid near his apartments in the southern coastal town of Myeik on March 2, 2021.<sup>62</sup> In another case from July 2022, a Japanese journalist was arrested while covering a protest in Yangon, then charged with encouraging dissent against the military.<sup>63</sup> He was still in detention as of March 2023. In October 2022, Sithu Aung Myint, a Frontier Myanmar columnist and contributor to Voice of America, was sentenced to three years in prison with hard labour after 14 months in pre-trial detention. He was convicted of “inciting government employees to commit crimes” under Section 505 A of the Penal Code.<sup>64</sup> According to military-run media, Sithu Aung Myint was arrested over articles he posted to social media that were critical of the junta and that allegedly encouraged people to support the opposition.<sup>65</sup> More recently, in April 2023, Kyaw Min Swe—editor in chief of the now banned Aasan (The Voice) newspaper—was secretly detained by the junta and charged under section 505A. His arrest was made public 10 days after it occurred.<sup>66</sup> Hmu Yadanar Khet Moh Moh Tun—reporter for Myanmar Pressphoto Agency—also continues to be targeted: initially serving a three year sentence given in December 2022 under charges of incitement to fake news, on May 26, 2023, she was given 10

more years with hard labour under the Counter-Terrorism Law.<sup>67</sup> On June 28, 2023, the former publisher of The Irrawaddy—an independent media outlet—was sentenced to five years in prison for sedition and was fined MMK 100,000 (\$47).<sup>68</sup> As of July 2023, he remains in detention.<sup>69</sup> In September 2023, photojournalist Sai Zaw Thaike was sentenced to 20 years in prison by a court under the military, the longest known prison sentence for a journalist since the coup. He was arrested in the western state of Rakhine while reporting for Myanmar Now on the aftermath of Cyclone Mocha, which claimed many lives at the end of May. Sai Zaw Thaike was facing four charges, including an offence under the Telecommunications Act. However, Myanmar Now reported that the precise charges against him were unclear. He had been detained without access to a lawyer or family visits before the trial began.<sup>70</sup> Finally, Dhanabir Maibam, editor of the Hueiyen Lanpao, was arrested at the end of December 2023 under Section 505A for a report on the law and order situation in the border town of Moreh in Tengenpual, which shares a border with Myanmar.<sup>71</sup> The military junta's ongoing efforts to control the flow of information has also included the mass arbitrary arrests of writers and poets.<sup>72</sup>

# MYANMAR



## 2023 Political Overview

Was in 'democratic transition' before the 2021 military coup.

## #SaveKaungMyatHlaing

## #SaveMyanmar

### CASE STUDY

Case study: **Physical and psychological violence** was used to silence a Burmese journalist for reporting about the 2021 military coup d'état – an example of **Digital Dictatorship**.

#### WHEN

2 March, 2021 (day of livestream, and attack/arrest)

#### WHERE

Myeik, Myanmar

#### WHO

Kaung Myat Hlaing, and DVB, have a long history of being surveilled for reporting about anti-authoritarian movements, and exposing the lived experience in Burma.

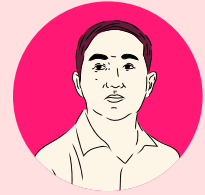
#### WHY/WHAT

🧠🔍📱📺📢 Kaung Myat Hlaing, and DVB, have a long history of being surveilled for reporting about anti-authoritarian movements, and exposing the lived experience in Burma. During this particular incident, he was specifically targeted for live streaming a police shooting happening near his apartment during the time of the 2021 coup.

#### HOW

⚠️ How Digital Dictatorship has caused the violation of Kaung Myat Hlaing's human rights:

During his livestream, the Burmese military and security forces stormed his apartment and started shooting. The gunshots were heard on his livestream. Kaung Myat Hlaing was then detained.



**Kaung Myat Hlaing**  
(also known as Aung Kyaw)

Burmese journalist for the Democratic Voice of Burma (DVB)



Frontier, *Myanmar journalist arrested after overnight attack: employer*, (2 March 2021), available at:  
<https://www.frontiermyanmar.net/en/myanmar-journalist-arrested-after-overnight-attack-employer/>

CPJ, *Myanmar police arrest at least 4 more journalists, injure Democratic Voice of Burma reporter during home raid*, (2 March 2021), available at:  
<https://cpj.org/2021/03/myanmar-police-arrest-at-least-4-more-journalists-injure-democratic-voice-of-burma-reporter-during-home-raid/>

Arrests, litigation, and the other forms of harassment mentioned in this case study are just some examples of how Digital Dictatorship has affected the individual(s) mentioned, as well as Southeast Asian society as a whole. HRDs and/or journalists, including the one(s) in this case study, are often perpetually targeted by Digital Dictatorship in numerous ways that go beyond just what is discussed here.



## “Regime” and “Junta”: The Key Words Leading to Media Licence Revocation

The post-coup crackdown on free media came after the military repeatedly threatened to revoke media licences if they continued using the words “regime” or “junta.”<sup>73</sup> While many private news media companies have been banned for disobeying the junta’s commands, those who attempt to remain operational have faced strict censorship that blocks the report of any news on the NUG and which use the terms “coup,”<sup>74</sup> “military government” and even “military coup.” The digital and print publishing licences of five domestic outlets (Myanmar Now, Khit Thit media, Democratic Voice of Burma, Mizzima, and 7 Day) were cancelled and their offices raided.<sup>75</sup> They have been banned from publishing, broadcasting, and transmitting information via online and offline means. Most now operate from exile. By the end of 2022, more than 20 media groups, including press agencies, publishing houses and printing works, have been banned since the start of the coup in February 2021.<sup>76</sup> More recently, Ayeyarwaddy Times licence was revoked by the junta in June 2023. At the end of October 2023,<sup>77</sup> the military junta closed down the independent media Development Media Group. Soe Win Aung, the night watchman, was arrested during the search of their offices by soldiers, while the rest of the staff went into hiding. Without giving any explanation, the military junta sealed the media company’s offices and confiscated several cameras and laptops. The media, an organisation covering conflict and human rights abuses in the western state of Rakhine, had already been the subject of defamation suits by the junta since the start of the coup in 2021.<sup>78</sup>

Online freedom has been steadily deteriorating in Myanmar even prior to the coup. The Social Media Monitoring Team established under the Ministry of Transport and Communications monitored online activities for the purpose of—as it claimed—preventing foreigners and foreign organisations from causing

unrest and threatening the country’s sovereignty through interference.<sup>79</sup> It remains unclear whether there was any oversight procedure to complement the monitoring.

## Doxxing and Harassment of Pro-Democracy Activists, Women Activists, and HRDs

In the puzzle of digital oppression in Myanmar, doxxing is one piece. Doxxing is the action of “publishing private information about someone on the internet without their permission”.<sup>80</sup> The information can include revealing names, addresses and be used to harass people. Pro-democracy activists and HRDs are subjected to doxxing, as retribution for denouncing the junta’s suppression of critical voices and sharing about the plight of Myanmar’s people.<sup>81</sup> The Telegram channel Han Nyein Oo, particularly well-known with 73,238 subscribers in August 2022, stands out. It regularly broadcasts the Facebook profiles and personal details of alleged resistance supporters. On several occasions, arrests have been reported, affecting individuals whose information and locations were shared in these messaging groups.<sup>82</sup> For instance, Ye Htut, mentioned earlier in this text, was arrested a few days after the pro-military Telegram account leaked his address and urged the military to arrest him.<sup>83</sup> Women activists and HRDs are particularly targeted by pro-junta accounts that use hateful, sexualised, and discriminatory language in an attempt to discredit them and silence their voices.<sup>84</sup> This trend is reflected in the wave of hatred directed at women activists following the showing of the film “Don’t expect anything”. The 12-year-old girl, the protagonist of this film directed by Swiss filmmaker Didier Nusbaumer, is at the heart of the controversy. According to the military junta,<sup>85</sup> the film is perceived as blasphemy against the Buddhist religion. However, the Buddhist monk U Kovida said that he did not see any insult in Nusbaumer’s statements. It should be noted that the 12-year-old actress, the entire cast and the director were arrested



by the junta. As they strive for justice and to shed light on the plight of Myanmar's people, women activists and human rights defenders face a targeted onslaught from pro-junta accounts, employing a disturbing array of tactics infused with hate, sexualisation, and discrimination. Their concerted efforts aim to undermine and stifle the powerful voices of these resilient women, yet their spirit remains unyielding.<sup>86</sup>

“

*In Burma, women human rights defenders in particular increasingly face vicious online harassment and doxxing campaigns, which often target their family members and loved ones — with the goal to harm them and silence our Spring Revolution. These campaigns further risk the safety and security of WHRDs, forcing them to flee their home and country. I remain in utmost awe of my fellow sisters, all of whom remain strong, resilient, and determined despite their life-threatening circumstances.*

- Wai Wai Nu, Founder & Executive Director, Women Peace Network Myanmar

Additionally, the military junta is under suspicion of utilising Israel's Cognyte Software to target rebel groups and civilians. Documents reveal that Cognyte won a tender to sell intercept spyware to a state-backed telecommunications company a month before the coup.<sup>87</sup>

“

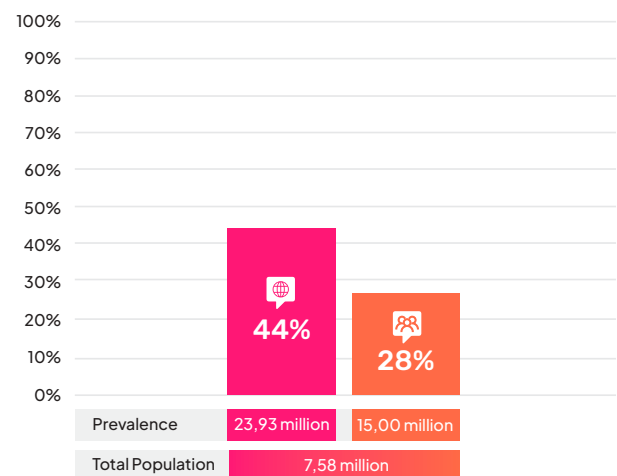
*We can say that Israel is one of the top countries in surveillance tech. That's why the technical support that the Myanmar military received from [Cognyte] must be really sophisticated and effective.<sup>88</sup>*

- Kyaw Saw Han, Security Analyst

**The Junta's control over social media: state-led disinformation, hate speech and propaganda**

#### Myanmar Percentage of Internet and Social Media Users

Internet Users  
Social Media Users



DataReportal, *Digital 2023, Myanmar*, (9 february 2023), available at : <https://datareportal.com/reports/digital-2023-myanmar>

Fig. 4.4B: Percentage of Internet and Social Media Users in Myanmar, 2023.

Since Feb. 1, 2021, the junta has taken control of platforms considered government and state media communications prior to its attempted coup, including Facebook pages and Twitter accounts, in an attempt to dominate public discourse and spread pro-military propaganda. While less than 30% of Myanmar's population uses social media, disinformation posts, coordinated information warfare and propaganda launched by the junta have been overwhelmingly prevalent since the coup.<sup>89</sup> For example, the authority wielded a rumour that discouraged people from protesting for 72 hours after the coup, in an effort to silence individuals.<sup>90</sup> In 2021, about 200 military personnel were found to operate social media accounts to propagate the junta's view and target dissenters online.<sup>91</sup> Telegram is also one of the most used platforms for pro-junta accounts. Once made aware, Telegram blocked 13 pro-junta social media accounts but, since the platform allows for paid premium subscriptions, pro-military supporters and officials can simply create new accounts and continue their oppression and harassment of pro-democracy supporters.<sup>92</sup>

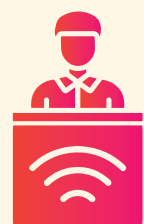
Prior to the coup, lawsuits in the US and UK allege that Facebook facilitated the genocide of the Muslim-majority Rohingya in Myanmar due to the platform's negligence. Facebook's algorithms allegedly contributed to the amplification of Islamophobic and anti-Rohingya hate speech, and the platform failed to remove inflammatory posts. These allegations have led to compensation claims in excess of £150 billion.<sup>93</sup> Despite some measures taken by Facebook to limit the dissemination of military content by removing some pages under military control and prohibiting paid advertisements by military-linked businesses, the situation appears to have only partially changed since the coup. The NGO Myanmar Witness found that the majority of the violent and misogynist publications it analysed remained online on Facebook and Twitter for at least six weeks, despite their failure to comply with community standards. Even after the Myanmar Witness reports, many publications remained active. Some content may

have escaped detection by using images or coded language.<sup>94</sup> It is crucial to note that in the Burmese context, Facebook plays a predominant role, as the figures show that people use both Facebook and the Internet. Facebook thus seems to be used as a search engine, underlining the importance of stepping up vigilance on the platform.<sup>95</sup>

Although Facebook remains the most widely used platform in Myanmar, the coup has led to an increase in downloads from Twitter, Instagram and TikTok. These platforms are now used both by democracy supporters demanding their rights and by the military junta to pursue its propaganda.<sup>96</sup> However, regulation of these platforms seems difficult, although TikTok has banned a number of accounts belonging to military personnel.<sup>97</sup> Moreover, active pro-military propagandists, including Han Nyein Oo, Kyaw Swar and Thazin Oo, have transitioned to other platforms such as Viber and VKontakte (VK), according to a statement in late 2023. They remain committed to monitoring individuals online, contributing to the junta's hunt for those it considers to be political opponents.<sup>98</sup>

### TECH COMPANIES COMPLICIT OF DIGITAL DICTATORSHIP

The military junta has increased its oversight of the internet by implementing measures such as mandating telecom providers to disable access and pressuring platforms to censor content critical of the coup. Two renowned international law experts presented a compelling legal memorandum to Telenor Group and M1 Group. Their advice was clear and urgent: halt the proposed sale of Telenor's Myanmar subsidiary. The reason? To allow for comprehensive due diligence and ensure the transaction underwent rigorous scrutiny.



## Internet Disruption & Internet Shutdown

Similarly, the military junta employs internet shutdowns as a method of control and repression. On June 20, 2019, under Section 77 of the Telecommunications Act, the Ministry of Transport and Communications issued a directive ordering all telecommunications operators to restrict mobile internet services in nine townships in Rakhine and Chin States. This article gives the Ministry the power to order the suspension of telecommunications services in what they believe are emergency situations. Although some of these restrictions have been lifted, others have continued to be applied irregularly since then.<sup>100</sup> Of particular note is the Sagaing Region, which has experienced prolonged disruptions, with a service cut that commenced in March 2022 and continues indefinitely.<sup>101</sup> On April 2, 2021, all mobile data and wireless broadband internet were cut off, leaving most of Myanmar's population without internet access.<sup>102</sup> Only wired connections remain, to which few people have access.

At the end of 2019, the National Archives and Records Act restricts access to information by granting the government total discretion. This legislation allows the government to make certain documents inaccessible to the public for thirty years.<sup>103</sup> At the same time, The Computer Science Development Law is used to give heavy penalties, ranging from 7-15 years, to anyone who sets up a computer network or creates a connection within the computer network without authorisation from the Ministry. Similarly, anyone who compromises the State's security by using information technology will face similar penalties.<sup>104</sup>



## PANDEMIC POLITICS: COVID-19 IMPACT ON ONLINE ACTIVITIES

In response to the COVID-19 outbreak, in February 2020, the NLD-led government put forward a draft Prevention and Control of Communicable Diseases Bill. The document included a provision which would sanction health officials who disseminate certain health information during specified times if it could lead to fear or panic.<sup>105</sup> The draft bill specifies that first-time offenders would be fined between MMK 50,000 and MMK 100,000 (\$23.8 and \$47.7), while repeated offenders can be imprisoned up to six months and, additionally, be fined between MMK 300,000 and MMK 500,000 (equivalent to \$143 and \$238.6).<sup>106</sup> The authorities' claim was that the proposed law sought to prevent public disorder, as well as the spread of intentionally false information and, at the time of the coup, the bill was still in its draft form.

COVID-19 fueled the civilian government's crackdown on netizens, journalists, and human rights defenders. Throughout 2020, numerous cases were documented where individuals faced arrests for sharing information on their personal platforms about the virus, deemed false or misleading by the authorities. On April 4, 2020, netizen Bhon Myint Moe shared on his Facebook news about COVID-19 spreading into his township. He was subsequently charged under Section 27 of the Natural Disaster Management Law on allegations of spreading false information.<sup>107</sup> Three months later, the police charged Eleven Myanmar journalist Aung Ko Ko under Section 68(a) of the Telecommunications Act for "spreading misinformation" following his Facebook post commenting on the Ministry of Health and Sports' underreporting of cases and delayed news releases relating to the COVID-19 in the country. He was said to have done so "with intent to harm the State image."<sup>108</sup> As reported by ARTICLE 19, in May 2020, the holder of a Facebook account named "Nyan Lin Htat Referee" was prosecuted under Section 124A of the Penal Code

on sedition for pointing out the Government's failure to comply with its own health protocols, including the restriction on public gatherings.<sup>109</sup> In July 2020, Zaw Naing Oo, politician of the Sagaing Region, was charged under Section 505(b) for circulating a letter in which he criticised the regional government's pandemic response.<sup>110</sup>

Following the coronavirus outbreak, Myanmar launched its own app-based QR pass system called Saw Saw Shar. A publicly available project proposal for its development from 2020 reveals that the app is not only intended for controlling the spread of COVID-19, but also to "provide the information dissemination to tackle the related fake news."<sup>111</sup> The extent to which the app is engaged in battling fake news is unknown and so is the way it operates to achieve this goal. The NLD-led government also restricted access to information by ordering telecommunications companies to block access to select ethnic news websites, citing the spreading of false COVID-19 news as the reason for such a measure.<sup>112</sup> By March 2020, 221 websites which report on "military abuses" and spread alleged COVID-19 fake news were blocked on the order of the Ministry of Transport and Communications.

Furthermore, the Myanmar junta has been accused of exploiting the COVID-19 pandemic to justify its coup in 2021. Prior to the coup, Myanmar's military junta used the spike in COVID-19 cases to question the legitimacy of the November 2020 national elections, citing concerns about public security. During the coup itself, the pandemic was exploited to justify military actions and legitimise the arrest of civilian leaders, including Aung San Suu Kyi, based on alleged violations of the National Disaster Management Law. After the coup, the junta continued to use the pandemic as a pretext to limit public gatherings and any uprisings, and to tighten its control.<sup>113</sup>

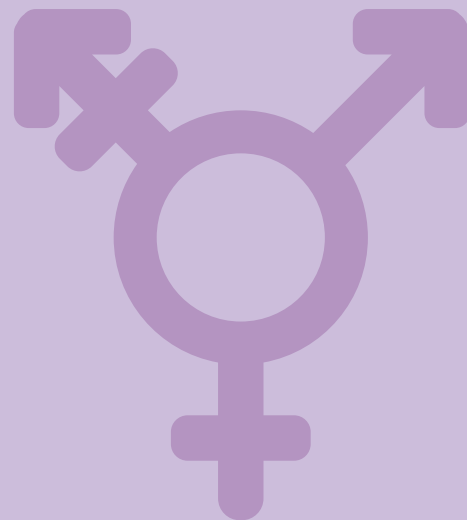


## INTERSECTIONAL GENDER ANALYSIS: ONLINE GENDER BASED VIOLENCE IN MYANMAR

Online Gender-based Violence (OGBV) is a crucial issue in Myanmar, requiring a thorough understanding of its intersectional nature with intersectional lens. It particularly targets women, members of the LGBTQ+ community, ethnic and religious minorities, as well as other vulnerable groups.<sup>114</sup> These incidents represent a violation of universal human rights, protected by international human rights conventions. They affect areas such as the right to personal security, the right to the highest attainable standard of physical and mental health, the right to freedom from torture or cruel, inhuman or degrading treatment, and the right to life (IASC). It should be pointed out that the literature on gender-based online violence, although intersectionality, remains limited. This documentation therefore focuses particularly on cases of violence against women, which are those that have been studied most extensively.<sup>115</sup>

Online hate is the most commonly documented behaviour.<sup>116</sup> Specifically, a study conducted by Myanmar Witness in late 2022 revealed alarming results about the prevalence of online hate particularly among the Burmese military and its supporters. Their analysis based on 1.6 million messages on Telegram revealed that politically motivated online abuse against women was at least five times more prevalent compared to the weeks following the coup. The total prevalence of abusive messages targeting women on Telegram was up to 500 times higher than international benchmarks for social media abuse. Among all online abuse, up to 8,338 abusive messages on Telegram targeting women with hateful rhetoric and up to 15,000 other doxxing messages were identified. Of the doxxing analysed, 28% included an explicit call

to punish the targeted women and asking the military junta to arrest the woman and/or seize her goods. In addition, there is evidence that doxxing campaigns are coordinated through Telegram channels sympathetic to the State Administrative Council (SAC). These channels play an active role in informing about women who oppose the SAC and celebrating news of their arrests. It is important to note that Myanmar Witness highlights a significant dark figure. Indeed, a number of posts have been deleted or coded to go unnoticed by radar. As far as online abusers are concerned, most are men who support the military coup in Myanmar, mainly targeting women. In fact, around 90% of abusive messages come from Pro-State Administration Council accounts, while 70% of abusers are men. In addition, around 83% of messages targeted women supporting the Myanmar National Unity Government (NUG) or the People's Defence Forces (PDF).<sup>117</sup>



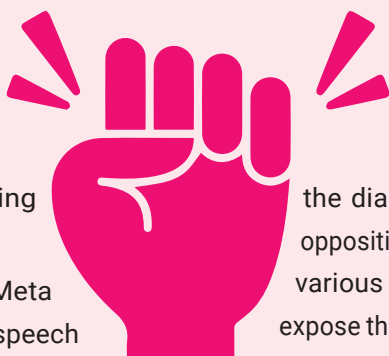
## #PeoplePower | How Are People Resisting #DigitalDictatorship?

## Resilient Voices: Rohingya's Struggle Against Meta's Role in State-Led Hate Speech and Genocide

### What happened?

In 2017, the United Nations Human Rights Council established the Independent International Fact-Finding Mission on Myanmar (IIFMM) to establish the facts and circumstances of the alleged human rights violations by military and security forces, and abuses, in Myanmar.<sup>118</sup> In 2018, The United Nations (UN) underscored social media's pivotal role in the Rohingya genocide, specifically citing Facebook as a "useful instrument" for disseminating hate speech.<sup>119</sup>

The reported complicity of Meta in the dissemination of hate speech against the Rohingya has faced strong condemnation.<sup>120</sup> According to Amnesty International, Meta's profit-driven algorithms significantly played a part in the brutal actions carried out by the Myanmar military. Agnès Callamard, Secretary General of Amnesty International, explicitly linked the escalation of hatred against the Rohingya to Facebook's algorithms, stating, *"In 2017, the Rohingya were killed, tortured, raped, and displaced in the thousands as part of the Myanmar security forces' campaign of ethnic cleansing. In the months and years leading up to the atrocities, Facebook's algorithms were intensifying a storm of hatred against the Rohingya which contributed to real-world violence"*.<sup>121</sup>



### Fighting back in court!

Communication technologies function as the essential lifeblood for Rohingya, allowing them to articulate a unified narrative advocating for justice and citizenship rights in various spheres. They include Rohingya diaspora groups, who are steadfast in vocalising their opposition against the Burmese military, utilising various platforms to intensify their battle and expose the collusion of Meta/Facebook.<sup>122</sup> Armed with digital skills, the diaspora is steadfast in vocalising their opposition against the genocidal regime, utilising various platforms to intensify their battle and expose the collusion of Meta/Facebook. Rohingya have tirelessly campaigned for the recognition of their sufferings and rights. Activists have urged international human rights agencies, including the United Nations, to endorse the findings of the Independent International Fact-Finding Mission (IIFMM) report, emphasising the Rohingya's growing risk of recurrence of genocide.<sup>123</sup> Finally, on 23 January 2020, the ICJ ordered provisional measures to prevent the genocide of Rohingya Muslims in Myanmar in the first ruling related to *The Gambia v. Myanmar*, a case filed in November 2019 that seeks to enforce the UN 1948 Genocide Convention.<sup>124</sup>

In 2018, Meta publicly admitted to being slow in addressing misinformation and hate on its platform.



Despite commitments to enhance hate speech detection and moderation, including assembling a team of Burmese speakers and implementing measures such as banning military accounts and disrupting misinformation networks, Meta's effectiveness remained uncertain as no official regulatory approach was disclosed. Few years later, in December 2021, Rohingya refugees from Myanmar initiated a \$150 billion class action lawsuit against Meta, alleging the company's failure to address anti-Rohingya hate speech that fueled violence. One year later, additional evidence of Meta's negligence emerged through research by Global Witness, revealing that Facebook's purportedly improved mechanisms were ineffective. Global Witness conducted experiments by paying Facebook to publish eight advertisements containing hate speech. All eight advertisements were indeed published by Facebook.<sup>125</sup>

Moreover, Rohingya boldly articulate the atrocities of injustice and genocide they have endured, encompassing digital repression, torture, profound suffering, and the denial of their citizenship rights. Utilising digital platforms such as the YouTube-based Rohingya Vision and The Arakan Times Rohingya News, seamlessly synchronised with other influential social media platforms like Twitter, Facebook, and Instagram, the Rohingya globally has amplified their voices.<sup>126</sup>

# MYANMAR



## 2023 Political Overview

Was in 'democratic transition' before the 2021 military coup.

## #SaveRohingya

### CASE STUDY

Social media platforms have been used to orchestrate online hate campaigns against marginalised groups, such as the Rohingya, across the region; this is considered Digital Dictatorship.

#### WHEN

2023, though this has happened throughout recent history and is still ongoing.

#### WHERE

Myanmar, Indonesia, and across Southeast Asia

#### WHO

The Rohingya people, indigenous to Arakan, Myanmar, who have been historically discriminated against and forcefully displaced from their homelands; the situation has significantly worsened over the past decade.

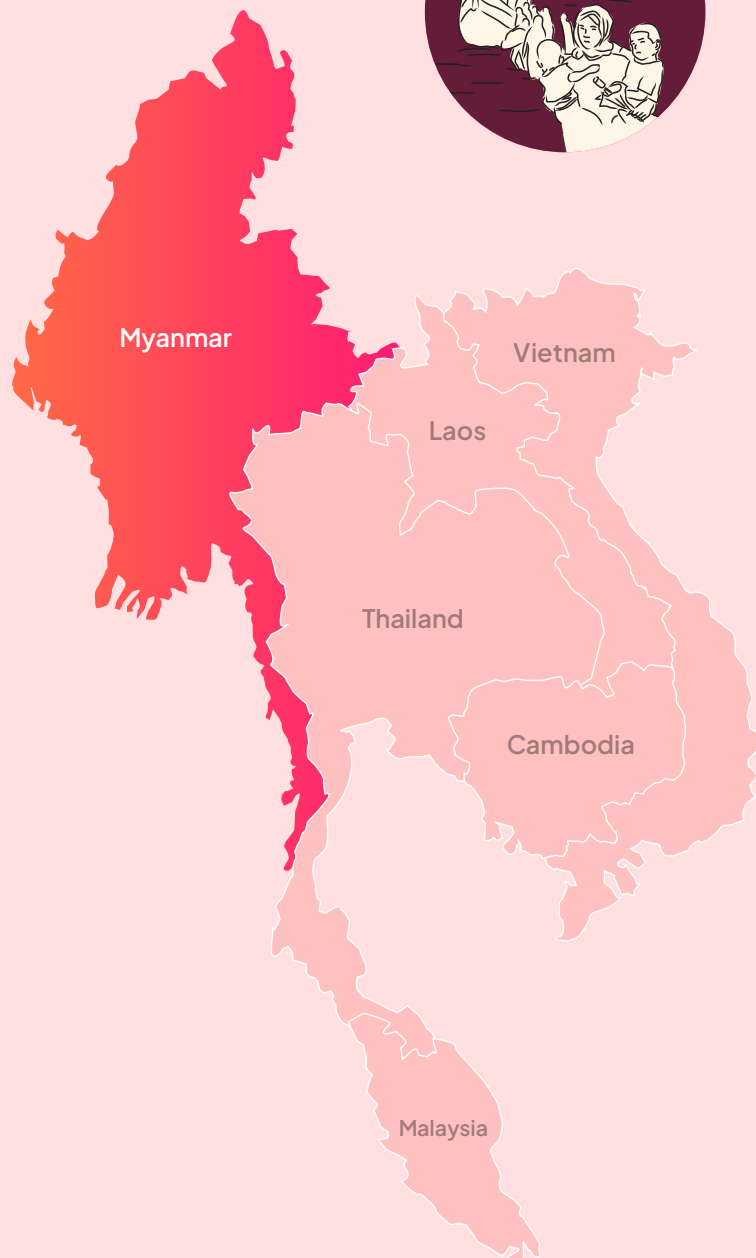
#### WHY/WHAT

Social media platforms have been used to orchestrate online hate campaigns against marginalised groups, such as the Rohingya, across the region; this is considered Digital Dictatorship.

#### HOW

⚠️ How Digital Dictatorship has caused the violation of Rohingya human rights:

Groups and individuals have colluded with various digital dictatorship entities to spread and perpetuate racist and xenophobic hate online, often also integrated with misogyny, Islamophobia (particularly in Myanmar), homophobia, and other hateful rhetoric. Recently, the Rohingya people have been at the receiving end of a lot of this abuse.



OHCHR, *Myanmar: Social media companies must stand up to junta's online terror campaign, say UN experts*, (13 March 2023), available at: <https://www.ohchr.org/en/press-releases/2023/03/myanmar-social-media-companies-must-stand-juntas-online-terror-campaign-say>

The Guardian, *The online hate campaign turning Indonesians against Rohingya refugees*, (18 January 2024), available at: <https://www.theguardian.com/world/2024/jan/18/the-online-hate-campaign-turning-indonesians-against-rohingya-refugees>.

Arrests, litigation, and the other forms of harassment mentioned in this case study are just some examples of how Digital Dictatorship has affected the individual(s) mentioned, as well as Southeast Asian society as a whole. HRDs and/or journalists, including the one(s) in this case study, are often perpetually targeted by Digital Dictatorship in numerous ways that go beyond just what is discussed here.

## 4.3 Access to Effective Remedy: Weak Before the Coup, Non-Existent Since Then

Myanmar's judicial system was flawed before the 2021 coup. The dominant influence of the Burmese military was constant, whether after the 1962 coup d'état, with the prosecution and imprisonment of lawyers considered political for having defended justice, or during the attempted democratic transition, when a few reforms became possible.<sup>127</sup> After 2021, there was a setback compared to the few previous successes. The 2008 Constitution, introduced by the military, allows the military to take over the reins of the country in an emergency situation for an initial period of one year, with the possibility of two extensions of six months each. According to the 2008 Constitution, during this emergency period, the military can assume all government responsibilities, giving the head of the ruling military council, General Min Aung Hlaing, legislative, judicial and executive powers. However, the junta-run National Defence Security Council has authorised the military to extend the so-called emergency period, marking multiple extensions since then. The Council justifies this decision by arguing that the country remains in an abnormal situation.<sup>128</sup>

Before the coup, the right to a fair and public trial and due process rights were often violated in Myanmar, particularly in cases of freedom of expression.<sup>129</sup> Trials concerning online activity were often filled with procedural mistakes and lacked tested and reliable evidence.<sup>130</sup> The denial of bail was prevalent in politically motivated arrests and detention. For example, in June 2019, Min Htin Ko Ko Gyi, who was sued under Article 66(d) of the 2013 Telecommunication Act and also charged under Article 505(a) of the Criminal Code for a series of Facebook posts, was denied bail despite undergoing

liver cancer treatment.<sup>131</sup> However, individuals had the option to file a complaint against an injurious decision with the Myanmar National Human Rights Commission (MNHRC), which theoretically had the authority to conduct presumed independent inquiries under the civilian government.<sup>132</sup> However, the protection provided under MNHRC's mandate was inadequate. Civil society organisations criticised the Commission's ability to promote and protect human rights, especially due to its failure to take prompt action and publicly defend two Reuters journalists who reported on the situation of Rohingya in Rakhine State.<sup>133</sup> The two reporters were charged under 1923 Official Secrets Act for accessing "illegally acquired information with the intention to share it with foreign [online] media." Owing to its inability to operate as an independent and effective non-judicial grievance mechanism, MNHRC was accredited "B" by the Global Alliance of National Human Rights Institutions.<sup>135</sup>

Numerous initiatives have been taken since 2021, leading to a deterioration in respect for the law and independent justice in Myanmar, such as launching investigations without any information on the case, inadequately documenting searches by the police, and the lack of clarity regarding the existence of arrest warrants.<sup>136</sup> Indeed, the now junta-run MNHRC has been stripped further of its proper functioning, having done nothing to address widespread and systematic human rights violations in the country.<sup>137</sup> Among the most significant is the military's suspension of the writ of habeas corpus under the 2008 Constitution. The 2008 Constitution allows for the immediate suspension of the writ of habeas corpus and the rule of law as soon as a state of emergency is declared (article 381). At the same time, it authorises the restriction or even revocation of certain fundamental rights, while guaranteeing the military junta's impunity (article 432). As a result, the suspension of the writ of habeas corpus is used to legitimise illegal detentions, torture and other forms of ill-treatment, as well as enforced disappearances.<sup>138</sup> Photographer and anti-junta activist Aye Kyaw was

found dead in custody after his arrest in July 2022. The military junta had arrested him on charges of storing weapons in his home, although no weapons were found. The activist's family was informed of his death by a hospital ten hours after his arrest. A member of a charity funeral service, who was involved in transporting the body from the hospital to a religious centre, said: "We did not observe any superficial wounds on the body, but I noticed that his chest was largely sutured, as in a post-mortem operation". This hastily closed wound supports the theory of a particularly violent interrogation that may have crossed the line, followed by a subsequent attempt at concealment. A hospital resident said that the lack of external injuries suggested that Aye Kyaw had died as a result of extreme torture. Sadly, Aye Kyaw is not the first to lose his life in this way. Indeed, the modus operandi is very reminiscent of that of Soe Naing, who died as a result of injuries sustained during interrogation in December 2021, with those responsible also attempting to conceal their crime by leaving his body outside a hospital. It is crucial to note that the military instructed the journalist's family not to share any details about his death or burial on Facebook.<sup>139</sup>

Before the coup, criminal trials were held in civil courts. They were supposed to comply with the regulations set out in the Constitution, Courts Manual, Evidence Act, Union Judiciary Law, and case law. The courts followed these regulations, at least to some extent.<sup>140</sup> Since the coup, by setting up courts within the prisons to try those arbitrarily arrested after the coup, the State Administration Council (SAC) has destroyed all forms of due process, including by preventing observers from attending the hearings. Each district court set up within the prisons is headed by a single judge. Forced to handle a number of cases well beyond their capacity, with more than 100 cases a day, these judges are also faced with a case overload. Moreover, physical evidence is rarely presented in court, while electronic evidence is generally used as it is, without going through the junta-run Criminal

Investigation Department, which is supposedly responsible for extracting credible evidence.<sup>141</sup> This situation means that those arbitrarily detained are further denied from exercising their fundamental rights to a fair trial, including their right to challenge evidence. This is all the more alarming because, as we have seen, the military junta frequently uses posts on social media as evidence. At the same time, the SAC sets up military courts to try people. In Yangon and Mandalay Townships, regional military officials have been given full executive and judicial powers. The court is usually composed of three members of the military. In summary, both the few remaining civilian courts and the military courts are illegitimate, all entirely controlled by the military junta.<sup>142</sup>

Before the coup, defence lawyers were required to respect the rights and regulations set out in the Constitution, Courts Manual, Evidence Act, Anti-Corruption Law, and Union Judiciary Law. In practice, defence lawyers generally followed at least some of these rights and regulations. Since February 2021, the recent amendments to the Bar Council Act aim to control the legal profession by allowing the military to choose and appoint lawyers according to its preferences. On occasion, the military junta records lawyers without their knowledge and airs the footage on national media, falsely claiming adherence to fair trial principles. In addition, defence lawyers, if any, frequently find it difficult to challenge the evidence presented in court, because of the risk involved. Presenting contradictory evidence or simply opposing the junta raises the likelihood of lawyers facing arrest. As a result, there is almost a 100% conviction rate, and the most severe sentence is almost always imposed on the person found guilty.<sup>143</sup> The few courageous defence lawyers who persist in practising their profession justly are subjected to continuous harassment by the military junta and, to some extent, face severe persecution. For instance, lawyer Ywet Nu Aung was arrested and sentenced in December 2022 in a junta-controlled court to 15 years' imprisonment with hard labour, after being

found guilty of violating Myanmar's anti-terrorism law. She was defending Dr. Zaw Myint Maung, Regional Vice-Chairman of the National League for Democracy (NLD), as well as Win Mya Mya and Swe Win, Regional Vice-Chairman and Editor-in-Chief of Myanmar Now respectively. All were fiercely opposed to the military junta.<sup>144</sup>

Finally, Myanmar has never had an anti-SLAPP regime or any laws dedicated to protecting whistleblowers or HRDs. Be that as it may, given that there is no rule of law under the rule of SAC, any legal framework created to this end would be far from reliable to guarantee access to remedy for human rights abuses.<sup>145</sup>

# Chapter V.

## Recommendations

In this chapter, we will discuss recommendations regarding the governance of the digital space in Myanmar. These recommendations are addressed to different stakeholders.



## Recommendations addressed to international stakeholders, including ASEAN Member States

- 1 Strengthen monitoring mechanisms to document human rights violations, including online freedom of expression infringements and collaborate with international human rights groups and local NGOs to ensure accountability for those responsible.
- 2 Coordinate diplomatic efforts between the international community and ASEAN member states to exert political pressure on the Myanmar military junta.
- 3 Facilitate cross-border collaboration and information-sharing among international stakeholders, including governments, civil society organisations, and tech companies, to address transnational challenges related to online freedom of expression in Myanmar.
- 4 Highlight, condemn, and sanction any foreign State, or foreign business, that provides support, knowledge, or equipment that encourages or facilitates violations of digital rights in Myanmar.
- 5 Step up humanitarian and development engagement in Myanmar, particularly in areas affected by crises to bolster community resilience and meet the basic needs of vulnerable populations.
- 6 Provide technical support and training to civil society on online freedom of expression issues, both in general and tailored to the specific challenges faced in Myanmar. Develop international policies and regulations promoting an open online environment while effectively countering misinformation and hate speech.
- 7 Offer funding and technical assistance to civil society, independent media, and any other stakeholder in Myanmar to empower them to advocate for online freedom of expression, monitor human rights violations, and provide objective and transparent information to the public.
- 8 Hold digital businesses, including social media platforms and technologists developing surveillance capabilities, accountable to their human rights obligations internationally. Encourage digital businesses to endorse and abide by the UN Guiding Principles on Business and Human Rights. Reflect on businesses' international performance under the Principles when deciding on future contracts.

## Recommendations addressed to the pro–democracy leadership, including the National Unity Government, the National Unity Consultative Council, and ethnic revolutionary organisations:

- 1 Engage proactively with international partners, including governments, organisations, and civil society groups, to garner support for the pro-democracy movement in Myanmar. Seek opportunities for diplomatic and advocacy collaboration to advance shared goals and objectives.
- 2 Affirm a strong commitment to freedom of expression as a fundamental human right and a cornerstone of democracy. Ensure that actions taken by pro-democracy leadership uphold and protect the rights of individuals to express themselves freely, both online and offline.
- 3 Maintain a commitment to transparency and accountability in all aspects.
- 4 Focus on promoting positive exchanges between diverse ethnic and religious communities in Myanmar. Strive to build trust, understanding, and solidarity across ethnic and religious lines, fostering a more inclusive society.
- 5 Foster strong partnerships with civil society organisations, including human rights defenders, and advocacy groups. Support their efforts to promote freedom of expression, including by providing funding, technical assistance, and platforms for collaboration and dialogue.
- 6 Launch public awareness campaigns and educational programs to promote media literacy and critical thinking skills among the general public, with a focus on vulnerable populations such as youth and marginalised communities. Encourage media outlets to adhere to ethical standards and fact-checking practices, and support initiatives that promote responsible journalism.
- 7 Forge partnerships with tech companies and social media platforms to develop and implement effective measures to regulate online content and combat hate speech and disinformation. Advocate for the adoption of transparent content moderation policies and mechanisms for reporting and removing harmful content.
- 7 Collaborate with tech companies and social media platforms to ensure the integration of multiple languages, including Burmese, Shan, Karen, Mon, and others spoken by ethnic minority communities.

## Recommendations to Tech Companies

1. Ensure the companies' terms of services and policies are uniform and in compliance with international standards on freedom of expression, which are reviewed regularly to ensure all circumstances and situations that may arise have been addressed, while also addressing new legal, technological, and societal developments, in line with the obligation to respect human rights under the UNGPs;
2. Drop the for-profit business model that revolves around overcollection of data. Such business models are being utilised by the military junta and are violating data rights;
3. Adopt the Global Network Initiative Principles on Freedom of Expression and Privacy;
4. Clearly and completely explain in guidelines, community standards, and terms of services what speech is not permissible, what aims restrictions serve, and how content is assessed for violations;
5. Ensure the integrity of services by taking proactive steps to counteract manipulative tactics utilised in the dissemination of disinformation, including the creation of fake accounts, amplification through bots, impersonation, and the proliferation of harmful deep fakes;
6. Prioritise prediction of, preparation for, as well as protection against digital dictatorship and online-based violence when launching, revolutionising, or reforming products, services, and initiatives. The guidelines of the Center for Countering Digital Hate (CCDH) 'STAR Framework' should be urgently considered, which include: safety by design; transparency in algorithms, rules enforcement, and economics; accountability systems implementation; state and corporate responsibility. In addition, these predictive, preparative, and protective factors must take into account and implement the input of marginalised communities (e.g. LGBTIQ+ peoples, women, and those marginalised based on ethnicity such as the Rohingya) who often become targets of online violence that is often unregulated or even perpetuated by existing systems;
7. Products, services, and initiatives must have consumer safety in mind from the very beginning of conception. This means that product, service, and initiative developers, as well as high-level executives, must all take all possible measures to ensure that their products are safe, by design for all users, including marginalised communities (e.g. including LGBTIQ+ peoples, women, and those marginalised based on ethnicity, such as the Rohingya). Ensuring safety by design includes the practice of performing thorough risk assessments, and educating developers as well as executives to recognise their responsibilities to uphold human rights standards during the development as well as execution processes;
8. Promote transparency. CCDH specifically highlights the need for transparency in "algorithms; rules enforcement; and economics, specifically related to advertising." Though transparency is more of a 'preparative' factor rather than a 'preventive' one, it will make civic engagement and corporate accountability much more effective, ultimately amounting to increased 'prevention' efficacy;

- 9 Transparency in algorithmic development, for example, is essential; though algorithms are not responsible humans, they were created by responsible humans. This same logic can be applied to company regulation development processes, as well as advertising strategy. For example, if company regulations were formulated in a way that disproportionately excludes marginalised voices (e.g. without any adopted input from a diverse range of people of intersectional identities, such as women, LGBTIQ+ people, disabled people, or people marginalised based on ethnicity), those regulations are more likely to cause or perpetuate human rights violations. Companies should implement measures to enhance transparency in advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;
- 10 Transparency goes hand-in-hand with effective corporate regulatory and accountability systems. The people who run and work for tech companies, like consumers, are humans, who must be proportionately held accountable for their actions if they intend to create products, services, and initiatives for consumption by civil society. Companies and their stakeholders (particularly senior executives) must recognise they hold a lot of economic, political, and social power by virtue of being in their positions, and thus naturally hold more responsibility than the average consumer. This means that though consumers have their own responsibilities, companies cannot put responsibility disproportionately on the consumer to regulate their own use of the companies' products, services, and initiatives, if these companies genuinely intend to safeguard human rights. Thus, companies must implement regulatory systems that put people above profit, in order to allow themselves to be held accountable, and in order to facilitate their self-regulation;
- 11 Enable people of marginalised groups (e.g. women, girls, LGBTIQ+ people, disabled people, people marginalised based on ethnicity), to participate and lead in the technology sector to guide the design, implementation, and use of safe and secure digital tools and platforms.
- 12 Commit to eradicating OGBV and allocate resources to information and education campaigns aimed at preventing ICT-facilitated gender-based violence. Additionally, invest in raising awareness for the intersection between human rights and digital security, demonstrating how human rights must be taken seriously in both the offline and online spaces. This can come in many forms, including working closely with local communities and human rights organisations (e.g. feminist groups, LGBTIQ+ groups) to facilitate dialogue and sensitivity training regarding the needs of people marginalised based on gender and/or other factors;
- 13 Implement and communicate stringent user codes of conduct across their platforms, ensuring their enforcement. Additionally, establish uniform content moderation standards that can effectively identify and address nuanced forms of online violence, while remaining sensitive to diverse cultural and linguistic contexts;
- 14 Improve the systems for reporting abuse so that victims of OGBV and racial discrimination can easily report it and track the progress of the reports;
- 15 Publish regular information on official websites regarding the legal basis of requests made by the military junta and other third parties and regarding the content or accounts restricted or removed under the company's own policies and community guidelines, and

establish clear, comprehensive grievance mechanisms that allow governing bodies and civil society members to dispute restrictions or removals of content and accounts. Aside from being clear and comprehensive, these mechanisms must have efficient, effective, and bias-trained systems of humans and/or electronic systems ready to receive and handle the grievances.;

- 16 When appropriate, consider less-invasive alternatives to content removal, such as demotion of content, labeling, fact-checking, promoting more authoritative sources, and implementing design changes that improve civic discussions;
- 17 Engage in continuous dialogue with civil society to understand the human rights impacts of current and potential sanctions, and avoid overcompliance in policy and practice;
- 18 Strengthen initiatives to promote access to information and freedom of expression in Myanmar, including developing technological tools to bypass online censorship imposed by the military regime;
- 19 Ensure that the results of human rights impact assessments and public consultations are made public;
- 20 Ensure that any requests, orders and commands to remove content must be based on validly enacted law, subject to external and independent oversight, and demonstrates a necessary as well as proportionate means to achieve one or more aims. Additionally, implement enhanced security mechanisms to protect user data in Myanmar from surveillance and censorship by the military regime;
- 21 Organise task forces and initiate proactive initiatives to safeguard LGBTIQA+, women, girls and other concerned minorities against specific forms of abuse, (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence;
- 22 Carry out routine assessments of human rights impacts and provide comprehensive transparency reports on measures taken to address issues affecting marginalised communities, notably the Rohingya (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn).

## Recommendations to Civil Society

- 1 Set up an independent multi-stakeholder body with the cooperation of various sectors to monitor and provide recommendations on trends in, and individual cases of digital rights abuses;
- 2 Support the independent evaluation and analysis of substantive aspects, including the use of the principles of necessity and proportionality through established global standards, and the impact of responses on society and economy;
- 3 Hold the military junta liable for the misuse of their powers or information obtained, while carrying out their duties in the existing legal framework;
- 4 Strengthen understanding and solidarity among underprivileged people (e.g. class solidarity, solidarity among women and others marginalised based on gender, understanding among different ethnic groups within a jurisdiction);
- 5 Promote a safe and respectful environment for free online expression;
- 6 Continue to increase knowledge on digital security through training and capacity building programs, and actively carry out training on media literacy, including how to verify information to be true;
- 7 Continue to conduct awareness campaigns to educate individuals and communities about the various forms of gender-based violence, its impact on survivors, and the importance of promoting a safe and respectful online environment;
- 8 Advocate for the implementation and enforcement of robust laws and policies that criminalise all forms of gender-based violence, including OGBV;
- 9 Develop and implement digital literacy programs that equip individuals, especially women and marginalised communities, with skills to navigate online platforms safely, recognise and respond to online harassment, and protect their privacy;
- 10 Create and participate in grassroots, community-led initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence. Wherever possible, mobilise these initiatives to hold perpetrators of such abuses accountable;
- 11 Collaborate with social media platforms and technology companies to develop and enforce policies and mechanisms that effectively address OGBV.



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