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THE INTERNATIONAL PROGRAMME
FOR THE DEVELOPMENT OF COMMUNICATION

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INTERNATIONAL
MEDIA SUPPORT



Assessment of Media Development in

MYANMAR

*Based on UNESCO's
Media Development
Indicators*



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Foreword by UNESCO

UNESCO's Media Development Indicators, approved by its Member States, offer a comprehensive set of indicators to assess the media landscape in a country at a given time and to recommend possible steps to further develop a free, independent and pluralistic media landscape in line with international standards.

As recently as 2011, Myanmar was labeled a pariah state. This perception has changed since President U Thein Sein was elected in March 2011. After 50 years of the country's isolation, his inaugural speech embraced reform and openness, and the victory of Aung San Suu Kyi's political party - the National League for Democracy - in November 2015, further revealed to the world the change that has transformed the country's contemporary history. Since the beginning of Myanmar's democratic transition, a series of politically liberalizing measures have been introduced in social and economic fields, including in the media sector.

These include the adoption in 2014 of the Printing and Publishing Enterprise Law (PPEL), which officially abolished past prior censorship and allowed newspapers to become editorially independent from the state; the Broadcasting Law of 2015, which enables private, public and community media to flourish; the establishment of the Myanmar News Media Council in October 2015 to act as a media self-regulatory body, just to name a few. These changes represent significant progress towards Myanmar's media serving as a platform for democratic discourse as well as a means to strengthen good governance and human development.

It is in this context that the UNESCO Bangkok Office and International Media Support (IMS), with the support of the department of journalism at the National College Management, jointly publish the assessment of media development in Myanmar based on UNESCO's Media Development Indicators. The assessment was conducted from May 2014 to April 2016 and also involved capacity-building activities of stakeholders on all of UNESCO's 50 indicators and 190 sub-indicators. Each chapter of the report highlights the findings and provides a set of recommendations on the way forward to address gaps.

UNESCO believes that the key media development priorities addressed in the report are particularly relevant in the context of achieving the newly adopted Sustainable Development Goals (SDGs), in particular Goal 16, to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.

It is UNESCO’s hope that the report will contribute to the ongoing reform of the media sector in Myanmar through continuous dialogue between the government, the media, civil society and the public.

A handwritten signature in black ink, reading "Gwang-Jo Kim". The signature is fluid and cursive, with the first name "Gwang" and last name "Kim" clearly distinguishable.

Gwang-Jo Kim
Director of UNESCO Bangkok



Foreword by International Media Support

It is with pleasure that International Media Support (IMS) together with UNESCO presents this comprehensive assessment of the media sector in Myanmar.

If one single word, if one single action exemplifies Myanmar today it must be change: political change, social change, and economic change. Since late 2011 Myanmar caught the world by surprise by initiating an unprecedented series of reform processes. It is in this context of these last four years that it has become important to have an objective, analytical stock-taking of how far Myanmar has progressed towards a more free, independent and pluralistic media.

To do this we have applied the UNESCO-defined Media Development Indicators (MDIs) to compile this assessment with a robust, proven methodology to understand media plurality and its contribution to state-building.

A number of fundamental premises underpin this report, principally that an independent and economically sustainable media does contribute to democracy and that a free, independent media is inherent to good governance. Likewise, people's participation in state-building is conditional to access to information as this enables participatory engagement by which people may monitor, understand and make sound choices in the reform process. Similarly media can also empower marginal, rural people. Conversely, a weak, under-performing national media contributes to a deficit in governance as a lack of an informed public leads to poor performance in public engagement and political debate.

The assessment is built upon a premise that a vibrant and healthy media sector supports broader good governance goals including free and fair elections, anti-corruption and economic development. Additionally, a strong, independent media sector can contribute to an enabling environment to support and enrich genuine transparency and accountability.

By applying the UNESCO MDIs in Myanmar over a period of almost 18 months, the research team has systematically engaged in preparing this diagnostic study. Initiated in 2015 the assessment is an initiative to canvas the multiple aspects of media sector across Myanmar, and with this work now completed and with a new reform-minded government in place, this

assessment will serve as more than a time-bound analysis but holds potential to become an instrument towards strengthening this fledgling sector.

While this assessment provides what may currently be the only detailed picture of Myanmar media today, it is also challenged by the rapidly changing landscape composed of political, legal, and social transformation of the country. For this reason, IMS remains committed to ensuring that this study will not remain a static, historic document but will be systematically followed-up and updated initially after 6 months and then annually for at least the following three years. Thus, our hope is that this MDI assessment becomes a living document, and applied instrument, that can be used by all stakeholders including civil society, media stakeholders, donors and the government, in respect to the emergence of democracy through a free and independent and professional media.



Jesper Højberg
Executive Director of IMS

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List of acronyms and terms

3G	Third generation of mobile telecommunications technology, which enables compatible mobile devices to connect to the Internet
AAPP	Assistance Association for Political Prisoners (Burma)
Amyotha Hluttaw	The House of 'Nationalities': Myanmar Upper House of Parliament
ANFREL	Asian Network for Free Elections
ASEAN	The Association of Southeast Asian Nations
BBC	British Broadcasting Corporation
BBC Media Action	BBC's international development organization
BNI	Burma News International
CDNH	Center for Diversity and National Harmony
CEO	Chief Executive Officer
COC	Code of Conduct
CPJ	Committee to Protect Journalists
CR	Community Radio
CRC	Complaint Resolution Committee
CSO	Civil society organization
DG	Ministerial Director-General
DTAC	One of Thailand's largest providers of GSM mobile phones
DVB	Democratic Voice of Burma
DWA	Deutsche Welle Akademie
DyDG	Ministerial Deputy Director-General
EAG	Ethnic armed group
EGRESS	A Myanmar non-profit organization founded by scholars and social workers supporting civil society activities
EITI	The Extractive Industries Transparency Initiative
EMG	Ethnic Media Group

EU	European Union
FESR	The Myanmar Framework for Economic and Social Reforms Policy Priorities (2012-15)
FGD	Focal Group Discussion: a data collection methodology
FOJO	Fojo Media Institute
GBPS	Gigabits per second
GDP	Gross Domestic Product
GONGO	A government organized non-governmental organization
ICCPR	The International Covenant on Civil and Political Rights
ICERD	The International Convention on the Elimination of all Forms of Racial Discrimination
ICT	Information and Communications Technology
IDP	Internally displaced persons
IFC	International Financial Corporation
(I) MPC	(Interim) Myanmar Press Council
IMS	International Media Support
INGO	International Non-Government Organization
IPDC	International Programme for the Development of Communication
IRI	International Republican Institute
ISP	Internet Service Provider
ITU	The International Telecommunication Union (the UN's specialized agency for ICT)
KII	Key Informant Interview: a data collection methodology
KKO	Klohtoobaw Karen Organization: The political wing of an armed non-state actor in Myanmar.
KW	Kilowatt
Ma Ba Tha	Committee for the Protection of Nationality and Religion
MCIT	Ministry of Communications and Information Technology
MDI	Media Development Indicator
MEC	Myanmar Economic Corporation
MIDO	Myanmar ICT for Development Organization: An ICT-focused CSO in Myanmar
MIMU	Myanmar Information Management Unit

MJA	Myanmar Journalists' Association
MJI	Myanmar Journalism Institute
MJN	Myanmar Journalists' Network
MJU	Myanmar Journalists' Union
MMBA	Myanmar Broadcasting Association
MMDC	Myanmar Media Development Centre
MMK	Myanmar Kyat: Myanmar's national currency; exchange rate as of 1 January 2016 (1USD = 1,301MMK)
MMLN	Myanmar Media Lawyers' Network
MNDAA	Myanmar Nationalities Democratic Alliance Army
MNMC	Myanmar News Media Council
MOE	Ministry of Education
MOI	Ministry of Information
MPT	Myanmar Post and Telegraph Company
MRTV	Myanmar Radio and Television: A state-owned TV broadcaster
MRTV-4	A joint-venture TV broadcaster between the Myanmar government and Forever Group
MWD	Myawaddy TV: A military-owned TV broadcaster
MYTHIC	Myanmar-Malaysia-Thailand Internet Connectivity: A planned undersea Internet cable
NCA	National Ceasefire Agreement
NLD	National League for Democracy
NMC	National Management College
NRC	National Races Channel: An MRTV digital channel
NRI	Network Readiness Index
OECD	The Organization for Economic Co-operation and Development
OGP	Open Government Partnership
OSA	Organization of American States
OSCE	Organization for Security and Co-operation in Europe
PDI	Pandita Development Institute
PPEL	The Printing and Publishing Enterprise Law

Pyidaungsu Hluttaw	Myanmar's bicameral legislature is made up of two houses: the Amyotha Hluttaw and the Pyithu Hluttaw
Pyithu Hluttaw	The House of Representatives: Myanmar's lower house of parliament
RTI	Right to Information
SB	Special Intelligence Department (Special Branch): One of four special police departments
SIM	A subscriber's cellular phone card, with a unique identification number storing personal data.
SKYNET	A joint-venture TV broadcaster between the Myanmar government and Shwe Than Lwin Group
SLORC	State Law and Order Restoration Council: The ruling body of Myanmar from 1988-1997; later abolished and reconstituted as the State Peace and Development Council (SPDC)
Tatmadaw	The Myanmar Armed Forces
TOT	Training of trainers
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
USD	United States Dollar
USDP	Union and Solidarity Party
USF	Universal Service Fund
VFV	Refers to The Vacant, Fallow, Virgin Land Law In Myanmar
YTP	Yantanarpon Teleport: a government joint-venture ISP transitioning toward a private company

Executive summary

President Thein Sein's quasi-civilian government came to power in 2011, marking an end to decades of direct military rule. Since that time, Myanmar has experienced significant reforms across political, economic and social spheres. The once pariah state has made substantive steps in a transition towards a liberal, capitalist democracy. This has included the release of thousands of political prisoners, the removal of prior censorship in print media, and the signing of the 'National Ceasefire Agreement' NCA with approximately half of the major ethnic armed groups (EAG). Relatedly, the international community has eased or removed economic sanctions, paving the way for Myanmar's greater integration with the global economy. On 8 November 2015, Myanmar held its first openly contested national election in 25 years. The former opposition party, the National League for Democracy (NLD) won in a landslide victory and now holds an absolute majority in both upper and lower houses of the Hluttaw (Myanmar's Parliament). On 15 March 2016, the NLD dominated-Hluttaw elected Htin Kyaw as Myanmar's first civilian president in 53 years.¹

Myanmar stands at a crossroads of great historic importance. The installation of a democratically-elected government has shifted the political paradigm in a positive direction. However, the new government has inherited a country in transition where old wounds from bygone military regimes remain and new growing pains are emerging. The military still holds significant influence over the government and both government and military interests are closely tied to unsustainable and non-transparent forms of natural resource extraction. Despite peace negotiations, conflict continues in much of the country and deeply embedded grievances remain between numerous minority ethnic groups and the Bamar ethnic majority. Furthermore, mounting tensions between Muslims and Buddhists groups have led to riots in several major cities and the displacement of hundreds of thousands of people. Muslims continue to face systematic and growing discrimination.

In the midst of such change, it is crucial that the Myanmar government promote a vibrant and pluralistic media to effectively contribute to and benefit from good governance and democratic development. Access to timely, unbiased and accurate information is needed so that Myanmar citizens can play an active role in steering the government's reform agenda. To this end, the following document provides an assessment of the overall media environment in Myanmar

1 Holmes, O. (15 March 2016). Myanmar parliament elects Htin Kyaw as first civilian president in 53 years. The Guardian. Retrieved from: <http://www.theguardian.com/world/2016/mar/15/myanmar-parliament-elects-htin-kyaw-as-first-civilian-president-in-53-years>

using UNESCO's Media Development Indicators (MDIs). It is hoped that this assessment will help to inform the new government and other stakeholders of the present state of the country's media sector and what must be done to support and continue its healthy development. The MDIs are divided into five thematic categories, which constitute the five chapters of this Assessment. Below are the Executive Summaries for all five chapters followed by a set of key recommendations.

Category 1: A system of regulation conducive to freedom of expression, pluralism and diversity of the media

The Government of Myanmar discontinued the practice of prior censorship in August 2012, marking a watershed moment for print media in the country. This change was institutionalized with the dissolution of the Press Scrutiny Board in January of the following year and the passage of the Printing and Publishing Enterprise Law (PPEL) in 2014, which formally abolished prior censorship. These progressive steps are part of a larger media legal reform process that continues to unfold and bodes well for media plurality and freedom of expression.

Licensing is no longer required for print media under the PPEL. Although print media must still register with the Ministry of Information (MOI), the process has proven to be non-restrictive so far. In addition, the News Media Law of 2014 promotes higher quality standards in the media by establishing a system of self-regulation. The law stipulates the creation of an independent regulatory body and the adoption of a media code of conduct. To this end a code of conduct was adopted in May 2014², and a Myanmar News Media Council was established in October 2015. Similarly, the Broadcasting Law, adopted in August 2015, provides for the creation of a National Broadcasting Council, which will be tasked with licensing broadcasters and adopting a Broadcasting Code of Conduct.

Reforms in media law have occurred in tandem with Myanmar's continuing political transition towards a civilian-led, democratic state. In the midst of such change, the media, civil society and the population at large are becoming more vocal about sensitive political and social issues. Citizens are beginning to express their views and opinions publicly despite continued uncertainty regarding how far their rights extend.

Although media laws have undergone positive reforms, Myanmar's wider legal framework is outdated and has not kept pace with the rapid political and social changes occurring in the country. Freedom of expression is not adequately safeguarded in the constitution or domestic law. Furthermore, Myanmar has neither signed nor ratified many of the international treaties that pertain to freedom of expression such as the International Covenant on Civil and Political Rights

2 The code of conduct was formally adopted by the Interim Myanmar Press Council. This semi-independent council was the precursor to the Myanmar News Media Council (MNMC).

(ICCPR). In addition, a Right to Information (RTI) Law does not exist and access to government information remains limited.

The selective use of antiquated laws, which restrict freedom of expression has been a means of silencing both the media and civil society on sensitive issues. Many of these laws are contained in the colonial-era Penal Code and pertain to acts such as defamation, public mischief, sedition, and blasphemy. Others are the vestiges of previous military regimes and generally invoked under the pretext of national security. New legislation such as the Peaceful Assembly and Peaceful Processions Law has also commonly been used to restrict protests. Legal restrictions to freedom of expression do have a place in a democratic state. However, they must be narrowly defined and penalties must be proportionate to offences. In Myanmar, laws which place restrictions on freedom of expression tend to be vaguely worded and provide for harsh criminal penalties.

The removal of prior censorship did away with a measure of certainty about what could or could not be printed in the media. The duty of deciding what to print now falls squarely on the shoulders of editors in a media environment where the lines of socially acceptable discourse are in constant flux. The juxtaposition of progressive media reform alongside stringent restrictions on freedom of expression has created an environment of uncertainty. The media and the population in general continue to explore the extent of their newfound freedoms, while remaining vulnerable to the arbitrary use of outdated laws and harsh prison sentences.

Category 2: Plurality and diversity of media; a level economic playing field and transparency of ownership

The historically high degree of state involvement in the media industry in Myanmar and the promotion of state-owned media have led to a high level of ownership concentration, particularly in broadcasting. All domestic TV and radio broadcasters are either fully state-owned enterprises or joint-ventures between the state and private companies.³ Each joint-venture broadcaster was formed according to its specific contract with the Ministry of Information. The contracting of joint-venture broadcasters was not conducted in a transparent manner and businesses that were chosen for these joint-ventures tend to have close ties with the government or the military. Under this system there are no requirements for broadcasters to disclose their ownership structure or revenue sources to the public.

Reforms in media law hold promise for a more pluralistic and diverse media environment over the long-term. In August 2015 a Broadcasting Law was enacted, which will allow for

3 There are also a variety of foreign news agencies, which broadcast in Myanmar via short-wave radio. These include BBC Burmese Service, Voice of America, and Radio Free Asia. These broadcasters have not been included in this analysis because they are not officially recognized broadcasters in Myanmar. However, they do represent a source of news in the country.

the licensing of private, public and community broadcasters in addition to the existing state broadcasters, which are still recognized as legitimate under the law. Licensing is to be managed by a civilian council, which is required by the law to consider media plurality and diversity in the allocation of licences. The Law also contains provisions which will retroactively address ownership concentration once regulatory bodies have formed.

The passing of the Printing and Publishing Enterprise Law (PPEL) in March of 2014 holds promise for a more diverse print media environment. The law formally abolished the act of prior censorship and replaced the licensing of print media with a registration process. The removal of prior censorship made it possible for daily newspapers to be produced. This led to the immediate proliferation of daily newspapers and increased media plurality.

Although the PPEL removed many of the legal barriers preventing a pluralistic media, the existence of state-owned print media creates an uneven economic playing field and indirectly promotes media concentration. Many of the daily newspapers that were launched in 2014 have already gone out of business. *Myanma Alinn* and *The Mirror* are the country's two largest state-owned print media houses. They far surpass any of their competitors in terms of circulation and enjoy a number of competitive advantages such as a relatively wide distribution network and a government subsidized operating budget. No guidelines for the placement of government advertising currently exist. In practice, nearly all of the government's advertisements are placed in state-owned print media. Private companies also prefer to advertise in the state-owned print media because of its superior circulation. This represents a forgone source of income to private print media and further entrenches the dominant market position of state media.

Category 3: Media as a platform for democratic discourse

As a fourth pillar of the state, the media can play an important role in promoting democratic discourse and improving government transparency by imparting the knowledge necessary for individuals to be informed, engaged citizens. However, this scenario is dependent upon a number of underlying assumptions.

First, the media needs to provide for the information needs of all segments of society. This entails a diverse range of public, private and community media outlets which impart information through a variety of mediums and languages. Although the reach of print media remains limited, the state-owned broadcaster, MRTV, has launched both TV and radio stations that air news in all major ethnic languages. This means that the large majority of citizens have access to state-produced news in a language they can understand. MRTV is also transitioning to a public service broadcaster. The legal aspects of this transition have been put on hold with the withdrawal of the Public Service Media bill, but MRTV has still undertaken some reforms to this end such as providing more news content in a variety of ethnic languages, expanding network coverage and a greater focus on staff training and news quality. However, the diverse

information needs of a society cannot adequately be met by any singular monolithic provider, especially one still under state control.

Joint-venture broadcasters are capable of providing news to a large portion of the population, but they tend to focus on entertainment programming rather than news and information. The news they do provide has traditionally been sourced from MRTV. While this is often still the case, broadcasters are beginning to source more news from independent media outlets and produce some of their own content. Despite these positive developments, a greater plurality of broadcasters and content producers is needed for broadcast media. This would require the long-term promotion of a competitive media environment with a judicious mix of private, public and community broadcasters that are free from commercial and political interference.

Providing for the information needs of all segments of society also means that all such segments take part in covering the news, so that their viewpoints are heard. The absence of ethnic and gender mainstreaming initiatives within the media industry allows for biases to persist in employment practices. Apart from ethnic media outlets, ethnic minorities tend to be under-represented in mainstream media. Although women are well-represented in the media in terms of staffing, a disproportionately small number make it to senior positions. Those that do are often confined to covering 'soft subjects' such as beauty, health, development, entertainment, and popular news.

Second, an independent regulatory system must exist to establish industry standards, process grievances, and promote truthful and unbiased reporting. To this end, the Interim Myanmar Press Council (I) MPC was established in 2012. The council drafted and adopted a Code of Conduct (COC) in 2014 and served as an industry wide grievance mechanism for violations of the News Media Law and COC. In October 2015, the Myanmar News Media Council (MNMC) was elected and replaced the (I) MPC as the regulatory body and grievance mechanism for the media industry. Similarly, the Broadcasting Law calls for the formation of a broadcasting council and a broadcasting authority to regulate the broadcasting sector. The Council will consist of civilian members and will be responsible for granting broadcasting licences and drafting a broadcasting code of conduct. These positive developments can be seen as essential building blocks for effective self-regulation, but for the time being they cannot adequately ensure quality, unbiased reporting.

Third, the media must be a credible source of information that is perceived as trustworthy by the population. In Myanmar, the public generally perceives state media as factually accurate yet editorially biased. Content tends to showcase government activities and events in a positive light, while politically sensitive subjects such as land grabbing, the drug trade, and corruption are seldom covered. Strong contrasting biases exist within private media. Some private print media have been known to promote the political or economic interests of those close to or within government. Conversely, some others publish sensationalist content with a strong anti-government slant, favouring higher profits over factual accuracy.

Fourth, one cannot expect the media to be fair and impartial if journalists and media staff operate in an unsafe environment where they are subject to threats and harassment. Despite the current reform process and the progressive steps that the government has taken to promote a free media, the police force, the military, and the special police force known as Special Branch (SB) have continued to monitor, harass and on occasion physically attack media personnel. The safety of media staff varies geographically. Incidences of maltreatment and harassment were more widely cited by media staff interviewed in conflict areas such as Kachin State and Northern Shan State. Despite the hostile environment in which many journalists operate, many are afforded little or no protection by their employers due in part to financial constraints.

Category 4: Professional capacity building and supporting institutions that underpin freedom of expression, pluralism and diversity

The recent proliferation of new media publishers in Myanmar has exacerbated an existing skills deficit within the industry. Many young and eager journalists have swelled the ranks of both old and newly established media houses. The Myanmar Journalism Institute (MJI) estimates a total of 4,000 journalists in Myanmar, many of which are not veteran news professionals.⁴ More media training institutes have appeared in the last few years, but still fall short of meeting training needs. Many institutes are small and informal in nature, while a handful of larger institutes also exist.

Findings from a Training Needs Assessment⁵ survey indicate that basic journalism courses and courses for basic spoken English are the most pressing training need. In addition, media managers have cited a need for more training in broadcast and online journalism. They attribute this need to the fact that much of the population receives its information from TV and radio broadcasting and, increasingly, the Internet. Media managers also cited a need for media managers' training, particularly for small, remotely-based ethnic print media. There is also a need for more conflict-sensitive journalism training.

The need for training within the media industry does not necessarily translate into market demand for training courses. First, financing is an issue. Most journalists cannot afford to take unsubsidized courses, and most media houses do not have a budget for training. Second, the majority of training courses are located in the country's economic capital, Yangon. Given Myanmar's large geographic size and poor infrastructure, significant time and money are required to reach Yangon from remote areas of the country. Third, the majority of training

4 The estimate of 4,000 journalists does not include other media workers or journalists from state-owned media. The figure has been widely discussed and generally supported by media experts, but exact figures do not exist, nor does a generally accepted definition of 'journalist'.

5 DW Akademie and CFI (2015). *Training needs assessment for journalists in Myanmar*. Yangon, Myanmar.

courses are offered in either the English or Burmese language. This can be a barrier for journalists coming from ethnic minority groups. Fourth, small media houses based outside of Yangon are often unaware that training courses exist. Information about training courses is generally shared through the personal networks of journalists and media managers in Yangon, and it is difficult for media houses elsewhere in the country to tap into those networks.

Given the limited purchasing power of media staff and media houses, the majority of training institutes in Myanmar receive substantial financing from international media development organizations. Institutes tend to provide training either free of charge or at a subsidized cost to participants. Although necessary at this stage in the country's media development, dependence on donor funding leads to uncertainty in training regularity and can drive the topical agenda rather than actual training needs.

The National Management College (NMC) is the only academic institution in Myanmar which offers a degree in a media related field. Its department of journalism offers a four-year Bachelor of Arts in Journalism. The NMC is a government institution under the Ministry of Education (MOE). Under Thein Sein's government, the NMC has been able to operate more independently over the past few years. The department of journalism has formed partnerships with foreign universities and undertaken joint research initiatives with international organizations. This MDI assessment is one such example. The department's curriculum was developed with help from UNESCO and is in-line with international standards of excellence of journalism education. All of these developments continue to increase the department's capacity and the quality of its graduates; however, limited funding remains a challenge. The Myanmar Journalism Institute (MJII) is not an academic institution in the traditional sense but still offers students a one-year diploma in multimedia. Although, the MJII was initially established by a consortium of international donors, its management structure is designed to be independent and managed by the media industry. While these two institutions are providing a much needed service, they alone cannot adequately satisfy the need for academic journalism courses in a country as large as Myanmar.

In terms of professional associations, the Myanmar Journalists Association (MJA), the Myanmar Journalists Network (MJN) and the Myanmar Journalists Union (MJU) are the three largest journalist associations in the country. They should not be understood as journalists' unions in the traditional sense because they do not undertake all of the functions of a union, such as labour dispute resolution. At this stage in their development it is better to view them as membership-based professional associations which broadly support the interests of the media industry. They also serve as useful networks for information sharing among journalists and offer training courses to their members.

The capacity of these organizations to provide support to journalists is limited. Findings from fieldwork research indicate that these associations have yet to garner widespread trust and

support, particularly outside Yangon. This has led to the recent establishment of many regionally-based journalist associations. While these associations state that they are closely involved with their members and are well-aware of pressing regional issues, their characteristically small membership base and limited financial means may limit their operational capacity. A balance must be struck between the need for accurate representation and the danger of fragmentation.

Civil society in Myanmar is at an embryonic stage so media monitoring and media literacy are not yet that widespread. Social networking websites have become a hotbed for religious intolerance and hate speech in the country. Therefore, more online media literacy programming by CSOs and through the formal academic system is recommended to address this growing concern and support a mutually reinforcing relationship between the media sector and civil society. The most direct link between civil society and the media can be found between ethnic-based civil society and ethnic media outlets. Often, they are one and the same organization. Many civil society organizations also advocate for greater press freedoms and have helped to facilitate protests against the imprisonment of journalists.

Category 5: Infrastructural capacity is sufficient to support independent and pluralistic media

The passage of the Telecommunications Law in 2013 brought with it significant reforms to the telecommunications sector and heralded a rapid expansion in mobile phone penetration and Internet access in the country. Under the law, the telecommunications industry was privatized and Myanmar now has three national telecommunications providers. The privatization of the sector has brought with it a sharp drop in the price of SIM cards which has made owning a mobile phone affordable for a large percentage of the population. Consequently, there has been a significant increase in mobile phone ownership. As of July 2015, mobile phone subscriptions totalled approximately 29 million users – more than half of the population.

Exact figures on Internet access in Myanmar are difficult to verify or define, but it can safely be assumed that Internet access has grown in tandem with the spread of mobile phones. A recent ICT usage survey (2015)⁶ found that Internet-based phone applications such as Facebook, Instant Messenger and email phone applications have quickly become the primary channel through which people in Myanmar access the Internet.

Although there has also been a substantial increase in Internet bandwidth, the country's external links to the Internet do not currently provide a robust or adequate connection. Two additional connections are being established and should be operational within 2016. This

6 Galpaya, H., Zainudeen, A., & Suthaharan, P. (2015). A Baseline Survey of ICT and Knowledge Access in Myanmar. Retrieved from the LIRNEasia website: http://lirneasia.net/wp-content/uploads/2015/07/LIRNEasia_MyanmarBaselineSurvey_DescriptiveStats_V1.pdf

will greatly improve overall bandwidth. These developments paired with the cessation of widespread Internet censorship in 2012 have meant that the populations' access to information has increased substantially and continues to do so. Despite these developments, Myanmar still lags behind many countries in ICT related indices. Time and the continued reforms to the telecommunications sector are needed to close the gap.

The media's use of ICT remains limited, particularly for print media. Large, Yangon-based, print media houses can provide their staff with modern audio-visual equipment, but smaller print media houses typically do not have the budget to do so. Small print media houses generally lack access to archival material or to reference books and publications. The majority of media houses have an online presence via their own website or a Facebook page but most do not know how to effectively use online media to maximize their reach or become more profitable. The majority of news websites are fairly basic and simply a reiteration of a media house's print edition. Few avenues exist online for reader feedback and participation.

Print media circulation in Myanmar remains limited due to poor transport infrastructure. Private print media also rely on a limited number of printing presses located in Yangon. Hence, much of the rural population is dependent upon TV and radio for news. In a nationally representative survey conducted for this assessment, 21.5 per cent of the sample only had access to broadcast media, without access to any type of print media or the Internet. An additional 2.6 per cent of the sample claimed no access to any source of media. For ethnic minority groups, these figures were 26 per cent and eight per cent respectively. These findings denote a media environment that lacks plurality.

In terms of ICT policy, it is worth noting that the MCIT has developed a Myanmar Telecommunications Master Plan (2015). Although the plan had not been adopted at the time of finalisation of this report in April 2016, this is a positive step in telecommunications reform. Among other things, the plan sets ambitious goals for increased teledensity⁷ and Internet access. It also recognizes that it is the role of the state to support telecommunications infrastructure and services in areas where it is not economically viable for private business to do so alone. To this end the Master Plan proposes a Universal Service Fund (USF) to be established from a proportion of the revenues of telecommunications operators.

Myanmar is undertaking the switch from analog to digital television as agreed upon since 2008 by the ASEAN Digital Broadcasting Body;⁸ however, there is no formal document outlining Myanmar's digitalization plan. At present, 104 relay stations of the national broadcaster, MRTV, have been equipped with digital transmitters, which can cover 89 per cent of the population according to government officials. The digitalization process is scheduled to be completed by

7 Teledensity refers to the number of landline telephones in use for every 100 individuals living within an area.

8 Interview with the director of Myanmar Radio and Television, 19 August 2015.

2020. The government has provided DVBT-2 set-top boxes to some public facilities such as schools and libraries, but this will not be sufficient to help Myanmar's large rural population undertake the digital transition. A national digital transition plan should be developed that not only focuses on the building of necessary infrastructure but also lays out comprehensive strategies to help rural households cope with the transition and at least maintain their current access to broadcasting services.

Key recommendations

- Myanmar should sign and ratify international treaties which pertain to freedom of expression, including the International Covenant on Civil and Political Rights, the (first) Optional Protocol to the International Covenant on Civil and Political Rights and the International Convention on the Elimination of all Forms of Racial Discrimination.
- The 2008 Constitution should be amended to strengthen guarantees of freedom of expression (i.e. Article 354) and the right to information. These guarantees should not allow ordinary laws to restrict these rights but should, instead, impose clear conditions on any laws which restrict these rights.
- Only a judiciary that acts independently can properly interpret laws which restrict freedom of expression in the public interest. The government should promote the independence of the judiciary and address reported corruption issues within it.
- The government should promote wider public participation in legal reform processes and more proactively communicate on the legal reforms pertaining to freedom of expression by creating wider opportunities for interactions with the public.
- The government should continue consultations with relevant stakeholders with a view to adopting a Right to Information (RTI) Law.
- Significant reforms to the colonial-era Penal Code should be adopted. Any restrictions on freedom of expression should be provided by law, limited to the protection of legitimate interests as listed in the Article 19(3) of ICCPR and necessary to protect those interests.
- The wider legal system has not kept pace with media legal reform and political and social norms. Consequently, many antiquated laws that restrict freedom of expression remain. Some recent legislation also contains restrictions on freedom of expression. Numerous reforms to the Myanmar legal system are needed. Removal of or amendments to specific laws are described in detail in the Recommendations section of chapter one of this assessment.
- Legislation that protects the confidentiality of journalists' sources should be adopted.
- State-owned broadcasters should be turned into public service or private broadcasters, and all references to state-owned media should be removed from the Broadcasting Law.
- The National Broadcasting Authority should develop the Broadcast Spectrum Management Plan in consultation with broadcasters and civil society and develop a dissemination plan and public awareness raising initiatives for this proposal.

- The Ministry of Information and the Myanmar News Media Council (MNMC) should develop guidelines for the fair and unbiased placement of government advertisements in all types of media.
- The government should consider a tax policy which actively supports the media and community broadcasters in particular.
- Media houses should include diversity and gender mainstreaming initiatives in their employment practices. Media development organizations should provide media houses with technical support to this end.
- Media development organizations should support the emergence of community broadcasters.
- The public service remit for public service broadcasters should be defined in and protected by law.
- The government and media development organizations should provide adequate funding and technical assistance to the newly created MNMC in order to perform its functions as a media self-regulatory body.
- The MNMC should increase its engagement with media houses outside of Yangon to garner their support and enhance its legitimacy as a self-regulatory body for the media.
- International media organizations should conduct extensive media sensitivity programming with the military and police so that they know how to properly engage with the media.
- Basic journalism training should be the main focus for journalists' capacity-building projects. Efforts should be made to provide more training courses outside of Yangon as well as to conduct training in ethnic languages for ethnic media.
- Gender and diversity should be included in both academic journalism education programmes and training courses/events for media professionals.
- Media development organizations should continue to support media professional associations so that they are able to effectively advocate for media workers' rights and provide them with support both in Yangon and across the country.
- The Ministry of Education (MOE), Ministry of Information (MOI) and relevant media development organizations should work together to promote the development of journalism programmes in universities across Myanmar. Emphasis should be placed on selecting a university in Mandalay to offer a degree in journalism in order to improve access to academic journalism training in the north of the country.

- The government and media development organizations should continue to support CSOs in their media monitoring efforts, media literacy programmes and research in order to address the existence of hate speech on social media and develop mechanisms to counter it. Media literacy should also be taught in the formal academic education system.
- The government should develop a national digital migration plan. This plan should cover not only infrastructure development but also include strategies to help rural households cope with the transition and stay connected. Media development organizations should play an important role in providing technical support in this regard.
- The MCIT should adopt the Telecommunications Master Plan after taking into consideration suggested revisions by both civil society and telecommunications operators.

Introduction

Country context

President Thein Sein's quasi-civilian government came to power in 2011 marking an end to decades of direct military rule. Since that time, Myanmar has experienced significant reforms across economic, political and social spheres. The once pariah state has made substantive steps in a transition towards a liberal, capitalist democracy. From January 2012 to the end of Thein Sein's government thousands of political prisoners have been released in a series of blanket amnesties.⁹ As a result, Myanmar has also seen the recent removal of economic sanctions by much of the international community. This, in turn, has paved the way for increased foreign direct investment and greater integration of Myanmar with the global economy. There have also been on-going negotiations to solidify a lasting peace within the country. These efforts culminated in the signing of a 'Nationwide Ceasefire Agreement' in October 2015. Eight ethnic armed groups (EAG) signed the agreement out of a total of fifteen, which were invited to do so. The development of a democratic state also requires an open media environment and strong guarantees for freedom of expression. To this end, the act of prior censorship in the print media in Myanmar was discontinued in August 2012 and several other progressive media reforms have created a more open media environment. Previously taboo topics such as natural resource extraction, the drug trade, military operations, and corruption now receive some coverage in the media. Similarly, more citizens are beginning to publically express their views and opinions in the form of public protests and demonstrations.

Myanmar's electoral reforms have undoubtedly been the most important step in its path towards a more democratic government. Myanmar held a by-election on 1 April 2012 in which 45 seats in the National Hluttaw (parliament) were contested. The opposition party at the time, the National League for Democracy (NLD), ran in the by-election and won 43 seats. Although this did not greatly alter the balance of power within the Hluttaw, it symbolized the government's willingness to hold fair, openly contested elections and honour the results. Nobel Peace Prize laureate and NLD figurehead, Aung San Suu Kyi, was among those who successfully ran in the by-election and gained a seat in the Hluttaw. Until 2010 she had been under house arrest for

⁹ Burma: Political prisoners released | Human Rights Watch. (2012, January 13). Retrieved from: <https://www.hrw.org/news/2012/01/13/burma-political-prisoners-released> Tun, S. Z., & McLaughlin, T. (2016, January 22). Myanmar releases political prisoners before power transfer| Reuters. Retrieved from: <http://www.reuters.com/article/us-myanmar-politics-prisoners-idUSKCN0V008I>

15 of the past 21 years.¹⁰ As the daughter of Myanmar's independence hero, General Aung San, her victory in the by-election held deep historical significance for many Myanmar citizens. The 2012 by-election proved to be accurate indication of what was to come three years later. On 8 November 2015, Myanmar held its first openly contested national election in 25 years. The NLD won in a landslide victory and now holds an absolute majority in both the upper and lower houses of the National Hluttaw. The NLD also won a majority in most of the regional Hluttaws. The new government was then installed in February 2016. Under the Myanmar Constitution, the combined two houses of the Hluttaw elect the president and two vice-presidents. Since the country's Constitution restricts Aung San Suu Kyi from becoming president, on 15 March 2016 the NLD-dominated Hluttaw elected Htin Kyaw as the country's first civilian president in 53 years. Although her official title is that of parliamentarian, Aung San Suu Kyi, remains the figure head of the NLD and, in effect, steers the strategic direction of her party and the government.

Myanmar stands at a crossroads of historic importance. The installation of a democratically-elected government has shifted the political paradigm in a positive direction. However, the new government has inherited a country in transition where old wounds from bygone military regimes remain and new growing pains are beginning to emerge. The government and military have historically favoured the Bamar ethnic majority and promoted a Burmese-centric nationalist identity. This has left many ethnic minority groups disenfranchised, and deeply embedded ethnic grievances remain. Despite efforts to establish a lasting peace, several major EAGs have not signed the 'Nationwide Ceasefire Agreement', and on-going conflict has left hundreds of thousands of people displaced.¹¹ Myanmar's opaque and antiquated legal environment lacks adequate environmental safeguards, business regulations and land use policies. Consequently, unsustainable forms of natural resource extraction persist, which are not transparent and often linked to military and government interests. Land ownership for much of the rural population is vulnerable to large-scale land acquisitions.

Furthermore, mounting tensions between Muslims and Buddhists groups have led to riots in several major cities. Religious rioting in Rakhine State in 2012 led to the displacement of approximately 140,000, many of whom still remain in government camps. Muslim communities are not allowed to leave the camps, and the poor living conditions they face have led the international community to seriously question Myanmar's commitment to human rights.¹²

10 Profile: Aung San Suu Kyi - BBC News. (2015, November 13). Retrieved from <http://www.bbc.com/news/world-asia-pacific-11685977>

11 IDMC: Myanmar IDP figure analysis. (2015, March). Retrieved from: <http://www.internal-displacement.org/south-and-south-east-asia/myanmar/figures-analysis>

12 International Crisis Group. (2014). Myanmar: The politics of Rakhine State (N261). Retrieved from: [http://www.crisisgroup.org/~media/Files/asia/south-east-asia/burma-myanmar/261-myanmar-the-politics-of-rakhine-state.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-east-asia/burma-myanmar/261-myanmar-the-politics-of-rakhine-state.pdf)

In the midst of such change, it is crucial that the new government promote a vibrant and pluralistic media to effectively serve as the fourth pillar of the state. Access to timely, unbiased and accurate information is needed so that Myanmar citizens can play an active role in steering the government's reform agenda. To this end, the following content and analysis provides an assessment of the overall media environment in Myanmar. It is hoped that this will help to inform the new government and other stakeholders of the present state of the country's media sector and what must be done to support and continue its healthy development.

MDI assessment structure

This assessment applies the UNESCO Media Development Indicators (MDI). This set of 50 indicators and 190 sub-indicators was endorsed by the Intergovernmental Council for UNESCO's International Programme for the Development of Communication (IPDC) at its 26th session in March 2008. The MDI framework is divided into five categories:

Category one assesses constitutional and legal guarantees for freedom of expression, media plurality and diversity. In doing so, the indicators address issues such as legal restrictions to freedom of expression, the right to information, media regulation, editorial independence, and censorship.

Category two assesses what steps are taken by the state to promote plurality within the media and guard against undue ownership concentration. This includes licensing and taxation of the media as well as policies for the allocation of the state's advertising budget.

Category three assesses the extent to which media is used as a platform for democratic discourse. In doing so, it looks at the ability of media to provide information to all segments of society, the independence of the public service broadcaster (if one exists), public perception of and trust in the media, and the safety of media workers.

Category four assesses professional and academic training available to media workers. Relatedly, it also looks at media worker membership associations and the relationship between the media industry and civil society in general.

Category five assesses if infrastructural capacity is sufficient to support an independent and pluralistic media. To this end, it also considers the ability of the population and, in particular, marginalized groups to access modern forms of communication and ICT.

This assessment is structured so that each chapter corresponds to an indicator category, resulting in a total of five chapters. An Executive Summary and Recommendations for all five chapters can be found at the beginning of this assessment. It should be noted that the indicators listed in this assessment are aspirational in nature, in order to highlight the gaps in media development and to generate appropriate recommendations. For example, indicator 2.1

reads: "State takes positive measures to promote pluralist media." This is not a statement of fact. It does not necessarily mean that the state does take positive measures to promote pluralist media. It means that this is a goal to which the state should aspire. Underneath indicator headings, the text states the extent to which these aspirations are realized.

Methodology

Team structure and composition

Research for the MDI Assessment Myanmar was jointly undertaken by International Media Support (IMS) and the National Management College's (NMC) department of journalism. Throughout the research process, UNESCO provided technical oversight on the application of the indicators. IMS fielded both a national and an international research coordinator for this assessment. The research coordinators were responsible for designing the research methodology and data collection tools. They also coordinated data collection with the research team from the journalism department and led data analysis and drafting of the MDI Assessment. IMS also provided a team leader to strategically steer the project. NMC's department of journalism provided a research team for this project consisting of three associate professors, four tutors, and five qualifying students.¹³ The research team was responsible for conducting most of the primary research through the use of data collection tools provided by research coordinators. IMS also provided three additional researchers to support data collection during field work.

Research locations

Myanmar is composed of seven states, seven regions, and one Union Territory. Research was conducted in a total of five states and four regions. These are highlighted in blue in the map below. Some Key Informant Interviews (KII) were also conducted with government officials in the capital city Nay Pyi Taw. Research locations were chosen in order to capture the ethnic diversity of the country. Most notably, the seven states of Myanmar are known for their ethnic diversity. The name of each state comes from the majority ethnic group of that state. Targeting also prioritized geographic areas with a high concentration of media outlets. A significant amount of research was conducted in Yangon City, located within Yangon Region. Yangon City is the economic capital of the country and consequently, the largest media market.

¹³ Qualifying students are students who have completed their undergraduate degree in Journalism and are in the process of applying to masters programmes in other countries. In the meantime, they study at NMC part-time taking preparatory classes.

Figure 1: Map of MDI research locations¹⁴



Data gathering tools

Literature review

The research team reviewed a considerable volume of literature regarding the media environment in Myanmar. This included: research reports, public opinion polls, surveys, news articles, government documents, training materials of media organizations, codes of conduct and editorial guidelines of media organizations, recordings and minutes of media workshops, and power point presentations.

Legal stock take

Category one of the MDI Assessment requires a comprehensive knowledge of Myanmar media law as well as the wider legal system and any restrictions it places on freedom of expression.

To this end, the researchers interviewed Myanmar legal experts and conducted a stock take of all Myanmar laws and regulations that relate to the media or have wider impacts on freedom of expression.

Public opinion poll

Category three of the MDI Assessment requires an understanding of the public's perceptions of the media and category five covers the population's access to the different types of media. To fill these information gaps, the research coordinators drafted a public opinion poll questionnaire regarding the general population's perceptions of and access to the media. Implementation of the public opinion poll was outsourced to a market research firm. The public opinion poll covered a total of 1,020 respondents and is nationally representative, yielding a confidence interval of 95 per cent and a margin of error of five per cent or less.¹⁵

Key Informant Interviews (KII)

A total of 90 Key Informant Interviews (KII) were conducted amongst a broad range of key stakeholders in the media sector.¹⁶ This includes but is not limited to: media managers, editors, journalists, lawyers, government officials, media trainers, representatives of civil society organizations, state media, media associations and media non-government organizations. KIIs that were conducted with journalists, media associations, media managers and editors were semi-structured and based on a set of guiding questions linked to specific indicators. KIIs for other media stakeholders were left open-ended. Eight of the 26 KIIs conducted with private print media managers and editors were conducted outside of Yangon in the capital cities of other states and regions (see Research Locations section). Some KIIs were also conducted with government officials in Nay Pyi Taw, the capital of Myanmar.

Occasionally, research required different members of the same organization to be interviewed. Hence, the 90 KIIs covered a total of 77 organizations. A list of organizations met can be found in Appendix A.

¹⁵ A multistage random sampling method was applied, and members of households age 15-plus were randomly selected as respondents using a Kish grid. For considerations of cost effectiveness, Chin and Kayah states were not included in the poll due to their remoteness and small population. This leads to an estimated reduction in coverage of the total population by 4.78 per cent. A confidence interval of 95 per cent and a margin of error of five per cent apply to simple 'yes' / 'no' questions.

¹⁶ This figure does not include repeat communications with the same individuals. For example, some highly relevant stakeholders were interviewed multiple times about different issues as the media environment continued to evolve throughout research. Relatedly, this figure does not include communications such as follow-up emails and telephone calls. The stakeholder classification used in the table does not account for the many roles that some stakeholders play in the media industry. For example, many of the journalists interviewed also belong to media associations and train at media training institutes, but they are only counted once.

Table 1: KIIs with media stakeholders

Stakeholder group		KIIs
Editor/ Managers (private media)	Broadcast	10
	Print	26
Editor/ Managers (fully state-owned)	Broadcast	4
	Print	4
Journalists		15
Government		6
Media Associations		3
Media NGO/CSOs		5
Training institutes		8
Legal experts		6
Other		3
TOTAL		90

Focus Group Discussions (FGD)

A total of 48 Focus Group Discussions (FGD) were conducted across five states and four regions.¹⁷ Fourteen were conducted with journalists and 34 were conducted with the general public. A set of guiding questions was developed for both of these groups and linked to specific indicators. Some FGDs were separated by sex to apply a gender lens to the analysis while other FGDs were left mixed.

¹⁷ Most FGDs included approximately eight to 12 people.

Table 2: Focus Group Discussions

State/ Region	Reporter/Journalist			General public					
	Male (FGD)	Female (FGD)	Mixed (FGD)	Rural Male (FGD)	Urban Male (FGD)	Rural Female (FGD)	Urban Female (FGD)	Rural Mixed (FGD)	Urban Mixed (FGD)
Yangon Region	0	0	2	0	2	0	1	0	0
Mandalay Region	0	0	1	1	1	1	1	0	0
Bago Region	0	0	1	1	1	0	0	0	1
Tanintharyi Region	1	0	1	1	1	1	1	0	0
Kachin State	1	0	1	1	1	1	1	0	0
Shan State	1	0	1	0	1	0	2	1	0
Mon State	0	0	1	1	1	1	1	0	0
Kayin State	0	1	1	1	1	1	1	0	0
Rakhine State	0	0	1	1	1	1	1	0	0
Total	3	1	10	7	10	6	9	1	1
Grand Total	14			34					

Assessment oversight and validation

The Myanmar MDI Assessment benefited from the support and advice of a consultative committee composed of key media stakeholders representing, the private media sector, media associations, government, and media development organizations. Research outputs also went through a comprehensive validation process. Five organizations were chosen as thematic champions to provide feedback on the draft versions of each of the five indicator categories.¹⁸

¹⁸ Thematic champions provided feedback on draft versions of indicator categories, but they did not hold editorial control over the document. Hence, the final draft is informed by expert knowledge of the organizations involved, but the views and opinions expressed in this Assessment are those of the researchers; not those of IMS, UNESCO, or the organizations chosen as thematic champions.

The validation process also consisted of an MDI Validation Workshop, which was held in January of 2016. Workshop participants included some members of the consultative committee as well as additional media stakeholders. Workshop participants gave feedback on the draft MDI Executive Summary and recommendations.¹⁹ Recent developments in the media industry were also discussed to ensure that assessment findings were up-to-date. A week after the MDI Validation Workshop, the updated draft of the Executive Summary, recommendations and five chapters were emailed to workshop participants. Participants were given two weeks to provide feedback.

Research limitations

Research for this Assessment was conducted over approximately a one-and-a-half-year period. This is partly due to the Assessment's lengthy review and validation process. During this time, the media environment in Myanmar evolved rapidly, and keeping the Assessment relevant and up-to-date has required constant revisions to the draft document and continuous follow-up research. Fortunately, the research team's permanent presence in Myanmar has allowed for a nuanced understanding of the evolving media environment as it has unfolded. Positive relationships made with media professionals throughout the course of the research have greatly aided the constant updating of this MDI Assessment. Relatedly, the MDI Validation Workshop and the review process undertaken by thematic champions have also helped to promote an accurate and timely document that reflects the current state of the media in Myanmar as of April 2016. The MDI Assessment has, in effect, transitioned from a static document to a living one, with NMC researchers continuously monitoring the changing media environment.

This presents an opportunity for this document to serve as a useful and evolving tool even after its publication. To this end, a follow-up of chapter one could profitably be conducted within six-months of the publication of this Assessment and a follow-up of the entire assessment should be conducted one year later, with the intent to be annually updated over a three-year period. Follow-up assessments need not be as exhaustively comprehensive as this document, nor maintain the same structure. Rather, follow-up assessments should include a judicious mix of relevant indicators from this assessment and be structured so as to best support continuous monitoring of the media environment with this assessment as a baseline.

¹⁹ The MDI Validation Workshop covered chapters two, three and four of the Assessment. Due to category one's technical focus on media law, a separate validation workshop was held in December 2015 with members of the Myanmar Media Lawyers Network (MMLN). No validation workshop was held for category five because it required specific technical knowledge of the government's radio and TV transmission system and ICT infrastructure. This was best served by follow-up communications with the Ministry of Information and Communication Technology (MICT) and the Ministry of Information (MOI).

Category 1:

A system of regulation conducive to freedom of expression, pluralism and diversity of the media

Category 1:

A system of regulation conducive to freedom of expression, pluralism and diversity of the media

A. Legal and policy framework

1.1 Freedom of expression is guaranteed in law and respected in practice

Freedom of expression is guaranteed in international law through various treaties and declarations where it is recognised as being intrinsic to the fulfilment of other human rights. The right to freedom of expression is directly guaranteed in Article 19 of the International Covenant on Civil and Political Rights (ICCPR)²⁰, as well as in Article 19 of the Universal Declaration of Human Rights (UDHR).

“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.”

Myanmar has ratified the Convention on the Rights of the Child (CRC)²¹ but has neither signed nor ratified the ICCPR²² or any other international treaty pertaining to freedom of expression (e.g. (first) Optional Protocol of the ICCPR or the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)). Although Myanmar is not a signatory to the ICCPR, the Covenant is highly relevant for the purpose of this Assessment. Some sections of the ICCPR, including Article 19, are considered to be customary international law and binding on

20 UN General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976.

21 UN General Assembly Resolution 44/25 of 20 November 1989, entered into force 2 September 1990. <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

22 List of countries that have either signed or ratified the ICCPR: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en

all States. These provisions are considered fundamental to human development and serve as an international standard to assess the validity of domestic laws. Consequently, governments are held accountable to these provisions even if they are not signatories.

The point of departure for examining freedom of expression within a given country's legal system is to look for the essence of Article 19 in the supreme law of the land, namely the constitution. Since gaining independence from British rule, Myanmar (then Burma) has had three constitutions.²³ The first constitution was drafted in 1947 and came into force when the country gained independence in 1948. This constitution continued under the U Nu government until it was overthrown by General Ne Win and the Revolutionary Council in 1962. This constitution stayed in place until 1988 when the Ne Win regime was replaced by the State Law and Order Restoration Council (SLORC). The country went without a constitution for twenty years until the current constitution was drafted and enacted in 2008²⁴.

Chapter 8 of the 2008 Constitution consists of 45 articles containing the "Rights of the Citizen". Most notably, Article 354 guarantees: "Every citizen shall be at liberty ... to express and publish freely their convictions and opinions", as well as the freedoms to "assemble peacefully without arms" and to "form associations and organizations".²⁵ However, the same article provides that these rights only apply if they are, "...not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquillity or public order and morality". Terms such as "tranquillity" and "morality" are highly subjective and lacking in legal clarity. The term "tranquillity", in particular, is not recognised as a ground for restricting freedom of expression under international law. This can lead to a wide interpretation of the rules, endangering freedom of expression. Furthermore, freedom of expression is protected in a constitution in order to set conditions on ordinary laws which would otherwise impact it. Article 354, in contrast allows ordinary laws to circumvent the protective measures it sets forth. This is problematic, given the wide array of laws in Myanmar that can be used to restrict freedom of expression (see, for example, indicators 1.9 and 1.10).

The Constitution also poses risks to freedom of expression in terms of government structure and power relations, particularly insofar as it vests considerable power in the military. According to the 2008 Constitution, the president is not in charge of the armed forces; rather, the "Commander-in-Chief of the Defence Services is the Supreme Commander of all armed forces".²⁶

23 Interview with Myanmar lawyer 12 August 2014

24 (ibid)

25 Constitution of the Republic of the Union of Myanmar, Notification No. 7/2008, 29 May 2008.

26 Article 20(c), Constitution of the Republic of the Union of Myanmar, Notification No. 7/2008, 29 May 2008.

The constitution also structures the parliament in such a way as to provide for a strong military presence with the power to block constitutional amendments.²⁷

The 2008 Constitution grants the military a wide range of powers in a state of emergency,²⁸ and the rules for declaring a state of emergency are vague. Section 410 of the constitution states that a state of emergency may be declared if the president and the National Defence and Security Council determine that “administrative functions [of the government] cannot be carried out in accord with the constitution”.²⁹ Once declared, a state of emergency can be in effect for a period of one year with the possibility of extension. During this time the commander-in-chief of the defence services is granted the legislative, judicial and executive powers of government. The rights of the citizen as stipulated in Chapter 8 can be suspended, and any violation of these rights cannot be prosecuted even after the state of emergency has been lifted.³⁰

The rules on states of emergency are disconcerting for the protection of all human rights, including freedom of expression. Since the installation of the Thein Sein quasi-civilian government, mounting religious tensions in the country have already led to a state of emergency being declared on a number of occasions. On 10 June 2012, a state of emergency was declared in areas of Rakhine state after ethnic tensions between Buddhist and Muslim communities exploded in a series of riots, which left hundreds dead and thousands homeless.³¹ Though the situation has stabilized, the violence has resulted in tens of thousands internally displaced persons (IDP). Violence between Buddhists and Muslims also resulted in the government declaring a state of emergency in the city of Meiktila in March 2013.³² The reigniting of conflict with the Myanmar Nationalities Democratic Alliance Army (MNDAA) also resulted in a state of emergency being declared in the Kokang Region of Shan State in February 2015.³³

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- 27 According to sections 109 and 141 of the Constitution, the military is allocated 25 per cent of the seats in parliament. Section 436(a) and (b) of the constitution state that a constitutional amendment requires a majority vote greater than 75 per cent within the parliament. Hence, the military can prevent any amendments to the constitution which it does not agree with. The military also nominates one candidate for the presidency. The other two candidates are nominated by both houses of parliament. If the combined houses of parliament do not elect the military nominee as president, that individual will at least become one of two vice-presidents.
- 28 See also the State Protection Law of 1975, which purports to set forth additional provisions for the declaration of a state of emergency and the restriction of a citizen's fundamental rights during that time; although, it is not clear if this remains operative with the coming into force of the 2008 constitution.
- 29 Article 410, Constitution of the Republic of the Union of Myanmar, Notification No. 7/2008, 29 May 2008.
- 30 Articles, 418(a), 414(b), 420 and 432 Constitution of the Republic of the Union of Myanmar, Notification No. 7/2008, 29 May 2008.
- 31 Than Z. W. (2012, June 18). State of emergency declared in Rakhine State. *The Myanmar Times*. Retrieved from: <http://www.mmtimes.com/index.php/national-news/598-state-of-emergency-declared.html>
- 32 Latt, W. K. K. (2013, July 22). President lifts Meiktila state of emergency. Retrieved from: <http://www.mmtimes.com/index.php/national-news/7571-president-lifts-meiktila-state-of-emergency.html>
- 33 Nai, A. (2015, February 18). Martial law declared in Kokang; Red Cross convoy attacked. *Democratic Voice of Burma*. Retrieved from: <http://www.dvb.no/news/martial-law-declared-in-kokang-red-cross-convoy-attacked-burma-myanmar/48430>

The shortcomings of the Constitution must be understood in the context in which it was drafted. Prior to the current political transition, all public criticism of the government was quickly and brutally silenced. A person could be put in jail for so much as uttering the name of opposition party leader Aung San Su Kyi. All print media underwent stringent prior censorship, and the state held significant influence over broadcast media. Under these circumstances, it is not surprising that the Constitution does not adequately guarantee freedom of expression or human rights in general.

Given the inherent complications involved in changing the 2008 Constitution, the government has made smaller changes through the passing of less restrictive media laws (discussed throughout in Chapter 1). The government has also created a Human Rights Commission in an effort to educate both itself and the public about the fundamental concepts of human rights. The commission also serves as a grievance mechanism for citizens who believe their rights have been violated. Although human rights are poorly understood by the much of the population, at least there is room to promote them in the current political climate. According to a member of the Myanmar Human Rights Commission, “You couldn’t even use the word ‘human rights’ in public a few years ago.”³⁴

In practice, more citizens are beginning to express their views and opinions publicly despite continued uncertainty regarding how far their rights extend. In a nationally representative survey,³⁵ respondents were asked how free they felt they were to “say what they think”. Sixty-nine per cent responded “Very Free” or “Somewhat Free”, although this figure dropped to 43 per cent when the question included mention of the government. As long as the current environment holds, the general population will continue to gradually explore the extent of its newfound freedoms and form its own understanding of freedom of expression and human rights. While this is a positive development, the preservation of these freedoms is dependent upon constitutional reform; albeit an unlikely scenario in the near future.³⁶

1.2 The right to information is guaranteed in law and respected in practice

Myanmar does not have any constitutional guarantee granting citizens a right to access government information nor does it have a Right to Information (RTI) Law. During the times of prior censorship, a culture developed within government in which it was uncommon to share information with the public. The information that was shared would be provided at the

34 Interview with a member of the Myanmar Human Rights Commission, July 19 2014.

35 Larkin, C. & Haung N. M. (2014). Citizen engagement in Burma: Trends, barriers and the role for Media. BBC Media Action. Myanmar, Yangon.

36 Constitutional reform has been a hotly debated topic in Myanmar. Though often discussed, the military is strongly opposed to it and has an effective block on constitutional reform.

government's discretion, primarily via state-owned media. It is worth noting that Myanmar has signed and ratified the UN Covenant Against Corruption; although, anecdotal evidence collected during field research suggests that enforcement of this Covenant is lacking in regards to Article 13(1) (d), which, among other things, calls on states to put in place measures towards "Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption."

The recently enacted News Media Law offers significant opportunity for improving journalists' access to government information. According to section 6(a), a news media worker is entitled to access government information. Further details are given in Chapter 9 of the Media Rules: Right to Obtain Information. For example, section 31(a) of the Rules states:

"Any authorized individual, organization, departments who are responsible to release what the public have the right to know; (a) Must not delay and refuse without sound reason requests for viewing and copying data, photographs, illustrations, facts and figures, accounts that the public have the right to know as per Law section 6 (a)"

Section 31 also prescribes a timeframe of 24 hours within which the relevant government authority or organization must either provide the information or give sound justification why the information cannot be provided. Section 31 (d) also gives the Myanmar News Media Council (MNMC) the responsibility to serve as a grievance mechanism should media workers believe the government has not offered sound justification for denying access to public information. However it does not hold power over government bodies.

Still, the News Media Law and Media Rules cannot be expected to fulfil the role of a proper RTI Law. Under the Media Rules, there are no government-wide guidelines for what qualifies as confidential information. Instead, defining what can and cannot be shared is the internal work of each government department.³⁷ This will likely lead to a lack of uniformity in access to information across the government. In effect, departments enjoy wide discretion over what information is made public, weakening the effectiveness of the Law. The system also lacks clear procedures regarding how to submit a request for information.

Furthermore, the right to information stipulated in the News Media Law only extends to media workers and not to the population at large. In order to request information from the government, a journalist must present a News-Media Identification Card. This leads to the additional complication of possible exposure for investigative journalists. Although standard practice dictates that journalists should reveal their identity, in certain sensitive cases (as they pertain to the public good) reporters may need to withhold their professional identity.

³⁷ Interview with the director-general and deputy director-general of the Ministry of Information, 27 July 2014.

The News Media Law was enacted in June 2014 and the Media Rules were adopted only in 2015 and have yet to be tested. Consequently, it is yet to be seen whether or not government bodies will be widely forthcoming with information when asked directly for it by media workers. Although the media environment in Myanmar has changed drastically since the times of prior censorship, parliamentarians and government officials are still wary of sharing information with the public. First, sharing information with the media is a new concept for many within government. They are unfamiliar with using proper channels for dissemination of information and do not know how to interact with the media. Second, there is much uncertainty about what information should be made public and what should not. Third, civil servants are concerned about the capacity of media workers to review and understand the content of government documents and to report on them in a clear and unbiased fashion.³⁸

As discussed in chapter four of this report, most journalists in Myanmar lack the specialized knowledge to report properly on technical issues such as economics, politics, health and so on.

Old restrictions on obtaining government information remain in place, which further complicates the issue. The Official Secrets Act of 1923 very broadly prohibits the obtaining and publishing of information related to the actions of the military. Under section three of the Act, a citizen may be imprisoned for up to 14 years if he or she “obtains, collects, records or publishes or communicates” information which is “calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy”. The enormous breadth of this rule is immediately apparent. Media workers’ access to government information has also been restricted in practice by the use of sections 441-462 of the Penal Code. These sections have been used to charge journalists with trespassing on government property, even after they had been invited onto government property to interview government officials (see indicator 1.10).

The government has made some commitments to adopting RTI Law. The Myanmar Framework for Economic and Social Reforms Policy Priorities 2012-15 (FESR) states that there is a need to “move as quickly as possible to define, legalise and enforce the right to information and to improve citizens’ access to information”.³⁹ In 2012 President Thein Sein stated the government’s interest in joining the Open Government Partnership (OGP). The Organisation for Economic Co-operation and Development (OECD) is supporting Myanmar in its bid for membership.⁴⁰ It would be almost impossible for Myanmar to qualify for membership of the OGP without an RTI law, as having such a law would provide much needed points towards the minimum requirements for

38 Interview with an international media researcher based in Myanmar on 11 July 2014

39 Ministry of Communication and Information Technology. (2012). Myanmar framework for economic and social reforms policy priorities (FESR). Retrieved from: <http://www.eaber.org/sites/default/files/FESR%20Official%20Version%20-%20Green%20Cover.pdf>

40 Mang, L. M. (2015 January 26). Activists begin campaign on freedom of information. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/national-news/12908-activists-begin-campaign-on-freedom-of-information.html>

membership.⁴¹ In a step towards greater transparency, Myanmar became a candidate country for the Extractive Industries Transparency Initiative (EITI) in 2014. The EITI requires a government to disclose publically the revenue it receives from natural resources. The Myanmar EITI National Coordination Office submitted its first EITI report to the EITI International Secretariat in January 2016.⁴²

The government has also made in-roads in terms of proactively releasing information. All recently enacted laws are available to the public on the President's Office and Parliament websites. The website of the Ministry of Information continues to evolve into a channel for government information to reach the wider population. The website covers not only operations within the ministry but also announcements and events happening in the government in general.⁴³ Furthermore, government memos are published and sold in the government-run Sar Pay Beikman book store in Yangon,⁴⁴ and new laws do not officially come into force until they are 'gazetted' in the state-owned newspaper. As part of their larger technical assistance package on telecommunications reform, the World Bank also plans to aid the government in developing a 'Myanmar National Portal'. This portal will provide citizens with a single, comprehensive window for government information and services.⁴⁵

Although access to government information is improving, there remains a general lack of demand for it. Apart from the nascent, yet growing civil society in Myanmar, the majority of citizens do not demand information from the government. According to a recent nationally representative survey, most citizens in Myanmar do not see high level government issues as something that affects their everyday life.⁴⁶ Despite Myanmar's progress towards becoming a more democratic state, many citizens, particularly in rural areas, remain unengaged and uninterested in the government or its operations.

41 Open Government Partnership. (2016). Eligibility Criteria | Open Government Partnership. Retrieved February 11, 2016, from: <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>

42 Myanmar first EITI report. (2016, January 3). Retrieved from: <http://www.myanmarreiti.org/content/myanmar-first-eiti-report>

43 For the English version of the website see: <http://www.moi.gov.mm/Moi:Eg/>

44 Interview with Myanmar Lawyers' Network, 23 May 2014.

45 World Bank (2014, February 6). Myanmar moves toward connectivity for all. Retrieved from: <http://www.worldbank.org/en/news/press-release/2014/02/06/myanmar-moves-toward-connectivity-for-all>

46 Larkin, C. & Haung N. M. (2014). Citizen engagement in Burma: Trends, barriers and the role for Media. BBC Media Action. Myanmar, Yangon.

1.3 Editorial independence is guaranteed in law and respected in practice

Broadcast Media

All TV and radio broadcasters in Myanmar are either fully government-owned enterprises or joint-ventures between the government and private companies.⁴⁷ They are not independent entities and therefore lack editorial independence. In practice, TV broadcasters air various government events when it is asked of them. This typically includes coverage of events such as National Day or the president's speeches⁴⁸. Joint-venture broadcasters have traditionally focused on entertainment rather than news, and sourced their news directly from the state. Although TV and radio broadcasters are beginning to produce more of their own news content or source news from independent sources, much of their news content is still sourced from news bulletins provided by the state (see indicator 3.1).

A new Broadcasting Law was passed by the parliament in August 2015 and signed into law by the president the following month. It institutes significant legal reforms which substantially enhance legal clarity for the broadcasting industry. It provides for the creation of an independent regulatory body in charge of licensing for community, private and public broadcasters. This will likely promote a more diverse broadcasting environment and the law guarantees greater editorial independence for broadcasters. Furthermore, the law does not specify any compulsory requirements, and it makes no mention of whether or not the state can seize control of broadcasters when a state of emergency is declared.

Print Media

For the print media, there are no legal guarantees to protect editorial independence. In practice, the level of editorial independence varies both by region and by media house. Print media in Yangon operates in a less restrictive environment than print media in the rest of the country, leading to relatively greater editorial independence. During interviews, journalists and media managers from large, Yangon-based print media seemed to agree that it is not common for government officials to try and influence what is published. This, of course, does not apply to print media that is directly owned by the state or political parties.

Interviews and focus group discussions with journalists and media managers based outside of Yangon have revealed that it is not uncommon for local authorities, politicians and businesses owners to apply soft pressure on editors and journalists, requesting them not to publish certain

47 This does not include independent radio broadcasters such as BBC Burmese Service, Voice of America (VOA), and Radio Free Asia (RFA). These broadcasters transmit their signal in Myanmar via shortwave radio. They are based outside of Myanmar and do not fall under Myanmar broadcast regulation.

48 Interview with a manager of an FM radio station on 6 February 2015.

stories or to omit facts. Violent threats and harassment also occur and are more prevalent in conflict areas such as Northern Shan State and Kachin State (discussed in Indicator 3.13). The following quotes provide some insight into the nature of informal pressure that is applied to the media in many parts of the country.

“There are verbal insults or intimidation against media personnel. Sometimes, those insults and intimidation come through phone, especially from government departments.”

Journalist FGD, Rakhine State

“We gathered news related to a minister seven months ago. We were first intimidated not to release that news. Then he tried to persuade us with money not to release that news. Finally, when they could not prevent us from publishing, they bought all of our journals which included that news of the minister.”

Chief editor of Journal in Bago Region

“Government officers from the Immigration and National Registration Department were unlawfully asking civilians for 30,000 kyats for the service [of registering citizenship cards]. When the news was reported, the police threatened the media.”

Journalist FGD, Kayin State

Pressure on the media can also be explicitly stated through official channels. In January of 2015 the military-owned *Myawaddy Daily*, published the following statement, which warned reporters not to link military troops to the recent murder of two teachers in Kachin State.

“There is an on-going investigation into the crime but we found there are accusations and attacks on the Tatmadaw [armed forces of Myanmar]... The Tatmadaw was not involved in this murder case according to evidence analyzed by criminal police and other cooperating investigation teams. . .The Tatmadaw will take action based on the rule of law against those who accuse [soldiers] and write about it after the official report is released by the investigation team.”⁴⁹

⁴⁹ The original statement published in the *Myawaddy Daily* was quoted in the following article cited below: Wang, L. (2015, January 29). Army statement warns against linking teachers' murderers to troops. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/army-statement-warns-linking-teachers-murders-troops.html>

Pressure from owners of media outlets is also applied, as illustrated by the anecdotes below:

“If a publisher thinks that news is affecting their interests or attacking their relatives or friends, news is not published.”

Journalist FGD, Bago Region

“Three prisoners died of food poisoning in the prison. That news was skipped by the owner himself [in order] not to affect the police officer who is a friend of his.”

Journalist FGD, Bago Region

It is unknown whether the stories that these journalists were trying to publish were based on solid evidence or mere speculation. Chapter Four of this report assesses the capacity of journalists to report events in an accurate and unbiased manner. However, the issue is not whether the stories are well-researched, but the manner in which government, political parties and business owners attempt to interfere with editorial content. If events are not accurately portrayed in the media, then there are a variety of remedies including a complaint to the Myanmar News Media Council, a call for a reply or retraction, or legal action if necessary. Bribery, threats of harassment or violence or other reprisals are not acceptable by international standards, and qualitative research throughout the country suggests that the use of such tactics is common.

Journalists in focus group discussions also cited the existence of “news brokers”. These are journalists who are paid by companies or politicians to portray them in a positive light, to withhold negative information, or to discredit a political or commercial rival. The extent of this practice is difficult to assess, but it is apparent that it varies by region. Respondents in Bago Region cited this as a common practice and a serious concern. This was highlighted by a chief editor of one of the journals, who lamented that, “most of the reporters... receive money for both the news they report and the news they don’t report.”

Print media outlets, which are closely tied to or directly owned by the military, politicians, or influential business owners, also show a lack of editorial independence and a strong bias in their content. This appears to be more common among small print media in which the owner is also the editor. Some editors openly admitted the bias in their print media, viewing it as a means to support the government or a political party. As a chief editor of a pro-government journal observed:

“The objective of our media is quite simple. It is founded for the government side news. In other words, it is pro-government. Previously in Bago, we have only Bago Weekly Journal. That journal is anti-government. To support the government side, this journal was founded with support from a senior government official. The investment is more than other journals, and the loss is bigger. The journal will surely exist up to 2015 general election with the main objective [being] to

support the ruling government. It has been only 4-5 months that I joined, but before that the journal had a bad reputation. It's only objective was supporting the government. It didn't even have the characteristics of a journal. Now it can be said that it is focusing on quality, although it is pro-government."

The leading political parties also own print media. The National League for Democracy (NLD) publishes a journal by the name of "D Wave" and also has a licence for a newspaper. Similarly, the Union and Solidarity Party (USDP) publishes a newspaper by the name of *The Union Daily*. The military also has its own radio station, TV station and print media; Thazin FM, Myawaddy TV and Myawaddy Daily.

1.4 Journalists' right to protect their sources is guaranteed in law and respected in practice

1.4.1. Journalists can protect the confidentiality of their sources without fear of prosecution or harassment

A Media Code of Conduct (COC) was formally adopted by the Interim Myanmar Press Council ((I) MPC) on 3 May 2014. The code outlines the responsibilities of journalists and media workers. Section 3.2 of the code stipulates:

"Media outlets have a moral obligation to protect confidential sources of information and to respect confidences knowingly and willingly accepted in the course of their work. This Code supports that obligation."

However, the COC serves as an industry standard only. No law or regulation exists which journalists can use as a basis for protecting their sources. Anecdotal evidence suggests that it is not uncommon for private businesses and government officials to threaten journalists to reveal their sources. Focus Group Discussions (FGDs) with journalists in Hpa-An, Dawei and Lashio all cited instances where the government, military or private businesses had asked them to reveal their sources. As one female Journalist in Kayin State stated:

"The military-owned Myanmar Economic Corporation (MEC) was in the process of building a cement factory. They grabbed the lands and forced out all the residents. The factory manager threatened to prosecute me and demanded that I reveal my sources. I did not give up my sources, and there were no more threats after the story was published."

1.5 Public and civil society organizations (CSOs) participate in shaping public policy towards the media

The Interim Myanmar Press Council or (I) MPC was established in 2012 as the first semi-independent regulatory body for the media industry and this body has played a pivotal role in shaping public policy in the media industry. It was responsible for drafting the News Media Law, which was enacted in March of 2014, although the Ministry of Information made some modifications to the final draft. The (I) MPC also formally adopted the Media Code of Conduct in May 2014. Although the independence of the (I) MPC has been a point of contention, there is significant overlap between the membership of the (I) MPC and the leadership of Journalists Associations. The (I) MPC was replaced by the Myanmar News Media Council (MNMC) in October 2015 as the regulatory body for media. Like its predecessor, the membership of the MNMC also has significant overlap with journalist associations and other civil society groups. In this sense civil society has and can continue to participate in media policy via the regulatory body.

Traditionally, civil society has not been part of the law drafting process in Myanmar but the drafting process of more recent media legislation has been more promising. In 2014, civil society and media organizations were invited to a workshop to comment on a draft version of the Public Service Media Bill. Concerns were voiced regarding several sections of the bill, most notably the bill's inclusion of public service print media. As a result, the bill was pulled from parliament. This approach signals a more inclusive and consultative drafting process than has traditionally been the case. Similarly, the media community played a significant role in shaping the recently enacted Broadcasting Law. The draft version of the law gave a government body, the National Broadcasting Development Authority, the final decision on granting broadcasting licenses. Due to requests made by the media community, revisions were made to grant this power to a civilian body; the National Broadcasting Council.

An exception to these more positive trends was when the Ministry of Information drafted the Printing and Publishing Enterprise Law (PPEL) without consulting the (I) MPC or the general public. The media industry was vocal in its criticism of the Ministry of Information after it became aware of the Bill's existence. (I) MPC members threatened to resign if the Bill was not amended. Subsequent revisions addressed some of the (I) MPC's concerns, but the law still requires the registration of print media. This was against the wishes of the (I) MPC and media houses.

B. Regulatory system for broadcasting

1.6 Independence of the regulatory system is guaranteed by law and respected in practice

At present, all broadcasters are either full state-owned enterprises or joint-ventures between the government and private companies. There is no formal regulatory body for these broadcasters apart from the Ministry of Information (MOI) and the Ministry of Communications and Information Technology (MCIT). The exact terms and conditions to which the broadcasters are held to account are dependent upon their contract with the MOI.

All of this is set to change with the recent enactment of the Broadcasting Law in August 2015. The Law provides for two broadcasting bodies, the National Broadcasting Development Authority (the Authority) and the National Broadcasting Council (the Council). The Authority will be primarily composed of government officials from various ministries while the Council will consist of individuals with expertise “in the fields of broadcasting, telecommunications, law, business management and finance”.⁵⁰ As with the (I) MPC, the National Broadcasting Council will enjoy a fair degree of independence; for example, its annual budget is part of the budget of the Ministry of Information, but it will be separately approved by parliament.⁵¹ Candidates for the Council are nominated by the president and the parliament. Although a role in the process is envisaged for civil society, the president is responsible for appointing and removing members⁵². Sections seven and eight of the Broadcasting Law set out qualifications and exclusions for Council members. It should be noted that neither government employees nor members of political parties are permitted to be Council members.⁵³ However Article 7(b) of the Law requires that both parents of Council members to be citizens and there is no provision in the law to ensure that the Council reflects the diversity of Myanmar society.

The Authority and the Council are jointly tasked with developing a “long-term strategic national broadcasting development plan.”⁵⁴ Other duties for regulating the broadcast industry are divided between the two bodies. The Authority’s role is primarily technical and policy-related in nature and includes the integration of the broadcasting industry into the wider telecommunications regulatory framework. For example, the Authority is responsible for approving technical standards for broadcasting and developing a Broadcasting Spectrum Management Plan in

⁵⁰ Section 7 Broadcasting Law No. 53/2015 dated 28 August 2015.

⁵¹ Section 28 (ibid)

⁵² Section 10, 11, 12 (ibid)

⁵³ Section 8 (ibid)

⁵⁴ Section 6 (ibid)

consultation with the MCIT.⁵⁵ The Council has a more regulatory-based role and is in charge of issuing, renewing and revoking broadcast licenses, developing broadcasting rules and regulations, and applying sanctions to parties which violate the rules.⁵⁶ It is also responsible for developing a Broadcasting Code of Conduct.⁵⁷

Both the Council and the Authority had yet to be established by April 2016, and it will take some time for them to formulate appropriate policies and procedures for regulating the industry. However, the Broadcasting Law provides significant clarity as to how regulation of the broadcasting industry will operate and the formal rules for establishing the Council suggest that it should be largely insulated from partisan and commercial interference.

1.7 Regulatory system works to ensure media pluralism and freedom of expression and information

The National Broadcasting Council is supposed to be formed within six months⁵⁸ of the Broadcasting Law having been passed, i.e. by March 2016. This is likely to be delayed due to the fact that the new government will have only recently been installed by then. The Broadcasting Law provides the council with an adequate mandate to promote a pluralistic media environment that is accountable to the public. For example, when granting a broadcast licence the Council must take into account its effects on ownership concentration, media pluralism, and content diversity.⁵⁹

The Broadcasting Law also aims to promote locally produced content. Twenty per cent of all channels aired by broadcast distributors must be domestic.⁶⁰ Furthermore, section 67 of the Law states that radio broadcasters must air 70 per cent of locally produced programming and TV broadcasters must air 30 per cent. Public accessibility will also be promoted as 20 per cent of all channels aired by broadcast distributors must be free to air channels.⁶¹

It is also important to note that the rules in the Broadcasting Law will be applied retroactively to existing broadcasters. Section 100 states that existing broadcasters must apply for licences within one year after the law has come into force and section 101 states that all existing agreements which run contrary to the law shall be amended. This has significant implications for the broadcasting industry in Myanmar, which is currently highly concentrated in terms of ownership and lacking in content diversity (see Chapter 3).

⁵⁵ Section 6 (ibid).

⁵⁶ Section 14 (ibid).

⁵⁷ Section 15 (ibid).

⁵⁸ Section 103 (ibid).

⁵⁹ Section 35 (a) (ibid).

⁶⁰ Section 64 (a) (ibid).

⁶¹ Section 64 (b) (ibid).

C. Defamation laws and other legal restrictions on journalists

1.8 The state does not place unwarranted legal restrictions on the media

According to international law, a state should not impose licensing requirements or restrictions on those who practice journalism. Imparting information through the mass media or any other medium of communication is guaranteed in Article 19 of the ICCPR. Doing so should not require any special permission or training. The licensing of journalists has been used in some countries as a way of limiting this right and indirectly censoring the media.

In Myanmar, there is no licensing process for journalists. The Media Rules do state that the media regulatory body is responsible for assigning News Media Identification Cards to journalists, but this is to be done for accreditation purposes rather than to regulate access to the profession. Furthermore, the process of assigning these cards is not yet defined. The (I) MPC never issued identification cards and the MNMC has no immediate plans to do so either.⁶² In practice, media houses in Myanmar provide their staff with media cards, which they use as a form of identification when covering news events. Most do not provide these cards to freelance journalists. The Myanmar Journalists Association also offers membership cards to its members which can be used as a form of identification when covering news events.

A free and fair media environment also depends on the willingness of public bodies to release information to media outlets in an unbiased manner, especially at official government functions. The actualization of such aspirations can be problematic given that some government functions are closed events. The number of journalists covering the event might need to be limited for logistical reasons such as the physical size of the venue. In such cases, where information cannot be provided equally to all journalists, the state should have clear and transparent procedures in place for selecting which journalists can attend a closed function. These procedures should ensure that the journalists attending the event represent a diverse array of media covering different viewpoints and different target audiences.

In Myanmar no formal procedures exist to this end. In practice, the largest media outlets are typically invited to closed events to ensure adequate coverage. This is done at the discretion of the government on a case-by-case basis, and media pluralism does not seem to factor into the decision. State-owned media are always included, arguably because they have the largest reach, but perhaps also because their news coverage tends to portray the government in a positive light (see indicator 3.11). The government previously requested the (I) MPC to create a

⁶² Former (I) MPC General-Secretary, MDI Validation Workshop, 19 January 2016.

list of pre-screened journalists that can be invited to closed government events, but the (I) MPC refused on the grounds that it did not have the capacity to manage such a system.⁶³

1.9 Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals

Restrictions on freedom of expression have a place in a democratic state, but they should be narrow in scope. Defamation law is intended to protect the reputation of individuals from harmful public accusations. When drafted and applied appropriately, defamation laws improve the quality of public discourse and promote evidence-based reporting. Without defamation laws, one might expect unbridled sensationalist journalism and personal attacks, which ultimately undermine the credibility of the media and harm individuals. As a result, Article 19 of the ICCPR recognizes legitimacy of freedom of expression to ensure “respect for the rights and reputation of others”.

Restrictions to freedom of expression are acceptable under international law only if they meet a three-part test which requires them to be:

1. Provided for by law and clearly defined;
2. Directed towards the protection of a legitimate aim; and
3. Necessary for the protection of the legitimate aim.⁶⁴

Rules on defamation are found in sections 500-502 of the Myanmar Penal Code. These rules fall short of part three of the test for two reasons. First, breach of the defamation law attracts a penalty of up to two years imprisonment, or a fine or both. It is internationally accepted that defamation should be addressed by civil law only, as civil penalties are sufficient to achieve the intended goal. Criminal penalties are not necessary to achieve the legitimate aim of protecting reputations and are therefore in breach of part three of the test. Second, the law fails to specify a time limit after which one can no longer bring a defamation case in respect to a particular statement. This could lead to the law being abused to intimidate journalists or media outlets. This is not necessary to achieve the legitimate aim of preventing defamation and is therefore also in breach of part three of the test. Both the criminal sentencing for defamation and the lack of a specified time limit to invoke the law can cause a chilling effect on the media industry, which may lead to the practice of self-censorship.

The defamation law in Myanmar does have some redeeming qualities. It has a public interest clause, which states that anything which is published which is both true and for the public

⁶³ (ibid).

⁶⁴ UNESCO (2013). Assessment of Media Development in Egypt. Retrieved from: <http://unesdoc.unesco.org/images/0022/002207/220742E.pdf>

good is not defamatory. However, it is internationally accepted that true statements, even if they are not proven to be for the public good, should enjoy a degree of protection in relation to reputation. Furthermore, even false statements which are reasonably made should be protected.

The defamation law also states that the burden of proof falls on the plaintiff, and the plaintiff can only be a citizen. The government or an institutional body cannot sue for defamation directly. However, in practice, government officials have charged journalists with defamation on the government's behalf. Myanmar legal experts have indicated that, apart from the criminal sentencing, the real problem lies less with the wording of the defamation law and more with its improper interpretation by a judiciary that is reported neither independent nor free from corruption.

In Myanmar, both the government and individuals have threatened journalists with defamation; although, charges have usually been dropped or settled without criminal sentencing. In some cases, journalists have been given the option of a prison sentence or paying a fine.⁶⁵ In the past few years, some journalists have been sentenced to imprisonment under the defamation law;⁶⁶ although, this has been relatively limited. The jailing of journalists has more commonly come about through the use of other laws (see indicator 1.10).

1.10 Other restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity should be clear and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law

Myanmar citizens are now freer to voice their views and opinions openly than they were under previous regimes. Some criticisms of the military can now be seen in the media; however, this opening for public discourse reflects a change in societal norms rather than legal architecture. Although some legal improvements have been made, there is still a long way to go to meet international standards. Myanmar laws that restrict freedom of expression have not been amended to keep pace with the political and social changes occurring in the country. The legal system is still rife with laws which can be used to silence public discourse. Even during the current reform process, these laws have been used to wrongfully imprison citizens. The

⁶⁵ The following article contains one such example; Kyaw, P. W. (30 March 2014). 'Damaged dignity' see Times writer guilty of defamation. Retrieved from: <http://www.mmtimes.com/index.php/national-news/mandalay-upper-myanmar/10002-damaged-dignity-sees-times-writer-guilty-of-defamation.html>

⁶⁶ In 2014, the editor and deputy editor of Myanmar Post Journal were charged with defamation by the military for publishing the following headline: "Low education let military take seats in Parliament." They were found guilty and sentenced to two months imprisonment in March of 2015. Daily 11 Newspaper (16 May 2015). Myanmar Post bosses leave prison. Author. Retrieved from: <http://elevenmyanmar.com/local/myanmar-post-bosses-leave-prison>

Assistance Association for Political Prisoners (Burma) (AAPP) has been monitoring the number of political prisoners in Myanmar. According to the association, the number of political prisoners has recently seen a rapid increase. There were 30 political prisoners at the start of 2014 and 159 by the end of that year.⁶⁷ As of December 2015, the association identified 128 political prisoners and another 403 potential political prisoners awaiting trial.⁶⁸ Relatedly, in 2015 the Committee to Protect Journalists (CPJ) ranked Myanmar as the 9th most repressive country in the world in terms of press freedom and censorship.⁶⁹ This section reviews the laws most commonly used to limit freedom of expression.

The Myanmar Penal Code

Many restrictions on freedom of expression are found in the Penal Code of 1860. The Code was originally drafted by colonists and included among its objectives, the suppression of social opposition against the British Raj.⁷⁰ As in many post-colonial countries, these old laws have been used by subsequent regimes to much the same ends. Many countries around the world with a similar colonial legacy to Myanmar had similar laws, which have since been discredited and repealed. Below are brief descriptions of the sections of the Penal Code which pose the greatest threat to freedom of expression in Myanmar.

Public Mischief: Section 505 (a) to (c)

Section 505 (b) of the Penal Code states:

“Whoever makes, publishes or circulates any statement, rumour or report, . . . (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity.”

The use of vague wording leaves the rules open to wide interpretation and similar provisions have been repealed or struck down by courts in many post-colonial countries. The law provides for criminal penalties for offenders with up to two years imprisonment or a fine or both. It fails to

⁶⁷ Assistance Association for Political Prisoners (Burma) (AAPP). (2014). Annual Report. Retrieved from: <http://aappb.org/wp-content/uploads/2015/03/AAPP-Annual-Report-2014Eng.pdf>

⁶⁸ Data updated as of 18 December 2015. List of political prisoners: <http://aappb.org/wp-content/uploads/2015/10/128-political-prisoners-list-in-prison-last-Updated-on-18-Dec-2015-TK.pdf> List of potential political prisoners awaiting trial: <http://aappb.org/wp-content/uploads/2015/10/403-PPs-List-Facing-TrialUpdated-on-18-Dec-2015.pdf>

⁶⁹ Committee to Protect Journalists. (2015). Ten most censored countries. Retrieved from: <https://www.cpj.org/2015/04/10-most-censored-countries.php>

⁷⁰ Khine, N. K. (2012). Media in transition: Myanmar media transformation under the military rule. Master's thesis, University of Hamburg, Hamburg, Germany.

meet international standards as it does not adhere to requirements one and three of the three-part test. The law does provide that one is not in violation of the law if he or she believes the statement to be true; although, in practice this provides little protection to an accused person.

As of December 2015, 23 political prisoners were incarcerated under section 505 (b).⁷¹ Twenty students from the student protests in March 2015 have also been charged under section 505; although they are still awaiting trial.⁷²

Box 1: Police Crackdown on Student Protests

September 2014 saw the passing of a controversial new Education Law. Students mobilized across the country calling for changes to the new law, which they believed left the education system underfunded, centralized and not in-line with the language needs of ethnic minorities. Student protests were held at universities across the country, and students began a protest march from Mandalay to Yangon. On 19 February 2015, the students halted their march in Letpadan, Bago Region, after agreements had been reached between student groups and the government on revisions to the Education Law. Unfortunately, these talks deteriorated and the Home Affairs Ministry called for an end to the student protests on the 28th of February.

The student protesters in Letpadan stated that they would resume their march to Yangon, but authorities responded by blocking the roads and sending police reinforcements. On 8 March, students requested permission to continue their march to Yangon and on 10 March police brutally attacked and dispersed the student protesters after the students allegedly tried to cross police barricades. Many students were severely beaten and detained in police custody. Some journalists covering the event were also attacked and their equipment destroyed.⁷³ The event was roundly denounced by international human rights groups. Although many students were released from custody in the month following the protest, 32 are still facing trial.

Section 505 has also been used against the media. In July 2014, the now defunct Bi Mon Te Nay journal ran a front-page statement claiming that the opposition leader, Aung San Suu Kyi, had formed an interim government. The fictitious story led to the closure of the journal and the sentencing to two years hard labour of two editors, two publishers and one journalist upon

⁷¹ See list of political prisoners cited earlier.

⁷² Data updated as of 18 December 2015. List of political prisoners and those awaiting trial for student education bill protests: <http://aappb.org/wp-content/uploads/2015/10/LPT-list-national-education-bill-protect.pdf>

⁷³ Mon, K. H. (11 March 2015). Media groups condemn police treatment of journalists in Lepadon crackdown. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/media-groups-condemn-police-treatment-of-journalists-in-letpadan-crackdown.html>

being found guilty of public mischief.⁷⁴ The owner of a printing house and four of his colleagues were arrested in November 2015 under Section 505 for printing a calendar that states “Rohingya is an ethnic group.”⁷⁵ The word ‘Rohingya’ is the name which an ethnic group of Muslims use to refer to themselves. The Government of Myanmar refers to this group of people as ‘Bengalis’ and does not recognize them as citizens.

Trespass: Sections 441-462

“Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property... is said to commit “criminal trespass.”⁷⁶

The Penal Code includes detailed provisions on trespass, encompassing a total of 21 sections. Various kinds of trespass are identified with varying fines and terms of imprisonment. The most severe penalty is for “house trespass”, which has a maximum sentence of 10 years’ imprisonment and a possible fine.

Normally, one would not view the law of trespass as a restriction on freedom of expression, but the way this law is used in Myanmar pegs it as such. Fourteen of 128 political prisoners identified in the AARP data were farmers and land rights activists charged with trespass under section 447 of the Penal Code for their involvement in land protests. This charge carries with it a three-month prison sentence or a fine or both. Many of the same political prisoners were also charged under Penal Code section 427 ‘mischief’, which also carries a two-year prison sentence, a fine, or both.

This is not to suggest that trespassing for the purpose of protesting is necessarily legitimate. However, land reform in Myanmar is a contentious topic, particularly in the past few years. The recent ‘opening up’ of the Myanmar economy has led to both companies and individuals buying up large tracts of land. This has taken place amid a legal framework for land ownership that has been widely criticised as being inadequate for protecting the rights of smallholder farmers.

“The current legal framework, including even the more recent Farmland and VFV [Vacant, Fallow, Virgin Land] Laws, provides only general authorisations on expropriation “in the public interest” with no further procedural or substantive restrictions, leaving this process open to abuse.”⁷⁷

74 Htwe, K. (6 October 2014). Journalists sentenced to two years for sedition. The Democratic Voice of Burma. Retrieved from: <http://www.dvb.no/news/journalists-sentenced-to-2-years-for-sedition-burma-myanmar/45081>

75 Radio Free Asia (25 November 2015). Five Myanmar men arrested, charged for ‘Rohingya’ calendar. Author. Retrieved from: <http://www.rfa.org/english/news/myanmar/calendar-11252015140911.html>

76 Section 441, Myanmar Penal Code Indian Act XLV. 1860

77 Myanmar Centre for Responsible Business. (2015). Land Issues Briefing Paper. Retrieved from: <http://www.myanmar-responsiblebusiness.org/news/briefing-paper-land-issues-myanmar.html>

In particular, the current framework does not acknowledge customary land use rights and, according to a recent OECD Investment Policy Review, promotes “large scale land allocations without adequate safeguards.”⁷⁸ Furthermore, the 1894 Land Acquisition Act which is used to acquire land for ‘the public good’ falls well short of international standards for land acquisition of government projects and involuntary resettlement.⁷⁹ Many of the individuals charged with trespassing may have a valid claim to ownership of the very land they entered onto.

The rules on trespass have also been used against journalists. In 2012, two journalists were charged and later found guilty for trespassing after interviewing a government official on government property. The journalists were released after serving three months of a two year prison sentence; though, they were never acquitted of their crime.⁸⁰ The law was also used in another case in which a lawyer filed suit against a journalist after becoming annoyed by her line of questioning. The journalist received a three-month prison sentence.⁸¹

Blasphemy: Sections 295 – 298

“Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of persons by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”⁸²

Pursuant to international standards, blasphemy laws which go beyond protecting religious groups against incitement to hatred are not legitimate. Proper enforcement of blasphemy laws is also problematic. They are often used in a discriminatory manner to promote the majority religion over other religions.⁸³ The recent use of the blasphemy law in two high level cases in Myanmar highlights its selective usage in the country. In December 2014, a picture of the Lord

78 OECD (2014). OECD Investment Policy Reviews: Myanmar. Author. Retrieved from: <http://www.oecd.org/daf/inv/investment-policy/Myanmar-IPR-2014.pdf>

79 For more on this topic see: International Financial Corporation (IFC) (2012). IFC Performance Standards on Environmental and Social Sustainability. Author. Retrieved from: http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES

80 Watson, A. (4 July 2014). DVB journalist Zaw Pe freed. Democratic Voice of Burma. Retrieved from <https://www.dvb.no/news/dvb-journalist-zaw-pe-freed-burma-myanmar/42043>

81 Associated Press (7 January 2014). Burmese journalists protest against reporter's jail term. The Guardian. Retrieved from: <http://www.theguardian.com/world/2014/jan/07/burmese-journalists-protest-ma-khine-jail-term>

82 Section 295(a), Myanmar Penal Code, Indian Act XLV. 1860.

83 Centre for Law and Democracy (2014). Freedom of Expression: Briefing Note Series. Author. Retrieved from: <http://www.mediasupport.org/publication/briefing-note-series-freedom-expression/>

Buddha wearing headphones was used in a bar promotional post on Facebook.⁸⁴ The Manager of the bar (a New Zealand citizen) and his two Myanmar colleagues were charged with and later convicted of blasphemy and sentenced to two and a half years in prison. In January 2016, all three individuals were pardoned and released under a presidential amnesty.⁸⁵

In June 2015, prominent columnist Htin Lin Oo was sentenced to two years imprisonment with hard labour for his comments at a literary festival in October 2014. In what was considered by many at the event as a call for religious tolerance and a criticism of the growing Buddhist nationalist sentiment in the country Htin Lin Oo stated:

“Buddha is not Burmese, not Shan, not Karen – so if you want to be an extreme nationalist and if you love to maintain your race that much, don’t believe in Buddhism.”

The Committee for the Protection of Nationality and Religion (abbreviated in the Myanmar language as Ma Ba Tha) was the driving force behind the prosecutions in both of these cases,⁸⁶ and it is likely that they will continue to pressure local courts into aggressive use of the blasphemy rules in the future.

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- 84 Associated Free Press (12 December 2014). Manager held over ‘Buddha’ bar promotion. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/national-news/12524-bar-managers-held-at-insein-over-buddha-furore.html> Ferrie, J. Myint, A. W. (17 March 2015). Myanmar court jails New Zealand bar manager, colleagues for insulting religion. Reuters. Retrieved from: <http://www.reuters.com/article/2015/03/17/us-myanmar-religion-idUSKBN0MD00120150317>
- 85 Long, K. (29 January 2016). Phil Blackwood leaves Myanmar after being released. Myanmar Times. Retrieved from <http://www.mmtimes.com/index.php/national-news/18731-phil-blackwood-leaves-myanmar-after-being-released.html>
- 86 Lone, W. Dinmore, G. (19 March 2015). Religious defamation law takes on new role. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/in-depth/13606-religious-defamation-law-takes-on-new-role.html>

Box 2: Committee for the Protection of Nationality and Religion (Ma Ba Tha)

2012 and 2013 were marked by a wave of communal violence and anti-Muslim sentiment that spread across Myanmar. At the forefront of this development was an ultra-nationalist, anti-Muslim movement known as “969”. Although it was driven by several influential Buddhists monks, the movement lacked a clear structure and leadership.

In 2014, Ma Ba Tha emerged from the 969 movement. Since its founding its prominence has grown considerably. The exact size of its membership is unknown but it boasts approximately 250 offices nationwide. It has launched its own bi-monthly magazine with a claimed circulation of 50,000, and its sermons are regularly broadcast by Skynet, one of Myanmar’s largest broadcast distributors.⁸⁷

Ma Ba Tha also wields significant political clout. It drafted a set of four bills, commonly referred to as the “Race and Religion Bills”, which were passed by parliament and signed into law. The laws have been roundly criticized by the international community as effectively legalizing discrimination against Muslims and denying women’s reproductive rights.

The group has also led boycotts against Muslim-owned businesses. Most notably, they have targeted the predominately Muslim-owned beef industry in the Ayeyarwaddy Delta. They have led promotional campaigns to discourage the eating of beef and have raised funds to buy all of the slaughterhouse licenses from local governments. This has led to the closure of dozens of Muslim-owned slaughter houses in the delta.⁸⁸

However, the blasphemy rules have not been used against Ma Ba Tha or any of its supporters for their incendiary remarks against Islam. Some prominent monks have been highly vocal in their criticism of Islam, most notably Wirathu, a Ma Ba Tha leader. He and many other senior monks regularly post highly offensive statements regarding Muslims on social networking sites such as Facebook.⁸⁹

87 McLaughlin, T. Zaw H.Y. (2 September 2015). Anti-Muslim Buddhist group gains political clout in Myanmar. Reuters. Retrieved from: http://www.huffingtonpost.com/entry/anti-muslim-buddhist-group-gains-political-clout-in-myanmar_55e74067e4b0b7a9633b53fb

88 Win, S. (17 September 2015). With official help, radical Buddhists target Muslim businesses. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/news/with-official-help-radical-buddhists-target-muslimbusinesses.html>

89 Facebook page of nationalist monk Wirathu: <https://www.facebook.com/pages/Wira-Thu/568228566538397?fref=ts>

Other laws restricting freedom of expression

Emergency Provisions Act (Section 5)

Various military regimes have left a legacy of repressive laws, most of which were drafted under the pretext of national security. Section 5 of the Emergency Provisions Act 1950 was commonly used in the past to silence criticism of the government. It contains fourteen clauses pertaining to national security. Clauses which most are most likely to limit freedom of expression are given below:

“Whoever does anything with any of the following intent; that is to say;-

- (a) To depreciate, pervert, hinder, restrain, or vandalise the loyalty, enthusiasm, acquiescence, health, training, or performance of duties of the army organisations of the Union or of civil servants in a way that would induce their respect of the government to be diminished, or to disobey rules, or to be disloyal to the government; or
- (d) to alarm the people or a group of people in a way that would create panic amongst them; or
- (e) to spread false news, knowing, or having reason to believe that it is not true; or
- (h) to make the public lose trust in the State’s economy...⁹⁰
- (j) to affect the morality or conduct of the public or a group of people in a way that would undermine the security of the Union or the restoration of law and order; or

Section five of the Act resembles section 505 of the Penal Code but carries a heavier penalty of seven years imprisonment and a fine. It was originally used to charge the media workers in the Be Mon Ti Ney case but later dropped and replaced with charges under section 505.⁹¹

Official Secrets Act

The Official Secrets Act of 1923 also restricts freedom of expression and has been used as recently as July 2014 against journalists. Under the act, four journalists and the CEO of Unity Journal were sentenced to seven years’ imprisonment and hard labour for writing a story about an alleged secret chemical weapons factory.⁹² The sentences attracted condemnation of the

⁹⁰ Section 5 (a) (d)(h) Emergency Provisions Act No. 17/1950.

⁹¹ Zaw, H. N. Nyein, N. (4 August 2014). Court accepts lighter charge against five members of journal. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/court-accepts-charges-5-members-journal.html>

⁹² Aung, S. Hinshelwood, C. (11 July 2014). Unity verdict slammed at home and abroad. Democratic Voice of Burma. Retrieved from: <http://www.dvb.no/news/unity-verdict-slammed-at-home-and-abroad-burma-myanmar/42232>

government of Myanmar not only by the domestic media but also by international human rights organizations such as The Committee to Protect Journalists (CPJ) and Amnesty International Southeast Asia. A relevant excerpt from the law is as follows:

“If any person for any purpose prejudicial to the safety or interests of the State approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place. . . .he shall be punishable with imprisonment for a term which may extend. . . to fourteen years and in other cases to three years.”⁹³

Peaceful Assembly and Peaceful Procession Act

Freedom of expression depends not only on people’s ability to express their opinions, ideas and beliefs, but also the ability to do so in public forums. According to Article 21 of the International Covenant on Civil and Political Rights:

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”⁹⁴

Although the 2008 Constitution grants citizens the right to assemble peacefully without arms, other domestic laws have been used to limit this constitutional right. Since its enactment in 2011, the Peaceful Assembly and Peaceful Procession Act has been commonly used to imprison protesters. As of December 2015, 54 out of a total of 128 political prisoners were found guilty under this Act. There are also hundreds of individuals charged under this law and awaiting trial. This includes, forty-nine students from the protest cited earlier. The Act states that citizens wishing to organize a protest must apply to the chief of the Township Police Force for permission at least five days in advance.⁹⁵ Section five of the Act grants the chief of police the power to deny permission, in affect giving him or her discretion over which demonstrations take place. Conducting a demonstration without permission is punishable by imprisonment for up to one year, or a fine or both.⁹⁶ The continued use of this Act has led to significant criticism both domestically and from human rights groups abroad. In an attempt to make the law more acceptable, the government passed an amendment in July 2014 which reduced the maximum prison sentence to six months. The amendment also changed the wording of section five so that the police chief does not have the right to refuse protest applications as long as they are “submitted in accordance with the rules

93 Section 3, Official Secrets Act, India Act No. 19/1923 dated 2 April 1923.

94 UN General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976.

95 Section 4, Peaceful Assembly and Peaceful Procession Act, No. 15/2011 dated 2 December 2011.

96 Section 18 (ibid).

for consent.⁹⁷ Unfortunately, no such rules for consent exist⁹⁸ and the authorisation of protests remains dependent upon the discretion of local authorities.⁹⁹

The Act has also been used against protests advocating against the poor treatment of journalists. In October 2014 police charged activist Moe Htway for leading an unapproved protest against the killing of journalist Aung Kyaw Naing by the military.¹⁰⁰ Police also charged one journalist under the Act for organizing a prayer service for the International Day to End Impunity for Crimes Against Journalists.

Although the protest was approved, they held it in an unapproved location, thereby violating section 19 of the Act.¹⁰¹ A variety of other protests have run afoul of this Act since it was passed, covering issues such as: the military and on-going conflict,¹⁰² labour conditions,¹⁰³ electricity prices,¹⁰⁴ and even the planting of mangrove trees.¹⁰⁵

Citizens charged under this Act do not always face the maximum penalty, and shorter prison sentences of a few months are common, as are small fines.¹⁰⁶ However, the continued existence of this Act and its common use is perhaps the most significant legal restriction on freedom of expression in Myanmar.

97 Section 4, Law Amending the Peaceful Assembly and Peaceful Procession Act, No. 26/2014 dated 24 June 2014.

98 Although no detailed rules are provided, Section 16 of the by-laws for the Peaceful Assembly and Peaceful Procession Law states that: "The application should not be denied unless the security of the State, rule of law, public tranquility and the existing laws protecting the public are to be breached." Once again, the use of vague wording such as "public tranquility," grant authorities wide discretion over the use of the law.

99 Aung S. Y. (12 September 2014). Arrests go on unabated after 'unclear' amendment to the protest law. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/arrests-go-unabated-unclear-amendment-burma-protest-law.html> Zaw, H. N. (21 February 2014). Proposal to keep punishment for unauthorized protest draws criticism. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/proposal-halve-prison-terms-unauthorized-protest-draws-criticism.html>

100 Aung S. Y. (28 October 2014). Police charge activists for protest against journalist's killing. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/police-charge-activists-protest-journalists-killing.html>

101 Mann, Z. (21 November 2014). Over 20 journalists may face charges for unlawful prayer service. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/20-journalists-may-face-charges-unlawful-prayer-service.html>

102 O'Toole, B. (27 November 2013). Peace march organizer fined but unrepentant. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/national-news/8880-peace-march-organisers-fined-but-unrepentant.html>

103 Htwe, K. (29 November 2013). Tawwin factory workers convicted under article 18. Democratic Voice of Burma. Retrieved from: <http://www.dvb.no/news/tawwin-factory-workers-convicted-under-article-18/34797>

104 Mann, Z. (1 April 2014). Electricity hike opponents face charges for illegal Mandalay protest. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/electricity-hike-opponents-face-charges-illegal-mandalay-protest.html>

105 Zin, S. T. (24 September 2014). Planting mangrove now an 'illegal protest,' court rules. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/mangrove-planting-now-illegal-protest-court-rules.html>

106 O'Toole, B. (27 November 2013). Peace march organizer fined but unrepentant. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/national-news/8880-peace-march-organisers-fined-but-unrepentant.html>

Telecommunications Law

Although the recently enacted Telecommunications Law of 2013 has brought about much needed legal clarity and reform within the telecommunications industry, Section 66(d) of the law contains a defamation rule for online content. Section 66(d) states that:

“Whoever is found guilty of any of the following offences shall be liable to be punished with imprisonment for a term not exceeding three years or with fine or with both. . . .extortion of any person, coercion, unlawful restriction, defamation, interfering, undue influence, or intimidation using a telecommunication network.”

In October 2015, four individuals were charged with Section 66(d) of the Telecommunications Law for unrelated incidences. In three of the four cases, the accused person had posted content on Facebook, which was considered insulting towards either the military or the president. These cases were filed by military and police personnel.¹⁰⁷ Of the three individuals charged, two have been convicted and sentenced to six months imprisonment.¹⁰⁸ Court proceedings were on-going for the third.¹⁰⁹

Law Relating to the Forming of Organizations

Article 22 of the ICCPR provides that citizens have the right to form and join associations. Requiring any kind of accreditation from the government to be considered a legal association serves as an indirect limitation to freedom of association and is not legitimate according to international standards. If associations are to be registered, the process should only consist of informing the government of the association’s existence rather than requiring official permission. A new associations law, officially known as the Law Relating to the Formation of Organizations was passed in 2014. It is a significant improvement from its predecessor, the Law Relating to the

¹⁰⁷ Konstantinidis, A. (28 December 2015). Woman sentenced to six months for a Facebook post. Reuters. Retrieved from: [https://www.rt.com/news/327262-myanmar-facebook-comment-jail/Zin, S. T. \(13 October 2015\). Woman faces five years in prison over photo likening army garb to Aung San Suu Kyi's dress. The Irrawaddy. Retrieved from: http://www.irrawaddy.org/burma/woman-faces-5-years-over-photo-likening-army-garb-to-suu-kyis-dress.html](https://www.rt.com/news/327262-myanmar-facebook-comment-jail/Zin, S. T. (13 October 2015). Woman faces five years in prison over photo likening army garb to Aung San Suu Kyi's dress. The Irrawaddy. Retrieved from: http://www.irrawaddy.org/burma/woman-faces-5-years-over-photo-likening-army-garb-to-suu-kyis-dress.html) Tha, K. P. (15 October 2015). Kachin activist's husband arrested over Facebook post said to defame army. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/kachin-activists-husband-arrested-over-facebook-post-said-to-defame-army.html> Tha, K. P. (21 October 2015). Bard on the run, dodging defamation over risqué rhyme. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/bard-on-the-run-dodging-defamation-over-risque-rhyme.html>

¹⁰⁸ Frontier Myanmar (22 January 2016). Facebook post lands Patrick Khum Jaa-Lee six month prison sentence. Author. Retrieved from: <http://www.frontiermyanmar.net/en/news/facebook-post-lands-patrick-khum-jaa-lee-six-month-prison-sentence>

¹⁰⁹ The fourth case was filed by a civil society leader against a ruling party (USDP) official for posting a fake, nude image of the opposition leader. The USDP official was released on bail shortly after being charged and researchers were unable to find any more information on the case. Zin, S. T. (3 November 2015). USDP official charged over fake Suu Kyi nude photo released on bail. The Irrawaddy. Retrieved from: <http://www.irrawaddy.com/election/news/usdp-official-charged-over-fake-suu-kyi-nude-photo-released-on-bail>

Formation of Organizations (1988), which required government registration of all associations and provided for criminal penalties for participating in an illegal association.¹¹⁰ The current law has decriminalized the act of belonging to an unregistered organization. This is very relevant, since most civil society organizations were not registered under the old Law. However, the new Associations Law still requires organizations to apply for registration to a government-formed registration committee, which can reject applications on the grounds of “damaging the rule of law and state security.”¹¹¹ The new Law also fails to repeal the 1908 Unlawful Associations Act.

Unlawful Associations Act

Under the Unlawful Associations Act, the president can unilaterally declare any organization to be ‘unlawful.’¹¹² Contributing to or assisting an unlawful association in any way can result in two to three years imprisonment or a fine or both.¹¹³ Managing or assisting the management of an unlawful association can result in three to five years imprisonment or a fine or both.¹¹⁴ Several Sections of the Act also afford the president the power to declare that all assets of the associations be forfeited to the State.¹¹⁵

Printing and Publishing Enterprise Law (PEEL)

The recently enacted PEEL is a significant improvement over its predecessor, the 1962 Printing and Publishing Law. Most notably, it does not allow for prior censorship. It also does not contain any criminal penalties for violation of the law. However, section eight contains loosely defined restrictions on what print media outlets can publish. Among other things, a printer or publisher must not publish anything that would:

“express subject matter that can harm national security, rule of law, community peace and tranquillity. . . .”¹¹⁶

Although less severe than many of the laws listed above, the restrictions listed in section eight of the PEEL represent an overly broad restriction on freedom of expression for printers and publishers in Myanmar and could potentially serve as an incentive for them to self-censor.

¹¹⁰ Sections 3, 6, and 7 Law Relating to the Formation of Organizations, No. 6/1988 dated 30 September 1988

¹¹¹ Section 8 Associations Law, No. 31/2014 dated 18 July 2014.

¹¹² Section 16 Unlawful Associations Act, India Act, No. 14/1908 dated 11 December 1908.

¹¹³ Section 17(a) (ibid).

¹¹⁴ (ibid).

¹¹⁵ Section 17(e) of the Unlawful Associations Act explicitly states the forfeiture of “moneys, securities and credits.” Rules of the forfeiture of other assets as well as the process for inquiry and forfeiture are spread across several other parts of the Act.

¹¹⁶ Section 8(b) Printing and Publishing Enterprise Law, No. 13/2014 dated 14 March 2014.

D. Censorship

1.11 The media is not subject to prior censorship as a matter of both law and practice

Prior censorship of the media is widely understood to represent a breach of Article 19 of the ICCPR. Until recently, Myanmar was one of the few countries in the world still practising prior censorship. Under the 1962 Printing and Publishing Law, the Press Scrutiny Board, under the Ministry of Information (MOI), reviewed and censored all print media before it was distributed. In August 2012, the media landscape in Myanmar changed dramatically when the Press Scrutiny Board ceased prior-censorship of print media.¹¹⁷ This was followed by the Board's dissolution in January the following year.¹¹⁸ Although the 1962 Law was technically still in force, it bore no teeth without the censorship Board's enforcement. The 1962 Law has since been repealed by virtue of the passing of the Printing and Publishing Enterprise Law (PPEL) in March 2014.

Since the ending of prior censorship, newspapers have been able to print articles which are highly critical of the government. Previously censored subjects such as the military, land grabbing, and ethnic conflict are now attracting media coverage. Some newspapers have gone so far as to directly criticize President Thein Sein. According to members of the (I) MPC who were interviewed for this assessment, any topic is open to criticism.

While the ending of prior censorship opened the doors for the media to be critical of the government, it also removed certainty about what could be published. Under censorship, the government editing boards would remove what they felt was undesirable. Now that responsibility falls squarely on the shoulders of the editors. This can be a daunting task given that the norms for what is an acceptable critique of the government are changing and that many journalists in Myanmar lack the training to report accurately and professionally.

Imported foreign media is also free of prior censorship for the most part. One commonly cited exception was the banning of the 1 July issue of *Time Magazine* in 2013. The cover of the magazine contained a picture of the nationalist monk Wirathu and the title; 'The Face of Buddhist Terror'. Due to heated controversy over the magazine's cover, the magazine's importer, Inwa Publishing, decided to stop distributing it. The following day, the government declared it to be illegal to sell, distribute or possess the publication.¹¹⁹ This declaration was issued by the Central Management Committee for Emergency Periods. The unchecked nature of these actions

¹¹⁷ Htun, Y. (19 October 2012). Myanmar: Government ends censorship of local media. Associated Press. Retrieved from: http://www.huffingtonpost.com/2012/08/20/myanmar-ends-censorship_n_1808780.html

¹¹⁸ Mizzima (25 January 2013). Burma dissolves censorship board. Author. Retrieved from: <http://archive-1.mizzima.com/news/media/8792-burma-dissolves-censorship-board>

¹¹⁹ Zaw, H. N. Vrieze, P. (26 June 2013). Government bans Time Magazine issue, raising concerns among local media. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/media/govt-bans-time-magazine-issue-raising-concerns-among-local-media.html>

sets a precedent for the censorship of media by government bodies outside of the realm of media law or the MOI.

The Central Management Committee for Emergency Periods was established under Presidential Notification No. 34/2014. The notification provides some, albeit limited, information about the committee's formation and objectives, which primarily relate to riot control.¹²⁰ The notification makes no mention of media censorship nor does it clearly specify the extent of the Committee's powers. This incident occurred before the News Media Law and the Printing and Publishing Enterprise Law were passed, so it is unclear if the Central Management Committee for Emergency Periods has the power to override these laws. According to the Printing and Publishing Enterprise Law, an importer is only required to inform the MOI about publications which are being imported, including the title, genre and quantity. It does not appear that the MOI has any power to block importation.

Censorship can also manifest itself in the form of restrictive licensing. Unlike broadcasting, which requires licensing to ensure technical quality and the proper allocation of spectrum, the licensing of print media outlets is not legitimate under international standards. The licensing of print media has been used in many countries as a form of censorship and no legitimate aim or benefit comes from it. Although licensing is not legitimate, purely technical systems of registration may be, as long as the specific criteria for registration are reasonable. In Myanmar, the PPEL of 2014 requires printers and publishers to register with the Ministry of Information. In practice, this process has not proven restrictive. Editors and print media managers stated that, for the most part, registration was a simple and quick process without any overly burdensome criteria or hidden fees. Section eight of the PPEL also contains several loosely defined restrictions of what the print media can publish (see indicator 1.10).

Although prior censorship no longer applies to the print media, it still exists in the film industry. Under the 1996 Motion Picture Law, films produced in or imported into Myanmar are subject to the scrutiny of the Motion Picture Censor Board which was formed by the Ministry of Information. A film must receive a Motion Picture Censor Certificate from the board before it can be displayed publically. Furthermore, the Law also provides for the licensing of 'Motion Picture Businesses' by the Motion Picture Enterprise.¹²¹ The composition of the Enterprise is not stipulated in the Law, so it is unclear whether or not it is independent from the government, although this seems unlikely. To show films publically, one must apply for a Cinema Hall Licence which is granted by the Myanmar Motion Picture Enterprise.

The objectives set forth in the Law are broad and contain vague wording which can be used to effectively censor any films which include anti-government sentiments. The Law states that

¹²⁰ Formation of Central Management Committee for Emergency Period, Notification No. 34/2013 dated 30, March 2013. <http://www.myanmarpresidentoffice.info/en/?q=briefing-room/notifications/2013/04/01/id-1858>

¹²¹ Under the Law, the fees for licensing, extension of tenure fee, and late fee are not specifically stated and are at the discretion of the MOI.

motion pictures must “prove beneficial” to the “preservation of Myanmar cultural heritage, contribute towards the unity of the national races and towards keeping alive a keen sense of patriotism”.¹²² The Law includes criminal penalties for offenders. Operating without a Motion Picture Business Licence or exhibiting a film that does not have a Motion Picture Censor Certificate can lead to a one-year prison term and a fine.¹²³ Likewise, publicly displaying a motion picture without a licence can lead to a six-month prison term and a fine.¹²⁴ Film is both a form of expression and a means of imparting information to society, and the existence of prior censorship in the film industry violates international standards relating to freedom of expression.

However, change within the media industry is occurring at a rapid pace and the revision of laws in Myanmar often does not keep pace with changing public and government sentiment. Previously banned films such as “Burma VJ” and “Click in Fear”, which both contain footage of military attacks on monks during the Saffron Revolution, are now publicly available.¹²⁵ In practice, the film industry has enjoyed significantly more freedom of expression in the past few years; although, these new freedoms hold no guarantees without being underpinned by updated laws that mirror current societal norms.

1.12 The state does not seek to block or filter Internet content deemed sensitive or detrimental

In August 2012, Internet censorship in Myanmar was largely removed. At that time, the Open Net Initiative conducted a content filtering test in which only five of 541 websites identified to have political content were blocked.¹²⁶ All 451 sites were accessible as of December 2012 and by mid-2013 even sites hosting pornography and drugs-related content were no longer blocked.¹²⁷ While the removal of Internet censorship is a welcome development, the current laws governing the telecommunications industry and Internet access grant the government the power to control Internet content and access the personal information of Internet users.

The Computer Sciences Law of 1996 requires registration of all computers and computer networks. Failure to do so could result in imprisonment of up to 15 years. Although personal computers and Internet-enabled phones fall under the provisions of this law, the vast majority of these devices are unregistered and enforcement is lacking. Still, the continued existence of

¹²² Section 3(b) (c), Motion Picture Law No. 8/96 dated 29 July 1996.

¹²³ Section 33 (ibid).

¹²⁴ Section 34 (ibid).

¹²⁵ Harris, M. (2013). Burma: Freedom of expression in transition. X Index. Retrieved from: <https://www.indexcensorship.org/wp-content/uploads/2013/07/Burma-Freedom-of-Expression-in-Transition.pdf>

¹²⁶ Poetranto, I. (2012, October 23). Update on information controls in Burma. Open Net Initiative. Retrieved from: <https://opennet.net/blog/2012/10/update-information-controls-burma>

¹²⁷ Freedom House (2014). Freedom on the Net: Myanmar. Author. Retrieved from: <https://freedomhouse.org/sites/default/files/resources/Myanmar.pdf>

this Law poses a risk of selective enforcement. Theoretically, anyone with a personal computer or Internet-enabled phone could be sentenced under this Law, regardless of how the technology is used. Section 35 (a) and (b) of the Law also stipulates vague rules and criminal sentencing regarding what information can be shared on computer networks and information technology in general. Violation of the rules can result in five to seventeen years imprisonment and a fine.

- (a) ...carrying out any act which undermines State Security, prevalence of law and order and community peace and tranquillity, national unity, State economy or national culture;
- (b) ...obtaining or sending and distributing any information of State secret relevant to State security, prevalence of law and order and community peace

The Electronic Transaction Law is similarly draconian. It contains vague, nationalistic language and harsh criminal sentencing. Under section 33, it is unlawful to:

- (a) ...do any act detrimental to the security of the State or prevalence of law and order or community peace and tranquillity or national solidarity or national economy or national culture.
- (b) ...receive or send and distribute any information relating to secrets of the security of the State or prevalence of law and order or community peace and tranquillity or national solidarity or national economy or national culture.

If convicted, violators can face imprisonment of between five and seven years.¹²⁸ The Electronic Transaction Law has been commonly used in the past, most notably against bloggers during the Saffron Revolution of 2007. News websites face additional content restrictions as they fall under the legal purview of the Printing and Publishing Enterprise Law. They are subject to the same content limitations as print publications pursuant to section 8 of the law.

The hacking of journalists' email accounts and media websites also calls into question the security of online personal information. In February 2013, several journalists in Myanmar received notifications from Google that their email accounts might have been hacked through "state sponsored" attacks¹²⁹. While unsubstantiated, state access to personal accounts is possible given the high degree of state control over Internet Service Providers (ISP). According to Section 17 of the 2013 Telecommunications Law, ISPs are responsible for ensuring the confidentiality of user information, although this is only applicable "except for matters allowed by existing laws". As such, the Telecommunications Law does not guarantee that the government will not access confidential information carried by ISPs. This is alluded to in Section 4(e) of the Law and

¹²⁸ The Electronic Transaction Law 2004 originally contains a sentence between seven to 14 years imprisonment, but an amendment in 2014 reduced the sentence from five to seven years.

¹²⁹ Fuller, T. (10 February 2013). E-mails of reporters in Myanmar are hacked. New York Times. Retrieved from: <http://www.nytimes.com/2013/02/11/world/asia/journalists-e-mail-accounts-targeted-in-myanmar.html>

explicitly stated in Section 75.

“The objectives of this law are...to monitor the communication services, communication network supporting equipment and communication equipment in order to avoid detriment to peace, tranquillity and security in the State.”¹³⁰

“The Union Government may, without affecting the fundamental rights of the citizens, direct the organization concerned as necessary to intercept, irrespective of the means of communication, any information that affects the national security or rule of law.”¹³¹

Section 77 of the Law also grants the State the power to suspend telecommunications services or take control of telecommunications equipment during public emergencies. Such actions were taken in 2007 during the Saffron Revolution when the junta shut down the Internet at first entirely and then partially for several weeks.¹³² In a 2011 Joint Declaration on Freedom of Expression and the Internet, the special international mandates on freedom of expression at the United Nations (UN), the Organization for Security and Co-operation in Europe (OSCE), the Organization of American States (OAS), and the African Commission on Human and Peoples' Rights roundly denounced such actions. The Declaration states that cutting off access to the Internet to a population can "...never be justified, including on public order or national security grounds.”¹³³

In short, restrictions on Internet content have been relaxed significantly since 2012 and Internet users have been able to view, upload and post content that is critical of the government with few actualized reprisals. However, the existing environment of Internet freedom and unfettered access to information exists in complete contrast to the existing legal framework. Draconian laws are still in place, even if seldom enforced. Furthermore, the Telecommunications Law does not protect the personal information of Internet users and grants the State control over all telecommunications during a state of emergency.

¹³⁰ Section 4(e) Telecommunications Law 2013, No. 31/2013 dated 8 October 2013.

¹³¹ Section 75 (ibid).

¹³² Crispin, S. (12 September 2007). Burning down Myanmar's internet firewall. Asia Times. Retrieved from: http://atimes.com/atimes/Southeast_Asia/1I21Ae01.html

¹³³ Joint Declaration on Freedom of Expression and the Internet, Adopted 1 June 2011. United Nations. Retrieved from: <http://www.law-democracy.org/wp-content/uploads/2010/07/11.06.Joint-Declaration.Internet.pdf>.

Chapter 1 Recommendations

- Myanmar should sign and ratify international treaties which pertain to freedom of expression, including the International Covenant on Civil and Political Rights, the (first) Optional Protocol to the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination.
- The 2008 Constitution should be amended to strengthen guarantees of freedom of expression (i.e. Article 354) and the right to information. These guarantees should not allow ordinary laws to restrict these rights but should, instead, impose clear conditions on any laws which restrict these rights.
- In order to better safeguard freedom of expression, the Constitution should be amended to place more substantial conditions for declaring a state of emergency.
- Only a judiciary that acts independently can properly interpret laws which restrict freedom of expression in the public interest. The government should promote the independence of the judiciary and address reported corruption issues within it.
- The government should promote wider public participation in legal reform processes and more proactively communicate on the legal reforms pertaining to freedom of expression by creating opportunities for interactions with the public.
- The government should continue consultations with relevant stakeholders with a view to adopting a Right to Information (RTI) Law.
- The Myanmar News Media Council (MNMC) should develop clear and equitable procedures for determining which media organizations are permitted to attend government events with limited space. These procedures should be designed to ensure that a diverse array of media representing different viewpoints and target audiences are granted access.
- Legislation that protects confidentiality of journalists' sources should be adopted.
- The Broadcasting Law should be amended to allow the nomination of council members by civil society and parliament, with both houses of parliament responsible to appoint a specific number of members.
- Significant reforms to the colonial-era Penal Code should be adopted. Any restrictions on freedom of expression should be provided by law, limited to the protection of legitimate interests as listed in the Article 19(3) of ICCPR and necessary to protect those interests.
- The blasphemy provisions in the Penal Code which go beyond protecting religious groups against incitement to hatred should be removed.
- Defamation should be removed from the Penal Code and addressed through civil law rules in accordance with relevant international standards.

- Sections 18 and 19 of the Peaceful Assembly and Processions Law should be amended to remove criminal penalties for staging protests without government approval, or for holding protests in unauthorized areas. The 1908 Unlawful Associations Act should be repealed so that the president does not have the power to unilaterally declare an association 'unlawful'.
- The 1923 States Secret Act, which prohibits access to government's facilities and confidential governmental information, should be amended to conform to international standards.
- The 2014 Printing and Publishing Enterprise Law should be amended to remove section eight which places restrictions on what print media can publish.
- The restrictions to freedom of expression stipulated in the Electronic Transaction Law should be more narrowly defined, and criminal penalties for breaching these restrictions should be removed.
- The Computer Sciences Law should be amended so that registration of Internet-capable devices is no longer legally required. Similarly, restrictions to freedom of expression in the Law should be more narrowly defined and criminal penalties for breaching these restrictions should be removed.
- The Telecommunications Law should be amended to remove the defamation rule in Section 66(d) and to prevent the imposition of general suspensions of telecommunications services.
- The Ministry of Information should update the Motion Picture Law through a process that is inclusive of representatives from the film industry and civil society.

The background features a complex pattern of overlapping blue and orange geometric shapes, including circles, squares, and lines, creating a textured, abstract effect. The colors are semi-transparent, allowing the underlying patterns to be visible through them.

Category 2:

Plurality and diversity of
media, a level economic
playing field and
transparency of ownership

Category 2:

Plurality and diversity of media, a level economic playing field and transparency of ownership

A. Media concentration

2.1 State takes positive measures to promote pluralist media

Broadcast

A finite number of frequencies exist on the broadcast frequency spectrum, which means only a limited number of broadcasters can operate in a given geographic area. This is particularly the case with analogue broadcasting. Ideally, it is the role of an independent regulatory body to manage this limited resource and to allocate frequencies to broadcasters in a manner that best promotes a diverse mix of public, private and community media. Until the recent passing of the Broadcasting Law in August of 2015, the broadcasting industry was regulated under the 1989 State-owned Economic Enterprise Law¹³⁴. Consequently, all domestic broadcasters are currently either fully state-owned enterprises or joint-ventures between the state and private companies.¹³⁵ Each joint-venture broadcaster was formed according to its specific contract with the Ministry of Information.¹³⁶ The contracting of joint-venture broadcasters was not conducted in a transparent manner and businesses that were chosen for these joint-ventures tend to have close ties with the government or the military.¹³⁷ The owners of some of these businesses still fall under United States sanctions.¹³⁸ Under this system there are no requirements for broadcasters to disclose their ownership structure or revenue sources to the public.

¹³⁴ State-owned Economic Enterprises Law, No. 9/1989 dated 31 March 1989.

¹³⁵ A number of foreign radio broadcasters such as Voice of America, BBC Burma, and Radio Free Asia. These transmit their signal across Myanmar via short-wave radio. Since these broadcasters exist outside of Myanmar, they are not subject to Myanmar media regulations.

¹³⁶ Director of Myanmar Radio and Television. MDI Validation Workshop. 19 January 2016.

¹³⁷ Based on interviews with multiple joint-venture TV and Radio broadcasters in Myanmar.

¹³⁸ Last Updated 24 June 2015, Accessed June 26, 2015; <http://www.treasury.gov/ofac/downloads/t11sbn.pdf>

Ownership of TV broadcasting is highly concentrated. At present, there are two joint-venture TV broadcasters; MRTV-4 and Skynet. The private partners of these broadcasters are the Forever Group and the Shwe Than Lwin Group respectively. Family Entertainment is another broadcaster, but it exists under the Skynet contract with the government. There are also two fully state-owned TV broadcasters. MRTV is operated by the MOI, and Myawaddy TV (MWD) is operated by the Ministry of Defence. Ownership of radio broadcasting is also highly concentrated. There are six joint-venture FM stations and two fully state-owned radio broadcasters. Similar to TV broadcasting, MRTV Radio is operated by the MOI, and Thazin FM is operated by the Ministry of Defence.¹³⁹

In this broadcasting environment, cross ownership between TV and radio is common. The Forever Group is the government's joint-venture partner for MRTV-4, Channel 7, Family Entertainment, Mandalay FM and Pyinsawadi FM.¹⁴⁰ Likewise, Shwe Than Lwin Group is the government's joint-venture partner for both Skynet TV and Shwe FM.¹⁴¹ Kyaw Win is the owner of Shwe Than Lwin Media Group and also owns 80 per cent of the Myanmar News Network which publishes the daily newspaper *Democracy Today*.¹⁴²

The effects of the recently passed Broadcasting Law of 2015 have yet to be felt, but the law holds significant promise for promoting plurality in the broadcasting sector in the long term. Section 4(d) of the law calls for the "promotion of fair competition and media pluralism in the field of broadcasting". Section 50 prohibits ownership of two or more broadcasting services in a single broadcasting zone by any one individual or corporation, and Section 51 prohibits cross-ownership of print and broadcasting media in a single broadcasting zone. The law also distinguishes between different types of media houses. Section 4(a) calls for the "balanced development of public service broadcasting, commercial, community and government broadcasting services." To this end, Section 57 of the law requires that the National Broadcasting Council develop "distinct, simple licensing policies" for community broadcasters. However, the transformation of state-owned broadcasters to public service or private broadcasters still needs to be actualized. The new Broadcasting Law still contains references to "government broadcasting services".

139 Apart from Thazin FM, City FM is the only radio broadcaster not under the MOI. Rather it is a joint-venture between Shwe Nay Chi Services Company Ltd. and the Yangon City Development Council (YCDC) and is licensed under Yangon City Municipal Procedures. Interview with the chief operating officer of City FM, 5 September 2014.

140 Interview with Manager of Mandalay FM, 6 February, 2015.

141 <https://prezi.com/7doksdbfaaz/shwe-than-lwin-co-ltd>

142 Interview with CEO of Yangon Media Group, 25 August 2014.

Print

In March 2014 the PPEL was enacted; thereby formally abolishing the act of prior censorship and the licensing of print media. The removal of prior censorship made it possible for daily newspapers to be produced.¹⁴³ Twenty private Burmese language daily newspapers and four state-owned Burmese Language daily newspapers were registered under the new PPEL shortly after its enactment. Although the PPEL removed many of the legal barriers preventing a pluralistic print media, the existence of state-owned print media creates an uneven economic playing field and indirectly promotes media concentration. *Myanma Alinn* and *The Mirror* are the two largest state owned print media.¹⁴⁴ They are, by far, the market leaders in the print media industry with circulations of 138,756 and 180,000 respectively.¹⁴⁵ Other major players in print media consist of Yangon-based journals, many of which existed before the PPEL was enacted. Due to fierce competition within the media industry only seven of the original 20 private daily newspapers are still in circulation.¹⁴⁶ Another three have since registered, bringing the total of private Burmese language daily newspapers to ten.¹⁴⁷

Non-media regulations

To promote competition and diverse ownership across all industries, many countries rely on not only industry specific laws but also wider competition and antimonopoly laws. In February of 2015, the Myanmar Parliament (Hluttaw) passed the Competition Law. It is the first piece of legislation in Myanmar to address anti-competitive market behaviour. The law targets business practices leading to monopoly formation. To this end, the law established two committees; the Competition Committee and the Enquiry Committee. These committees are tasked with investigating anti-competitive behaviour and potential abuses of market dominance. Penalties under the act can include up to a three-year prison sentence and a fine depending on the violation.

Although the drafting of a Competition Law is a positive development, the law does not provide a definition for “monopoly” or “abuse” of market dominance.¹⁴⁸ It also allows agreements that

¹⁴³ Under prior censorship, the censors would not be able to edit newspapers in a short enough time frame to allow for daily newspapers to be published on time.

¹⁴⁴ There are two other state-owned daily newspapers, though their circulation is significantly lower. They are the *Myawaddy Daily* and the *Yatanarpon Daily*, both published by the Ministry of Defence.

¹⁴⁵ Interview with the editor and the chief reporter of *The Mirror*, 7 February 2015.

¹⁴⁶ The seven remaining private dailies in Burmese language are: *Union Daily*, *Pyi Myanmar*, *7 day*, the *Daily Eleven*, the *Voice*, *The Messenger*, and *Standard Time Daily*. There are also four state-owned daily newspapers still in operation.

¹⁴⁷ The three daily newspapers which registered later and are still in circulation are *Democracy Today*, *Mandalay Alin* and *Mandalay Daily*.

¹⁴⁸ Although a monopoly is not defined, sections 11 and 12 of the Law do define market dominance as over 30 per cent of the market share.

“restrict competition” so long as they have the intention of lowering the cost of living for the country’s populace. This allows for wide discretion. It also does not provide a definition of “market” or differentiate between a product market and geographic market. Perhaps most concerning is the fact that the law only restricts actions of entrepreneurs which may lead to a monopoly. It makes no mention of dissolving existing monopolies nor does it specifically state whether or not state-owned enterprises fall under its purview.

2.2 State ensures compliance with measures to promote pluralist media

If properly enforced, the Broadcasting Law will promote plurality within broadcast media in the long-term. In particular, the progressive licensing scheme under the law will apply retroactively. Existing broadcasters must apply for licensing under the new scheme within one year of the passing of the law.¹⁴⁹ Furthermore, Section 101 calls for amendments to be made to existing agreements so that they comply with the new law.

“All existing agreements which are substantially at odds with the provisions of this law shall be reviewed...for the purpose of making necessary amendments to make them consistent with the provisions of this law and in the overall public interest.”¹⁵⁰

The law has only been recently passed, so its enforcement and subsequent effects on the broadcasting industry remain to be seen. For the immediate future, plurality within the broadcasting industry is lacking. Similarly, it is too early to tell the long-term effects of the Competition Law. In practice, the law has not yet been widely used and the majority of economic activity within Myanmar is highly concentrated. Most industries which prove lucrative are dominated by state-owned enterprises or joint ventures between the state and a handful of large, family-run conglomerates with close ties to the government and military.¹⁵¹ To date, the Competition law has not been used to address ownership concentration in the media industry.

¹⁴⁹ Section 100, Broadcasting Law, No. 53/2015 dated 28 August 2015.

¹⁵⁰ Section 101 (ibid).

¹⁵¹ Larkin, S. (2012). Myanmar at a Crossroads: Rapid Industrial Development or De-industrialization. Retrieved from: http://www.burmalibrary.org/docs12/Stuart_Larkin-Myanmar_at_the_Crossroads.pdf

B. A diverse mix of public, private and community media

2.3 State actively promotes a diverse mix of public, private and community media

The Broadcast Law recognizes the need for a diverse mix of public, private, community and state media. It does so through specific requirements on spectrum allocation (see indicator 2.7). As stated in indicator 2.2, it will take time before the effects of the new Broadcasting Law are felt, particularly in terms of licensing. For the time being all the existing broadcasters are either fully state-owned or joint ventures between the state and private businesses.

A diverse media environment is not only dependent upon regulations that promote diversity –but also on a general principle of non-discrimination by the government towards all media outlets. This entails equal access to information for all media outlets. In practice, state media is the first to receive official statements from the government. It is the state’s ‘go-to’ outlet for publishing government policies, laws and announcements. Furthermore, new laws are not considered active until they are ‘Gazetted’ in state-owned print media. There is also no specified system for selecting media outlets to attend closed-government events, which leaves room for a potentially biased selection process (see indicator 1.8).

Actively promoting a diverse mix of public, private and community media also means that the state does not impose any licensing restrictions or unduly high start-up fees on new media. With the passage of the PPEL, the MOI has discontinued the practice of licensing print media. Although the PPEL requires print media to register with the MOI, its bylaws covering registration do not contain any undue restrictions. The law simply requires that applicants submit a standardized application form and disclose their investment sources, ownership, organizational structure and business plan.¹⁵² The ministry shall reply within 21 days, and the registration fee is 50,000 kyat¹⁵³ (USD38)¹⁵⁴. Once granted, a registration certificate is valid for five years.¹⁵⁵ Print media houses that have registered under this new system stated that it was quick and simple, and registration fees were not prohibitive.¹⁵⁶

¹⁵² Section 4(c) Bylaws, Printing and Publishing Enterprise Law.

¹⁵³ Section 6 Bylaws, Printing and Publishing Enterprise Law.

¹⁵⁴ Exchange rate as of 1st January 2016 (USD1 = 1,301 MMK).

¹⁵⁵ Section 9(a) Bylaws Printing and Publishing Enterprise Law.

¹⁵⁶ Although the Printing and Publishing Enterprise law is not used to actively discourage media plurality, it does miss out on the opportunity of promoting it. The Printing and Publishing Enterprise Law does not contain any provisions for licence applicants to disclose ownership structure or revenue sources publically, nor does it prohibit ownership of multiple print media in one geographic region.

2.4 Independent and transparent regulatory system

As stated in indicators 1.6 and 1.7 the Broadcasting Law will lead to the creation of two broadcast regulatory bodies; the National Broadcasting Development Authority and the National Broadcasting Council. The Council is responsible for granting broadcasting licences while the Authority is responsible for Developing the Broadcast Spectrum Management Plan in collaboration with the MCIT.¹⁵⁷ The Law also promotes wider public participation and knowledge in the licensing process. Under Section 49 of the Law, private businesses applying for a licence must disclose their ownership structure to both the Council and the public via mass media. Section 60 also states that community broadcasters must convene a meeting with members of the community on an annual basis to discuss policies and programming.

The eventual formation of these bodies as well as the regulations for broadcasters contained in the Broadcasting Law will represent a significant step forward in terms of regulation transparency for the sector. The Council will also bring about a greater degree of independence in the regulatory system than what has been seen in the past. Although the Authority is composed almost entirely of government officials and cannot be considered independent, its role is primarily technical in nature and related to the broadcasting industry's integration into the wider telecommunications regulatory framework. The real power in this regulatory system rests with the Council.

Although its members are picked by the president, putting a civilian council in charge of broadcast licensing will be a significant improvement in regulatory independence.

At the time of writing, the Council and the Authority have yet to form. In the interim, the MOI and the MCIT continue to regulate the broadcast industry. As these are government ministries and are, by definition, not independent regulatory bodies.

2.5 State and CSOs actively promote development of community media

Community broadcasters do not yet exist in Myanmar; though, the Broadcasting Law will allow for their existence once the National Broadcasting Council is formed and starts issuing licences. Section 57 of the law will also actively support licensing of community broadcasters. It mandates Council to develop "distinct, simple licensing policies" for community broadcasters. However, the law makes no mention of tax concessions or financial support for community broadcasters.

¹⁵⁷ Section 6(b) Broadcasting Law, No. 53/2015 dated 28 August 2015.

C. Licensing and spectrum allocation

2.6 State plan for spectrum allocation ensures optimal use for the public interest

At present, no formal spectrum management plan exists in Myanmar. The MCIT provides the MOI with frequencies that can be used for TV and radio broadcasters. Then, the MOI provides the frequencies to selected joint-venture partners on a first come, first served basis.¹⁵⁸ Given the fact that the allocation of frequencies has been an internal government operation, there has not been any involvement from CSOs or the public at large. In this system spectrum has not been allocated fairly or in the public's best interest.

According to the Broadcasting Law, a National Spectrum Management Plan will be developed by the National Broadcasting Development Authority. Although the development of this plan is a positive step forward, the law does not make any mention of including civil society in this process, nor does it specify any dissemination strategy for the plan or public awareness raising initiatives.

2.7 State plan for spectrum allocation promotes diversity of ownership and content

As previously stated, there is no plan for spectrum allocation for TV and radio broadcasters in Myanmar.¹⁵⁹ Rather, the broadcasters that are currently in operation are fully state-owned or joint-ventures between the state and private businesses. Spectrum has been allocated according to their requests on a first-come, first- served basis.

In the long term, the Broadcasting Law should provide an environment that is more conducive to diverse ownership and content. Section 56 of the law requires that at least 20 per cent of the spectrum is allocated towards community broadcasters.¹⁶⁰ The law also establishes guidelines for the allocation of broadcast licences.

Section 35(a) states that media ownership concentration, programme quality, and content diversity must be taken into consideration when granting licences. Furthermore, section 40 (c) of the law states that during the licensing renewal process, the Council has the power to reallocate an existing licence when deemed in the public's interest.

¹⁵⁸ Interview with MOI deputy director, Information and Public Relations Department, Yangon, 19 August 2014.

¹⁵⁹ The MCIT does set aside a certain range of spectrum frequencies for the use of TV and radio broadcasters. The MOI then assigns frequencies to joint venture broadcasters on a first come, first served basis.

¹⁶⁰ Section 56 Broadcasting Law, No. 53/2015 dated 28 August 2015.

The law also places some requirements on broadcasters and broadcast distributors to promote domestically produced content. Section 64(a) requires 20 per cent of subscribed channels from broadcast distributors to be domestically produced. Furthermore, section 64(b) requires that at least 20 per cent of subscribed channels also be free to air. This should serve to promote wider access to the public. Section 67 states that 70 per cent of programming for radio broadcasters must be locally produced. In the case of TV broadcasters, the proportion is 30 per cent.

2.8 Independent and transparent regulatory system

The Broadcasting Law will bring about a significant improvement in terms of both independence and transparency of broadcasting regulation; however, its effects are yet to be felt. Its bylaws have also yet to be drafted. At this point in time, the industry is not regulated in a transparent manner and it is not independent from the government.

D. Taxation and business regulation

2.9 State uses taxation and business regulation to encourage media development in a non-discriminatory manner

Commercial tax was often cited as a challenge by print media managers. All private print media must pay a five per cent commercial tax. The point of contention is not in the size of the tax, but rather the fact that it is based on sales rather than profit. This tax is payable regardless of whether or not a profit has been made. Paying the tax reduces already thin profit margins and even results in a net financial loss. Media managers admitted that underreporting circulation occurs within the industry, so print media houses pay less tax. Consequently, it is difficult to get accurate circulation numbers for print media in Myanmar. State-owned media are also subject to commercial tax; though, research was unable to determine the percentage.¹⁶¹

Broadcast media is a different story. Joint-venture broadcasters have a tax free grace period of three years after signing their contract with the MOI. After the grace period, they pay five per cent of revenue to the MOI as “cost sharing” and seven per cent of revenue at tax to the regional government.¹⁶² There is no mention of tax in any media law in Myanmar.

The PPEL removed many of the legal barriers preventing a pluralistic media; however, the existence of state-owned print media creates an uneven economic playing field and indirectly

¹⁶¹ Interview with the director of management at the Global New Light of Myanmar daily on 19 June 2015. In the interview, he stated that state-owned media pays commercial tax, but he could not remember the percentage.

¹⁶² Information given is based on an interview with Pandamyar FM's project director, 26 August 2014. Many broadcasters avoided answering questions about tax during the interviews so it is not clear if this level of taxation is standardized for all radio broadcasters or if it varies by broadcaster depending on their contract with the MOI.

promotes media concentration. In numerous interviews, print media owners cited the daunting challenge of competing with state-owned print media, which enjoys a number of competitive advantages. First, the state operates its own distribution system and owns government printing presses across the country.

This allows for wider geographic circulation than private print media outlets. Second, private businesses prefer to advertise in state print media due to its wider circulation. Many print media managers interviewed stated that it was hard to draw in advertising profits and they often have to offer discounts. They also stated that some private advertisements such as announcements for funerals, weddings or real estate are not seen as valid unless placed in state-owned media.¹⁶³ Third, nearly all government advertising is done in state media, representing a forgone substantial source of income for private media. Fourth, state print media is subsidized by the state, meaning that it can still survive even if it operates at a loss.

E. Advertising

2.10 State does not discriminate through advertising policy

The research was unable to find any guidelines for the placement of government advertising. In practice, the vast majority of government advertising is done in state-owned media. According to Deputy Director-General of the Ministry of Information (MOI) Daw Thida Tin, there is no specific policy which requires that the government only advertise in state media.¹⁶⁴ Out of all interviews conducted, the research only identified a few instances in which the government advertised through private media. This represents a foregone source of income for private media and serves to further entrench the dominant market position of state media.

2.11 Effective regulation governing advertising in the media

In July 2014, the MOI developed a policy 'Advertising Policy for Responsible Media', which provides guidelines on what can be advertised. The policy restricts the use of obscene language and imagery in advertisements and also requires advertisements to accurately state the price, promotional offers and benefits of products. It also gives significant attention to the accuracy of product health claims, which must be substantiated first with the Ministry of Health before an advertisement can be approved. Similarly, it also requires advertisements for financial services to accurately state associated risks and realistic returns on investment. It further states that

¹⁶³ Interview with the manager of the Tomorrow Journal on 29th December 2014.

¹⁶⁴ Interview with the deputy director-general of the Ministry of Information on 25 May 2015.

advertisements must be clearly separated from news.¹⁶⁵ The Advertising Rules were developed for state-run print media. The MOI posted the rules on its website so that private print media could follow them voluntarily, but they are not obligated to abide by them.¹⁶⁶

The Broadcasting Law also contains some guidelines for advertising. Namely, section 62(a) of the Law states that private broadcasters can broadcast commercial advertisements for a maximum of 12 minutes per hour of daily broadcasting.¹⁶⁷

¹⁶⁵ Advertising Rules (2015) Ministry of Information. Retrieved from: http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403904_text

¹⁶⁶ Email communications with the director of the Ministry of Information on 19 February 2016.

¹⁶⁷ Section 72(a) Broadcasting Law, No. 53/2015 dated 28 August 2015.

Chapter 2 Recommendations

- State-owned broadcasters should be turned into public service or private broadcasters and all references to state-owned media should be removed from the Broadcasting Law.
- The Ministry of Information should develop temporary licences for community broadcasters, so they can begin operations prior to the formation of the National Broadcasting Council and the drafting of the broadcasting bylaws.
- A regulatory review of the broadcasting sector should be conducted by civil society groups and/or media development stakeholders on the first anniversary of the enactment of the Broadcasting Law in line with the indicators used in this chapter.
- The Ministry of Information should create conditions that will allow for the inclusion of broadcasters and civil society in the drafting of the broadcasting bylaws. Relatedly, the bylaws should include detailed and realistic guidelines to limit undue media ownership concentration in the future and address existing concentration. The National Broadcasting Authority should develop the Broadcast Spectrum Management Plan in consultation with broadcasters and civil society and develop a dissemination plan and public awareness raising initiatives for it.
- The Ministry of Information and the MNMC should develop guidelines for the fair and unbiased placement of government advertisements in all types of media.
- The PPEL should be amended so that companies registering under the PPEL are required to make information about company ownership available to the public directly or through the media regulation authority.
- The government should consider a tax policy which actively supports the media and community broadcasters in particular.
- The Myanmar News Media Council (MNMC) should develop a code of advertising or some type of advertising guidelines for private media and develop related awareness-raising activities to ensure private media houses are familiar with the new code.

The background features a complex, abstract design with various shades of blue and a prominent orange horizontal band. The design includes overlapping circles, lines, and geometric shapes, creating a sense of depth and movement. The text is centered within the orange band.

Category 3:

Media as a platform for
democratic discourse

Category 3:

Media as a platform for democratic discourse

A. Media reflects diversity of society

3.1 The media – public, private and community-based – serve the needs of all groups in society

Myanmar is the second largest country in Southeast Asia by landmass. It contains several climatic zones ranging from tropical jungles and coastlines, to arid plains, to forested mountains. Its terrain is only surpassed in diversity by its people. Out of a population of 51 million, Myanmar boasts 135 ethnic groups recognized by the government¹⁶⁸ and 117 languages.¹⁶⁹ Meeting the information needs of all segments of society would ultimately require the media to be wide reaching and highly diversified in terms of language and content. Such a system would consist of community, private and public media that are managed under a regulatory regime independent from the state and free from political and commercial interference. Although recent and planned media reforms will promote these developments in the long-term, it must be realized that the media industry in Myanmar is at the beginning of a long transition.

Print media

At this point in time, print media cannot adequately provide for the information needs of all segments of society, most notably poor and rural populations. Due to the country's weak road infrastructure, print media circulation is mostly limited to urban and peri-urban areas. In a country with a population of 51.5 million people, the two state-owned print media, *Myanma Alinn* and *The Mirror*, have the largest circulation of all print media at 138,756 and 180,000 copies respectively. They are only published in the majority language, Burmese. Most of the rural population does not read print media. Not only is it relatively expensive compared to their daily income, but it is also out of date by the time it reaches them.

¹⁶⁸ Smith, M. (1994). Ethnic groups in Burma: Development, democracy and human rights. Human rights series. Anti-Slavery International. Retrieved from: http://www.ibiblio.org/obl/docs3/Ethnic_Groups_in_Burma-ocr.pdf

¹⁶⁹ "The number of individual languages listed for Myanmar is 118. Of these, 117 are living and one is extinct. Of the living languages, 11 are institutional; 34 are developing; 49 are vigorous; 20 are in trouble; and three are dying." Paul, L. M. Simons, G. F. and Fenning, C. D.(eds.) 2015. Ethnologue: Languages of the World. Retrieved from: <http://www.ethnologue.com>

Ethnic print media outlets are beginning to gain some momentum and print information in a variety of languages. However, many of them only have a limited circulation of a few hundred copies per issue. Due to budget and capacity constraints, it is a common practice for ethnic print media to re-publish translated news stories from mainstream journals rather than produce their own content. Although ethnic media outlets represent a source of information to an ethnic readership, their content is not necessarily diverse nor is it always catered to a particular ethnic group.¹⁷⁰

Broadcast media

Myanmar is a highly agrarian nation with approximately 70 per cent of the population living in rural areas.¹⁷¹ Given the circulation constraints faced by print media, many citizens rely on broadcasters for their information and entertainment needs. The recently enacted Broadcasting Law will allow for the existence of private, public, community and state broadcasters, but the council responsible for their licensing under the law did not exist at the time of the publication of this report. Consequently, all broadcasters in Myanmar were either state-owned or joint-ventures between the State and private companies. Private, public and community broadcasters do not yet exist in Myanmar.

Myanmar also has two state-owned broadcasters. MRTV operates under the Ministry of Information and Myawaddy operates under the Ministry of Defence. Both of these broadcasters provide TV and radio broadcasting. Myanma Radio is operated by MRTV and places a strong focus on news. It allocates 45 per cent of its airtime to news, which is broadcast 10 times per day.¹⁷² Myawaddy operates Thazin Radio, which broadcasts news four times per day for a total of one hour. It sources its news from the military-owned newspapers, the *Myawaddy Daily* and the *Yatanarpon Daily*.

MRTV also operates Myanma Athan Radio, which broadcasts news in ethnic languages. Myanma Athan is divided into two stations; one covering the North of Myanmar and one covering the South. They both air news in the prominent ethnic languages of their respective geographic areas. The station covering the North of Myanmar broadcasts in nine ethnic languages for 15 hours per day, and the station covering the South of Myanmar broadcasts in eight ethnic languages for 13 hours per day.¹⁷³

170 Interview with a board member of Burma News International, February 22, 2015.

171 Myanmar Population and Housing Census (2014). Republic of the Union of Myanmar. Retrieved from: <http://www.themimu.info/census-data>

172 Presentation by director of Myanmar Radio and Television, MOI "Community Radio and Ethnic Voices" Third Annual Media Development Conference, 18 September, 2014.

173 Email communication with the director of Myanmar Radio and Television on 30 January 2016.

Myanmar also has seven joint-venture radio stations. To promote wider access to information, the MOI has assigned each of its joint-venture radio stations to broadcast over a specified geographic area even when it is not economically advantageous for them to do so. This has served to improve access to information in remote areas. Out of Myanmar’s 14 states and regions, joint-venture radio broadcasters tend to cover two or three states or regions each. These broadcasters air some content each day in the prominent ethnic language of the area they cover. The table below provides the names, coverage areas and ethnic languages covered by joint-venture radio broadcasters.¹⁷⁴

Table 3: Joint-venture radio coverage area and ethnic languages¹⁷⁵

Joint-venture broadcaster	Coverage area	Minority ethnic languages of programming
Pyinsawaddy FM	Ayeyarwaddy region and Rakhine State	Rakhine
Mandalay FM	Sagaing, Mandalay, Yangon and parts of Bago region, Nay Pyi Taw union territory	(N/A) Mandalay FM airs in Burmese only
Shwe FM	Bago, Tanintharyi , Magway, Mandalay and Sagaing Region, Kayin, Mon and Southern Shan State, Nay Pyi Taw union territory	Kachin, Kayah, Kayin, Chin, Mon, Rakhine, Shan
Padamyar (Ruby) FM	Sagaing, Mandalay, Bago and Yangon region, Kachin State and Nay Pyi Taw union territory	Kachin
Cherry FM	Shan, Kayah and Mon State, Yangon, Mandalay and Sagaing Region, Nay Pyi Taw union territory	Shan
FM Bagan	Magway, Sagaing, Mandalay and Yangon regions, Chin State, Nay Pyi Taw union territory	Chin

¹⁷⁴ There are also a variety of foreign news agencies which broadcast in Myanmar via short-wave radio. These include the BBC Burmese Service, the Voice of America, and Radio Free Asia. These broadcasters have not been included in the analysis because they are not officially recognized broadcasters in Myanmar. However, they do represent a source of news in the country. They have a high listenership among the older generation, particularly those from ethnic minorities. A special kind of radio is required to receive short-wave radio frequencies meaning that access is limited.

¹⁷⁵ Extracted and modified from the Community and Ethnic Voices Power Point presented by U Zeyar, the director of Myanmar Radio and Television, MOI at the third Annual Media Development Conference on 18 September, 2014. Note: City FM, Thazin Radio, Myanma Radio and Myanmar Athan Radio are not included in this list because they are not joint ventures with the Ministry of Information.

TV broadcasting is another medium through which many people in Myanmar access news and information. Joint-venture broadcasters offer subscription services, but a large proportion of the population cannot afford to regularly access them. Free-to-air channels are more commonly viewed, particularly in rural areas where incomes are lower.¹⁷⁶ Both state broadcasters (MRTV and Myawaddy) offer a free-to-air channel. MRTV has a strong news focus, airing a total of nine hours of news per day on its free-to-air channel. The Myawaddy free-to-air channel broadcasts news six times per day.¹⁷⁷ Joint-venture TV broadcasters offer a total of five free-to-air channels. MRTV-4 offers MRTV-4 and Channel 7 free-to-air channels in analogue and digital. It also offers two digital free-to-air channels; Maha Bawdi and Readers Channel. Maha Bawdi broadcasts content related to Buddhism, such as religious sermons, while the Readers Channel broadcasts content related to literature.¹⁷⁸ The last free-to-air channel is 5-Plus.

Similar to its efforts in radio, MRTV also broadcasts TV news in ethnic languages. In 2013, MRTV launched the National Races TV Channel (NRC),¹⁷⁹ which broadcasts a total of 17 hours of news per day in 11 ethnic languages.¹⁸⁰ To this end, MRTV has opened news bureaus in thirteen locations across the country to collect the news.¹⁸¹ The daily news schedule of NRC is provided below. While the establishment of the NRC is a novel initiative by the government to provide minority ethnic groups with information, regionally produced content is limited and mainly educational in focus (e.g. learning how to cook traditional ethnic cuisine). The channel is also not yet widely known or viewed as it is a digital channel and people living in rural areas do not yet have the proper technology to receive it. Equipment such as digital TVs or DVB-T2 Set-top boxes are needed.¹⁸²

Table 4: NRC News Schedule by Ethnic Language¹⁸³

No.	Language	Air Time	
1	Sakaw Kayin	06:00 - 07:00	(1-hour)
2	Poe Kayin (west)	07:00 - 08:00	(1-hour)

¹⁷⁶ DW Akademie (2015). MRTV Perception Index. Author. Yangon, Myanmar.

¹⁷⁷ Interview with Myawaddy army colonel, 1 December 2015.

¹⁷⁸ Forever Group. (n.d.). Forever Group | Free to Air. Retrieved from: <http://www.forevergroup.com.mm/free-to-air.html>

¹⁷⁹ MRTV has also launched two other digital channels. The Farmer's Channel broadcasts a four hour programme four times daily and the Hluttaw (Parliament) Channel broadcasts 16 hours per day when parliament is in session.

¹⁸⁰ (ibid).

¹⁸¹ Email communication with the director of Myanmar Radio and Television, 30 January 2016.

¹⁸² DW Akademie (2015). MRTV Perception Index. Author. Yangon, Myanmar.

¹⁸³ Extracted and modified from the Community and Ethnic Voices Power Point presented by the director of MRTV at the third Annual Media Development Conference on 18 September 2014.

No.	Language	Air Time
3	Poe Kayin (east)	08:00 - 09:00 (1-hour)
4	Chin (Laizo)	09:00 - 10:00 (1-hour)
5	Chin (Choe)	10:00 - 11:00 (1-hour)
6	Mon	11:00–13:00 (2-hours)
7	Rakhine	13:00 - 15:00 (2-hours)
8	Shan	15:00 - 17:00 (2-hours)
9	Wa	17:00 - 19:00 (2-hours)
10	Kachin	19:00 - 21:00 (2-hours)
11	Kayah	21:00 - 23:00 (2-hours)

The rural majority remains largely dependent on news produced by the state that is transmitted through either state-owned broadcasters or joint-venture broadcasters. Joint-venture broadcasters focus more on entertainment programming than news and information. The news they do provide has traditionally been sourced from MRTV in the form of news bulletins. While this is often still the case, some joint-venture broadcasters are beginning to source more news from independent media outlets and produce some of their own content. According to an MRTV official, TV broadcasters now source approximately 60 per cent of their news from private media outlets.¹⁸⁴

Although MRTV is promoting wider public access to news, education and information, the media needs of a diverse society cannot adequately be met by any singular monolithic content producer, especially one under state control. As a state-owned entity, MRTV is by definition not independent from the government or free from political interference. Similarly, the news it provides to joint-venture broadcasters cannot be considered independent. MRTV is largely seen by the public as one-sided, providing only a positive view of the government while avoiding taboo social issues such as land grabbing, military operations, and corruption.¹⁸⁵ Similarly, Myawaddy TV and Thazin FM are also widely accessible news sources; although, they are perceived as less credible than MRTV due to their military affiliation.¹⁸⁶ A greater plurality of broadcasters and content producers is needed. This would include private, public and community broadcasters, which do not currently exist in Myanmar. This can only come about through the long-term promotion of a competitive and fair media environment that is free of political and commercial interference.

¹⁸⁴ Director of Myanmar Radio and Television, MDI Validation Workshop, 19 January 2016.

¹⁸⁵ DW Akademie (2015). MRTV Perception Index. Author. Yangon, Myanmar.

¹⁸⁶ (ibid).

3.2 Media organisations reflect social diversity through their employment practices

Discussions with journalists and media managers revealed that most media houses do not have overtly discriminatory hiring policies against women or minority groups. However, the absence of ethnic and gender mainstreaming initiatives within the media industry allow for biases to persist. This has resulted in a media industry that is largely male-managed and over representative of the Bamar ethnic majority.

Women constitute a significant proportion of the workforce in media houses in Myanmar, although few are promoted to senior decision making levels.¹⁸⁷ Women generally hold low and mid-level positions in the media industry, and the few women who do make it to a senior-level position either work for English content media or have family connections to management. Even women at senior levels do not appear to greatly influence content. According to a recent study of gender in the media:

“Myanmar’s media industry reflects similar global trends to the extent that women are strongly represented in newsrooms in terms of numbers but media institutions remain significantly male-dominated at the decision-making level.”¹⁸⁸

Furthermore, women working in senior level media positions tend to be placed in ‘soft subjects’ such as beauty, health, development, entertainment and popular news. Topics such as current affairs, politics, and conflict are typically the realm of male journalists.¹⁸⁹ Research also indicates that women in the media industry typically have limited employment protection when they become mothers.

Minority ethnic groups are well-represented in ethnic media in Myanmar. An ethnic media outlet is typically staffed entirely by its target ethnic group and provides information in the language of that ethnic group. However, ethnic media houses are for the most part small organizations, which constitute a minor proportion of overall staff employment in the media industry.

¹⁸⁷ Fojo Media Institute (2015). Gender in the Myanmar Media Landscape: First Study, Yangon and Beyond. Author. Retrieved from: http://www.mediasupport.org/wp-content/uploads/2015/03/FOJO_GENDER_FINAL.pdf

¹⁸⁸ (ibid).

¹⁸⁹ Article 19 (2015). Censored Gender: Women’s Right to Freedom of Expression and Information in Myanmar. Author. Retrieved from: <https://www.article19.org/resources.php/resource/38032/en/country-report:-censored-gender>

B. Public service broadcasting model

3.3 The goals of public service broadcasting are legally defined and guaranteed

A public service broadcaster does not exist in Myanmar; although the Ministry of Information did draft a Public Service Media Bill in 2014. At the time, the MOI invited civil society and media organizations to a workshop to comment on a draft version of the law. Concerns were voiced regarding several sections of the bill, most notably the bill's inclusion of public service print media. Consequently, the bill was withdrawn by the government in 2015. The MOI plans to redraft the bill so that it would only cover the transition of MRTV to a public service broadcaster. According to the Director of MRTV, a charter is being drafted for MRTV as a public service broadcaster.¹⁹⁰ This will stipulate an executive council responsible for strategic decisions and a board of directors that are responsible for the day-to-day operations of MRTV.¹⁹¹

Although there is not yet a legally defined process for MRTV's transition to a public service broadcaster, MRTV has already taken steps towards this end. In the past few years, MRTV has placed a greater emphasis on providing its news, increasing coverage and expanding and training its newsroom staff. Consequently, news coverage for MRTV TV has increased in the past few years to 60 per cent of its airtime.¹⁹² In October 2013, MRTV also launched three digital channels; the National Races Channel, a Farmer's Channel, and a Hluttaw Channel.¹⁹³ In April 2013, MRTV launched an online portal which, among other things, has streaming video from its digital channels.¹⁹⁴ While these developments may lead to increased access to information for many individuals and also improve MRTV's quality of reporting, MRTV is still, by definition, not a public broadcaster and lacks editorial independence from the government.

3.4 The operations of public service broadcasters do not experience discrimination in any field

MRTV is at a crossroads in its transformation from the state to the public service broadcaster. As such, it does not experience any discrimination in its operations.

¹⁹⁰ The media development organization DW Akademie has provided technical support in the drafting of the charter. At the time of writing, researchers were unable to determine the current state of the drafting processes.

¹⁹¹ Email communication with the director of MRTV, 30 January 2016.

¹⁹² (ibid).

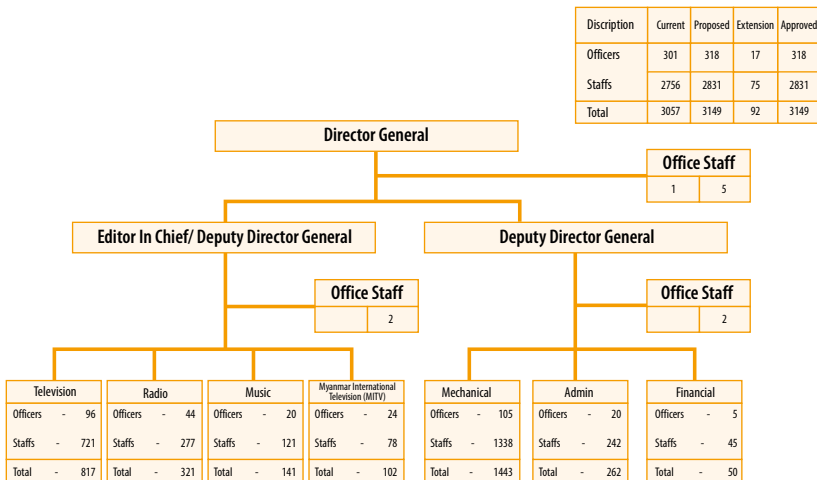
¹⁹³ The Hluttaw is the name of Myanmar's parliament. When parliament is in session, this channel provides live coverage.

¹⁹⁴ (ibid).

3.5 Independent and transparent system of governance

As a state-owned broadcaster, MRTV's governance structure is, by definition, not independent from the government or free from political interference. MRTV is managed by one director-general (DG), two deputy director-generals (DyDG) and seven directors. One DyDG is in charge of administration while the other is in charge of content and is also referred to as the chief editor. There are seven departments, each headed by a director. Together, these 10 individuals constitute the board of directors for MRTV, which is chaired by the director-general. The director-general of MRTV is directly accountable to the permanent secretary of the Ministry of Information.¹⁹⁵

Figure 2: MRTV governance structure¹⁹⁶



3.6 PSBs engage with the public and CSOs

MRTV has started to engage CSOs in some of its new initiatives. Most notably, its newsroom is engaging CSOs on topical issues such as public health.¹⁹⁷ MRTV also airs phone numbers and email addresses where individuals can send complaints about MRTV content.¹⁹⁸ As previously

¹⁹⁵ Interview with the director of Myanmar Radio and Television, 2 July 2015.

¹⁹⁶ This diagram has been translated from its original version in Burmese which was provided by the director of Myanmar Radio and Television.

¹⁹⁷ Email communication with the director of Myanmar Radio and Television, 30 January 2016.

¹⁹⁸ (ibid).

stated, the MOI included civil society and representatives from the media industry to provide comments on the draft Public Service Media Bill.

C. Media self-regulation

3.7 Print and broadcast media have effective mechanisms of self-regulation

The Interim Myanmar Press Council, or (I) MPC, was established in 2012 as a regulatory body for the media industry. The government's heavy hand in the initial formation of the (I) MPC brought many to question its independence and led to the council's subsequent reformation.¹⁹⁹ Even after the (I) MPC reformed, its independence from the government remained a hotly debated issue.

The (I) MPC was responsible for adopting the News Media Law in 2014 and its bylaws, the Media Rules, in 2015. These pieces of legislation set forth procedures for the formation of a permanent, independent regulatory council.

In October 2015, the Myanmar News Media Council (MNNMC) was established, thereby replacing the (I) MPC as the regulatory body for the media industry. Membership on the MNNMC was determined by a voting system in which journalist associations and other associations relevant to the media industry were asked to put forward nominees for council membership.²⁰⁰ As stated in the Media Rules²⁰¹, the president of Myanmar and the speakers of the upper and lower houses of parliament each put forward one nominee. Delegates representing different stakeholder groups in the media were also put forward as nominees.²⁰² Each nominee was then voted on by the entire body of nominees. Twenty-four nominees were approved as council members via this process.²⁰³ Council members then held another round of elections to determine leadership positions. It should be noted that the three individuals nominated by the government were elected into the council, but do not hold any leadership positions.²⁰⁴

In early 2014, the (I) MPC drafted a Code of Conduct (COC) that has been distributed across the

¹⁹⁹ Mon, K. H. (24 September 2012). Press body re-formed following complaints. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/national-news/1743-press-body-re-formed-following-complaints.html>

²⁰⁰ Media associations that put forth nominees include: MJA, MJN, MJU, BNI, the Writers Association, Writers Union, Arts and Science Association, Printers Association and Publisher Association. The (I) MPC also set forth two nominees.

²⁰¹ Section 10 & 11, Media Rules, 2015.

²⁰² These groups include online media, print media, broadcast media and media owners, etc.

²⁰³ The council also reserved seats for two cartoonists and two poets. These seats remained unfilled as well as one seat for a media representative.

²⁰⁴ Email exchange with MNNMC member, 26 January 2016.

country, and the (I) MPC provided training on the COC in the capitals of nine states and regions between February and April 2014.²⁰⁵ During fieldwork, most journalist interviews had received a copy or at least heard of the COC. While the COC serves as an ethical compass for the industry, once-off training events may do little to ensure that the code will be taken to heart by journalists and other media workers. As one (I) MPC member put it: “The Code of Conduct has been widely disseminated, but being widely practiced is another matter.”

Discussions with media managers and journalists indicate a growing bifurcation between Yangon-based media and those located elsewhere in the country. The majority of Yangon-based media view the code as relevant and useful, while media houses located elsewhere in the country find the code generic and not entirely relevant in their operating environment. They also felt that the drafting of the COC should have included wider participation from media houses across the country.

The (I) MPC also developed a grievance mechanism for the media industry known as the Complaint Resolution Committee (CRC). The CRC was originally formed as a sub-committee of the (I) MPC and is currently a sub-committee of the MNNC. Under Chapter nine of the News Media Law, the CRC has the power to impose a financial penalty on those in violation of the News Media Law. It can also mandate other remedies such as right of reply, written apologies and factual corrections.²⁰⁶

Unfortunately, the News Media Law does not make it mandatory for aggrieved parties to use the CRC as a grievance mechanism. Rather, a case can be taken directly to the courts or court proceedings can be conducted in parallel to the CRC proceedings.²⁰⁷ The ability to bypass this grievance mechanism means that journalists and media houses can still fall victim to harsh criminal sentencing of laws that restrict freedom of expression (see indicator 1.10). To date, the results have been mixed. Some complaints against media houses have involved the CRC while others have not. There have also been cases in which grievances were originally brought to the CRC but an agreement could not be reached. In September of 2014, the MOI went to the CRC with grievances regarding the publications of two newspapers. Talks stalled and the government later took both papers to court.²⁰⁸ The CRC has been resolving complaints since October 2012, even before it could formally do so under the Media Rules, which were adopted in 2015. The table below provides information on the complaints handled by the CRC up to the end of 2015. In 2015, a total of 58 complaints were brought to the attention of the CRC – 29 of which were resolved.

²⁰⁵ Interview with Interim Press Council Member, 21 September 2014.

²⁰⁶ Section 47, Media Rules, 2015.

²⁰⁷ Section 42, Media Rules, 2015.

²⁰⁸ Nyein, N. (23 September 2014). Burma's government to bring defamation charges against two publications. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/burmas-govt-bring-defamation-charges-2-publications.html>

Table 5: Complaints written to the Complaint Resolution Committee²⁰⁹

Individual or Organization Filing the Complainant	Number of Complaints by Year		
	Oct. 2012 - 2013	2014	2015
Hluttaw(Myanmar Parliament)	1	0	0
Ministry of Information (MOI) or other government body	10	13	7
Private companies, organizations or individuals	35	46	50
Political parties	2	2	1
Total complaints received	48	61	
Total complaints received	30	39	29

A Broadcasting Law was passed in August of 2015, which will establish the Broadcast Authority and Broadcast Council as the regulatory bodies overlooking the broadcasting industry. Once formed, the council will be responsible for adopting a broadcasting Code of Conduct²¹⁰ and developing internal procedures for investigating and processing alleged violations of the Code.²¹¹ At the moment, no mechanism exists for processing grievances in the broadcasting sector. The Council will also bring about a greater degree of independence in the regulatory system than what has been seen in the past. Although the Authority is composed almost entirely of government officials and cannot be considered independent, its role is primarily technical in nature and related to the broadcasting industry's integration into the wider telecommunications regulatory framework. The real power in this regulatory system rests with the Council, which will be composed entirely of civilians. The Broadcasting Law also states that professional and civil society organizations will be encouraged to participate in the nomination process of Council members. The final appointment of Council members is decided by the president, but only after the list of nominees has been published and the public has had a chance to provide feedback.²¹²

It is yet to be seen how regulation of the broadcast industry will be managed between the NMNC, the Broadcasting Council and the Authority. It is important that the yet to be developed Broadcasting COC is drafted in such a way as to ensure harmonization with the COC for the media. For example, it might be advantageous to limit the scope of the Broadcasting COC to broadcast specific issues not directly addressed by the other COC.

²⁰⁹ Data provided by MMMC Office, 10 February 2016.

²¹⁰ Section 15(c) Broadcasting Law, No. 53/2015 dated 28 August 2015.

²¹¹ Section 78(b) and 79 (ibid).

²¹² Section 9 and 11 (ibid).

3.8 Media displays culture of self-regulation

The removal of prior censorship in January 2013 took with it a high degree of government regulation over the media industry. This development was full of both opportunity and risk for print media houses. Although print media houses could now publish whatever content they wanted, they could still face criminal sentencing from a number of outdated laws, which restrict freedom of expression (see indicator 1.10). On one end of the spectrum, some print media responded by self-censorship. On the other end, some media houses began producing sensationalist news. The removal of prior censorship also led to a proliferation of daily newspapers, which greatly increased the plurality of print media. In this unbridled and expanding media industry there was immediate need to establish a proper means of self-regulation which promotes unbiased, quality news reporting.

This need led to the establishment of the (I) MPC and subsequently the MNMC as a regulatory body. The MNMC was recently formed and has yet to gain widespread support from the media industry. Fieldwork has revealed that many of the media houses based outside Yangon viewed the (I) MPC as a quasi-independent body with close ties to the government. It is likely that they see its predecessor in much the same light.²¹³ The MNMC must make an effort to strengthen its relationship with non-Yangon based media if it is to be a truly legitimate regulatory body.

Media self-regulation also requires a system for processing public complaints against media houses. On an industry level, the CRC exists as a grievance mechanism. On an individual business level, some large media houses have their own COC and written editorial guidelines. Most small and medium-sized media houses follow informal guidelines for ethical reporting and addressing grievances. Most of the media houses interviewed during research stated that they receive complaints by phone, but there is no standardized system for how to address these complaints. As with many other indicators in this assessment, there is a significant difference between Yangon-based media and media located elsewhere in the country. In general, Yangon-based media are larger entities with greater financial assets, better trained journalists and more standardized internal systems for handling grievances and promoting fair and balanced reporting.

In a media environment with effective mechanisms for self-regulation, journalists and media houses can freely write and publish information in the public's interest. There should be no fear of reprisal, so long as what is published is unbiased, factual and does not unduly injure the reputation of individuals. Journalists and media houses have no need to self-censor in such an environment. This is not the case in Myanmar. In the absence of government prior censorship, a culture of self-censorship exists within some media houses. Although previously taboo topics

²¹³ Fieldwork for this assessment was conducted prior to the creation of the MNMC; hence, researchers were only able to capture the views and opinions of non-Yangon based media towards the (I) MPC.

such as land grabbing, ethnic conflict and corruption are now receiving some news coverage, many cases still go unreported (see indicator 3.14).

The media industry in Myanmar can be seen as one in transition. Some of the building blocks for effective self-regulation are in place, but a 'culture' of self-regulation has yet to develop. The mechanisms currently in place for self-regulation cannot yet ensure the quality of reporting.

D. Requirements for fairness, balance and impartiality

3.9 Effective broadcasting code setting out requirements for fairness, balance and impartiality

Since a broadcasting code does not yet exist, this indicator cannot be applied.

3.10 Effective enforcement of broadcasting code

Since a broadcasting code does not yet exist, this indicator cannot be applied.

E. Levels of public trust and confidence in the media

3.11 The public displays high levels of trust and confidence in the media

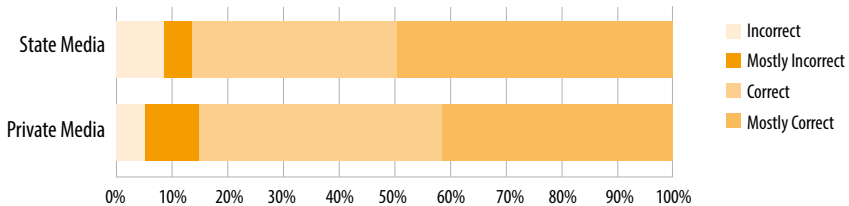
To better understand the public's perception of the media, the MDI Assessment conducted 33 focus group discussions (FGD) in three states and four regions with the general public. These FGDs spanned both rural and urban populations. Some were segregated by gender while other groups were mixed. The research also commissioned a nationally representative survey regarding access to and perceptions of the media. Interestingly, the results from the survey first appeared to contradict the findings from the FGDs. In general, quantitative findings from the survey point towards a relatively high degree of trust in the media, while qualitative findings from the FGDs point to the opposite.

Survey respondents were asked to what extent they agreed with the following two statements:

I trust state media.

I trust private media.

The majority of respondents in the survey stated that they trust both state and private media to a fairly equal degree. For state media, 87 per cent of respondents indicated the statement was either "correct" or "mostly correct" compared to 85 per cent for private media.

Chart 1: Trust in the Media (n=1020)

Similarly, a recent public opinion poll conducted by DW Akademie and CFI on behalf of MRTV found that 60 per cent of the population saw MRTV as a credible and trustworthy news source. At first glance, the quantitative research points towards a moderate level of public trust and confidence in the media.

However, quantitative findings can often prove misleading when dealing with subjective topics such as trust. Qualitative research is necessary to uncover subtle nuances in the publics' understanding of survey questions, specifically regarding terminology. Respondents in FGDs noted a high level of 'trust' in the media; however, they interpreted 'trust' in the sense of 'providing factually correct information'. Most FGD respondents believe the majority of information they receive from the media is accurate in a purely factual sense. However, they also felt that both state and private media are biased in their reporting. Respondents expressed the view that the media seldom provides the whole story or avoids writing about sensitive issues altogether.

State media was widely viewed as factually correct, but incomplete. Information provided is not comprehensive and only casts the government in a positive light. Furthermore, state media provides a disproportionately large amount of news coverage for formal government events and little or no news coverage of sensitive social issues such as ethnic conflict, human trafficking, extractive industries, illegal logging, etc.

"State media reports only the good news of government projects, especially news such as visiting Pagodas [Buddhist temples] or attending celebrations by high level officials."

Urban Female FGD Participant, Northern Shan State

"The news about the protests is not included in the state media. State media only publish good news, such as the construction of the bridges or roads."

Urban Female FGD Participant, Thanintharyi Region

The MRTV opinion poll cited earlier also included a series of FGDs in which respondents noted a perceived bias in state media. Other qualitative research in Myanmar regarding public perception of the state media reached the same conclusion as can be seen below.

“MRTV is regarded to be accurate (e.g. in weather forecasts) but it hardly has ‘breaking news’ or live news which is decreasing the trust level. Many consider ‘delayed’ news to be subject to censorship and some participants of the Focus Groups criticize that the selection of news is too one-sided (news that put the government into a positive light like building bridges or donating money).”²¹⁴

“...while audiences turned to state media to hear official statements from government, they felt that it often failed to provide comprehensive information – omitting facts or playing down negative events – or failed to cover stories at all.”²¹⁵

FGD participants widely believe that the private media reports more on sensitive social issues. However, they also note strong contrasting biases in private media. Participants view private media as freer than it previously was under prior censorship but still perceive strong state influence. They believe that this is due to close ties between large media outlets and the government. Some participants also perceived that the government was applying unseen pressure against journalists to censor their work. As one urban female FGD participant in Thanintharyi Region noted:

“Government surely has invisible influence on the media in a way we don’t know exactly. It might be putting pressure and making threats to the media.”

Conversely, respondents also cited the existence of sensationalist journalism with a strong anti-government slant. A perceived driver of this sensationalism is a focus by some private media outlets on increasing newspaper sales and profits.

“The state media write only for the side of government and some private media write only for the side of anti-government. The state media write only good things about the government and keep the words polite. In contrast, some private media use very rude words and are too offensive and put in a lot of personal attacks.”

Urban Male FGD Participant, Bago Region

“State media only write for the government side while private media only care for profit.”

Urban Female FGD Participant, Kachin State

214 DW Akademie (2015). MRTV Perception Index. Author. Yangon, Myanmar.

215 Larkin, C. & Haung N. M. (2014). Citizen engagement in Burma: Trends, barriers and the role for Media. BBC Media Action. Myanmar, Yangon.

There was also a general consensus among participants that news from rural areas is underreported. They believe this is due to journalists' limited access to more remote areas; hence less news coverage. Many respondents, even from urban areas, called for better coverage of rural news.

3.12 Media organisations are responsive to public perceptions of their work

Most print media outlets interviewed during fieldwork exercises offered some type of public opinion page (e.g. "Voices of The Community" or "Letters to The Editor", etc.) Many also had accounts on social networking websites or comments sections on their news website. This was the extent of audience engagement for most mainstream media; although, small ethnic media outlets tended to have more direct engagement with their readership. Broadcast media operates under a certain level of self-censorship and has, for the most part, been used for entertainment and education rather than news. Consequently, few programmes are aired live in which content could not be edited. This is gradually beginning to change, especially among radio stations. Many radio broadcasters now offer some kind of call-in programmes. These typically cover mundane topics such as traffic information; though, some programmes are addressing socially relevant issues. MRTV has jointly established a call-in programme with BBC Media Action called "Current Affairs". Although it is pre-recorded, this 15-20 minute programme covers a wide array of social issues in Myanmar with a specific focus on issues which affect young adults.

Media organizations interviewed showed an interest in understanding more about audience perceptions and preferences; though, few have conducted any market research to this end. Inadequate financing was cited as the main constraint. This is especially the case for print media where profit margins are slim and journals and dailies are struggling to stay afloat.

E. Safety of journalists

3.13 Journalists, associated media personnel and media organisations can practice their profession in safety

Under previous military regimes, violence against journalists, as well as repression of the media industry in general, were common place and often supported by the State. Thein Sein's quasi-civilian government took a more progressive stance towards the media industry. It removed prior censorship, and the MOI and (I) MPC drafted media laws and regulations that are more in-line with the current social context. However, the government, like any organization, is not monolithic in terms of objectives or actions. It is composed of different ministries, departments and individuals with a plurality of views and political and economic interests. Despite the reform

process, the police force, the military and the special police force known as Special Branch (SB) have continued to monitor, harass and on occasion physically attack media workers.

“The Northern Shan State Journalists Network, handled a case of a local journalist who was beaten by a motorcycle policeman while trying to reconcile between the policeman and a local man. The network sent a report to the police department. Finally the police department ended up transferring the policeman to another area... At least the case was not neglected.”

Journalist FGD, Northern Shan State

“When there was the opening of a new school, the school was actually donated [by a philanthropist]. Authorities cheated people, saying that they had been using their money to build the school, so they asked the people for money. When this news was published, the police threatened the lives of the journalists. The case was submitted to the Chief Police Officer. Then the police involved were transferred.”

Journalist FGD, Kayin State

The maltreatment of journalists seems to be more common in conflict areas such as Kachin State and Northern Shan State compared to other parts of the country. In such an environment, the military, Special Branch and the police can act with impunity. Journalists in these locations stated that the police and Special Branch regularly harass them and monitor their movements. They receive much the same treatment from various armed non-state actors in these areas.

The unchecked actions of the Myanmar Military have also led to the killing of a journalist. On 30th September 2014, journalist Aung Kyaw Naing was apprehended in Kyeikmayaw Town by the Myanmar Army's 208th Light Infantry Brigade. According to a military report, they believed Aung Kyaw Naing was working for the KKO Klohtoobaw Karen Organization (KKO), the political wing of an armed non-state actor.²¹⁶

Aung Kyaw Naing was later shot dead in military custody, after allegedly trying to escape. Given the limited information surrounding these events and the outcry from both the media and the international community, President Thein Sein requested the Myanmar Human Rights Commission to launch an investigation. The report submitted by the Commission did not address the possible signs of torture seen on the exhumed body, but it did suggest that the case should be heard by a civilian court to improve transparency. Two soldiers were court martialled in relation to the case; although, they were unconditionally acquitted by the Military Supreme Court in a November verdict. The same two soldiers gave testimony in June of the following

²¹⁶ Noreen, N. (24 October 2014). Missing journalist allegedly killed by Burmese army. Democratic Voice of Burma. Retrieved from: <http://www.dvb.no/news/missing-journalist-allegedly-killed-by-burmese-army-burma-myanmar/45384>

year in the on-going civil case under a civilian court. As these soldiers were already acquitted by the military, they could not be tried for murder by the civilian court and only appeared as witnesses.²¹⁷

Occasionally, the general public also poses a threat to journalists' safety. Since 2012, escalating religious tensions in Myanmar have led to rioting in a handful of major cities. Covering these riots has proven dangerous for reporters, as crowds do not want their actions documented. Journalists interviewed in both Lashio and Mandalay noted the hostility of these crowds. One journalist stated that he was physically threatened during the 2012 Lashio riots and his equipment was destroyed. A similar case during the Mandalay Riots was documented by Irrawaddy journalist Zarni Mann.

“As we were roughly questioned by three men wearing monks' robes, other young men, who were visibly drunk, wielded sticks and iron rods in our direction, shouting: “No more questions. Beat them up! Smash their heads!”²¹⁸

Despite the hostile environment in which many journalists operate, social protection measures are seldom provided by their employers. A few Yangon-based media houses such as the *Myanmar Times* are able to provide staff with healthcare coverage and have written policies for the safety of journalists, but this is not the industry norm. Many journalists are afforded little or no protection by their employer due to financial limitations. Small media houses lack the financial resources to cover basic transportation costs for their journalists or provide them with equipment, let alone provide them with healthcare.²¹⁹ To avoid sending journalists to dangerous places and to save on a budget, many small print media houses reprint stories from other papers.²²⁰

It should be noted that the safety of media personnel varies depending on the geographic location. Media workers based in Yangon enjoy a relatively safe environment. Although harsh laws restricting freedom of expression still remain a threat, direct physical assault is less common. Since the lifting of prior censorship, media houses in Yangon also enjoy a relatively free operating environment. The research only uncovered one case in which a journal was shut

²¹⁷ Mang, L. M. (25 June 2015). Soldiers tell how they killed journalist, as hearing ends. MyanmarTimes. Retrieved from: <http://www.mmtimes.com/index.php/national-news/15203-soldiers-tell-how-they-killed-journalist-as-hearing-ends.html>

²¹⁸ Mann, Z. (8 July 2014). In Mandalay, violent threats against those trying to report on riots. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/mandalay-violent-threats-trying-report-riots.html>

²¹⁹ FGD with journalists in Mandalay, Lashio, Hpa-An, etc. as well as KIs with editors of various print media.

²²⁰ (ibid).

down by the government. This was due to publishing fictitious content.²²¹ There was also an isolated incidence in June 2014 in which the Special Branch police interrogated the editors of six Yangon-based newspapers regarding their finances.²²²

3.14 Media practice is not harmed by a climate of insecurity

Before the removal of prior censorship, sensitive issues were not covered in the media. Some previously taboo subjects include: land grabbing, drug trafficking, the extraction of natural resources, child soldiers and the military. Articles covering these issues can now be seen in print media, but discussions with journalists and editors revealed that many cases still go unreported. They also noted the high level of sensitivity with which they must handle stories regarding religious tension between Muslims and Buddhists. These pressures often lead to self-censorship within the media.

“Those drug traders are very dangerous for the media personnel. Reporters dare not cover the news of these drug traders.”

Journalist FGD, Mandalay

“In one case of attempted rape by a soldier, the army pressured us not to publish the news. Even the victim girl phoned that she doesn’t want the news to be released, so finally the news was left unpublished.”

Chief Editor, Journal in Bago Region

“Some editors do not want to describe the news about military such as kidnapping local ethnic people for military servants.”

Journalist FGD, Northern Shan State

²²¹ The Bi Mon Te Nay Journal ran a front page story stating that opposition leader Aung San Su Ski had formed an interim government. This is factually incorrect. The journal was shut down and the three journalists and two owners were sentenced to two years in jail under Section 505(b) of the Penal Code. Zaw, N. (October 16 2014). Court sentences three journalists and two media owners to two years in prison. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/burma/court-sentences-3-journalists-2-media-owners-2-years-prison.html>

²²² Mon, K. H. (23 June 2014). Burma’s Special Branch investigates finances of news journals. Retrieved from: <http://www.irrawaddy.org/burma/burmas-special-branch-investigates-finances-news-journals.html>

Chapter 3 Recommendations

- Media houses should include diversity and gender mainstreaming initiatives in their employment practices. International media development organizations should provide media houses with technical support to this end.
- International media organizations should continue to provide on-going technical and financial assistance where appropriate to ethnic minority media outlets.
- A trust fund for establishing community radio should be set up to provide financial support and seed capital to applying communities. Funding should be managed by an organization that is neutral and independent from political and economic interests.
- The government should channel revenue from commercial tax on the media into the aforementioned trust fund for community broadcasters.
- International media organizations should conduct extensive media sensitivity programming with the military and police so that they know how to properly engage with the media.
- The public service remit for public service broadcasters should be defined in and protected by law.
- The drafting of both a new public service media bill and an MRTV charter must be an inclusive process with representatives from the broadcast industry and civil society. Similarly, the new law and charter should contain provisions for an open, transparent and free process for the appointments of the public service broadcasters' governing body.
- The government and media development organizations should provide adequate funding and technical assistance to the newly created Myanmar News Media Council (MNMC) in order to perform its functions as a media self-regulatory body.
- The Myanmar News Media Council (MNMC) should increase its engagement with media houses outside of Yangon to garner their support and enhance its legitimacy as a self-regulatory body for the media.
- The Myanmar News Media Council (MNMC) should create a comprehensive contact database of all existing media houses²²³ and publish the information on its website.
- The Myanmar News Media Council (MNMC) should review the media Code of Conduct adopted by the Interim Myanmar Press Council (I) MPC by involving wider participation from media houses across the country and actively promote its use by media professionals.
- The Broadcasting COC should be drafted in a way to ensure harmonization and complementarity with the existing COC adopted by the (I) MPC.

²²³ The Ministry of Information provided the MDI research team with a contact list of media houses as of July 2014. At the time, the list required some updating. Some of the media houses on the list have since closed down and some ethnic media houses visited during fieldwork were found missing (possibly because they were not registered with the MOI). Updating this list would be the first step in developing a comprehensive database.

The background features a complex pattern of overlapping circles, squares, and lines in various shades of blue and white. A prominent horizontal orange band spans the width of the page, partially overlapping the text.

Category 4:

Professional capacity building and supporting institutions that underpin freedom of expression, pluralism and diversity

Category 4:

Professional capacity building and supporting institutions that underpin freedom of expression, pluralism and diversity

A. Availability of professional media training

4.1 Media professionals can access training appropriate to their needs

The recent proliferation of new media houses in Myanmar has exacerbated an already existing skills deficit within the industry. Many young and eager journalists have swelled the ranks of both old and newly established media houses. The Myanmar Journalism Institute (MJI) estimates a total of 4,000 journalists in Myanmar, many of which are not veteran news professionals.²²⁴ A Media Training Needs Assessment²²⁵ further highlights the lack of experienced journalists. Out of 328 journalists in the sample, 28 per cent had less than two years working experience in the media field and 51 per cent had three to six-years working experience. It is also worth noting that the proportion of female journalists with under two years of experience (34 per cent) is more than double the proportion of female journalists with seven or more years of experience (15 per cent). This indicates that either more females are becoming journalists than in the past or a large percentage drop out of the industry after a few years.

²²⁴ The estimate of 4,000 journalists does not include other media workers or journalists from state-owned media. The figure has been widely discussed and generally supported by media experts, but exact figures do not exist, nor does a generally accepted definition of 'journalist'.

²²⁵ DW Akademie and CFI (2015). Training Needs Assessment for Journalists in Myanmar. Yangon, Myanmar.

Table 6: Myanmar journalists by years of experience²²⁶

Number of Years working as Journalist	Total(n=328)	Female(n=119)	Male(n=209)
Less than 2 years	28%	34%	25%
3-6 years	51%	51%	51%
7 years +	21%	15%	24%
Total	100%	100%	100%

During interviews, many experienced journalists noted that they lack comprehensive training. Most have had to learn on-the-job and build their professional acumen by piecing together a sundry array of short-term workshops. All media houses interviewed agreed that more training is needed at all levels. The Training Needs Assessment had similar findings. Thirty-six per cent of media houses stated that all their employees need more training regardless of position or experience, and all media houses in the sample were in need of some training. There is also a need for a wider array of training across all fields of media operations. Not only does a large proportion of media houses desire training for journalists (92 per cent) and editors (64 per cent) but also producers, technicians and managers at 28 per cent, 38 per cent and 26 per cent respectively.

Table 7: Level of staff that needs training²²⁷

Level of staff needing training	% (n=50)
Junior (under 2yr)	56%
Experienced (3-6yr)	28%
Senior Staff, Heads	4%
All of them	36%
None of them	0%

²²⁶ This table is extracted and reformatted from: DW Akademie and CFI (2015). Training Needs Assessment for Journalists in Myanmar. Yangon, Myanmar.

²²⁷ These tables are extracted and reformatted from: (ibid).

Table 8: Type of staff that needs training

Staff that needs to be trained	% (n=50)
Journalists	92%
Producers	28%
Technicians	38%
Editors	64%
Managers	26%
Marketing Staff	4%
Translator	2%

The media training industry in Myanmar is small and ill-prepared to meet the needs of media houses. Suppression of the media by previous governments resulted in many journalists going abroad. This fact, paired with the lack of an academic journalism programme prior to 2008 has meant that there are few experienced or academically trained journalists in the country to provide training. Consequently, some of the first media training initiatives for Myanmar journalists in recent history were provided along the Thai border. Internews played a large part in this process by opening the ‘J School’ in 2004 to train Myanmar journalists in Chang Mai, Thailand.²²⁸ Many of the students from J School later returned to Myanmar to provide unofficial training exercises to media workers. Myanmar EGRESS, a non-profit organization, and the Yangon Journalism School were able to provide training courses in-country under the previous military regime. In 2008, Myanmar EGRESS began offering a mass communication course. The Yangon Journalism School started providing training courses as early as 2003.²²⁹

In the past couple of years, new training institutes have appeared, ranging both in terms of formality and size. Some ‘institutes’ consist of only a few well-seasoned journalists who take it upon themselves to train the new generation of journalists. They travel across the country to provide much needed basic journalism training in rural areas. Given the limited purchasing power of journalists and most media outlets, training events are often financed out of the trainers’ own pocket at little or no costs to the trainees. These trainings lack formality and regularity and are dependent on the work schedules of the journalists.²³⁰

²²⁸ Internews (2014). Internews impact report: Fostering a professional, inclusive media in Burma. Author. Retrieved from: https://www.internews.org/sites/default/files/resources/Internews_MYANMAR_2014-02.pdf

²²⁹ Interview with the editor of the Voice Journal and former Trainer at Myanmar EGRESS 7 July 2014. It should be noted that EGRESS no longer offers a mass communication course. Interview with the director and chief trainer of the Yangon Journalism School, 1 July 2014.

²³⁰ Interview with the project manager, Fojo Media Institute, 5 June 2014.

On the other end of the spectrum, some larger training institutes exist with a formal training curriculum. While most institutes provide basic journalism courses of three to ten days in length, the few larger institutions that do exist offer a range of more specialized courses such as conflict sensitive journalism and electoral reporting. Occasionally media INGOs conduct thematic workshops at these institutes. Topics have included: media management, human rights, news room management, investigative journalism and other subjects.

According to data from the Training Needs Assessment, a small to moderate proportion of journalists has attended courses that cover online reporting and blogging. This is particularly relevant, given that a growing number of young people in Myanmar get their news from social networking sites (see indicator 5.2). Unfortunately, social networking sites and blogs have become a spawning ground for anti-Muslim hate speech in Myanmar. Moderate and unbiased online reporters are urgently needed to improve the quality of the online media environment. Although training institutes note the importance of teaching web-based reporting skills, trainers often cite lack of adequate technology as a significant obstacle (i.e. computerized classrooms).

Limited training exists for specific reporting disciplines such as economics, law, health, education, etc. The weak state of public education within Myanmar is a significant factor for the pervasive lack of technical know-how in these fields. Although the government of Myanmar has dramatically increased its education budget in the past few years, government education expenditure in Myanmar still remains the lowest in ASEAN as a per cent of GDP.²³¹ In addition, tertiary education suffered under previous military governments. After the 1988 student uprising, many universities across the country were shut down. The university system has been quasi-operational since that time, facing periodic closures and openings. The urban campus of Yangon University was the centre of the protests in 1988 and only reopened in 2013.²³² Throughout this period a system of distance education was promoted, which relied heavily on rote learning²³³.

Filling these knowledge gaps requires intensive training over a long timeframe, which the media training industry is ill-prepared to do both in terms of skill set and financing. Proper knowledge of reporting disciplines within the media industry will likely depend on the gradual improvement of the education system in Myanmar. Similar sentiments were expressed by the editor of a prominent Yangon-based Journal.

²³¹ Robertson, B. (2014). Overview of the Myanmar Budget. Yangon: Action Aid Myanmar.

²³² Associated Press (4 December 2013). Undergrads return to crumbling Burma university. Author. Retrieved from: <http://asiancorrespondent.com/116818/undergrads-return-to-crumbling-burma-university/>

²³³ (ibid)

“If you want to upgrade the journalist’s capacity, you have to upgrade the whole education system. It’s sometimes not about the craft... It’s the content; the field they cover. It takes time [to learn]. For example, there are business journalists that know nothing about economics... and there are journalists that are covering political issues, but they don’t know proportional representation or first past the post... I guess it is more to do with the subject matter than the craft.”

While editors and journalists note the importance of developing journalists’ specialized knowledge in the long-run, most have stated that basic journalism training is the most immediate and primary need of the industry. This view is reflected in the findings of the Training Needs Assessment, with 38 per cent of media houses stating that basic journalism is the most needed training. This was followed closely by “How to write news” and “(Basic) Spoken English Course” at 34 per cent and 28 per cent respectively. In both interviews and workshops, media managers cited a need for broadcast and online journalism. They attribute this need to the fact that a large majority of the population sources its information from TV and radio broadcasts and increasingly the Internet (see indicator 5.2). They also cited training on conflict sensitive reporting as a necessity.

Unfortunately, the significant need for media training does not necessarily translate into market demand for media training courses. Journalism in Myanmar is far from being a lucrative occupation, with many journalists supplementing their income through other work. This is particularly the case for journalists employed in small, rural media houses. Consequently, journalists and media workers can seldom afford to pay for media training courses. In addition, most print media outlets in Myanmar are making either slim profit margins or operating at a loss. Though there is consensus among media houses that training is needed, they have not prioritized spending to this end. Eighty-six per cent of media houses in the Training Needs Assessment stated that they do not have a budget for training.²³⁴

Given the limited purchasing power of media workers and media houses, the large majority of training institutes within Myanmar receive financing from international donors. Hence, training events are usually provided either free of charge or at a subsidized price to participants. Although necessary at this stage, dependence on donor funding leads to uncertainty in training regularity and can drive the agenda for training courses, rather than training needs.²³⁵

²³⁴ The sample taken was for Yangon media houses only. In general, media houses outside Yangon are much smaller, with very limited human and financial resources. It is likely that most, if not all of non-Yangon based media lack a budget for training.

²³⁵ Interview with the editor of the Voice Journal and former trainer at Myanmar EGRESS, 7 July 2014.

“The journalist short-term courses are based on the ‘pop-up issues’... There are some conflicts, then OK we should provide conflict sensitive journalism training. Sometimes they follow the popular trend. Sometimes it might not be the real issue.”

Editor of a Prominent Yangon-Based Journal

While media houses and journalists welcome more free and subsidized training in principle, several disincentives limit its widespread uptake. Most media houses already operate with limited human resources. It is difficult for them to give journalists time off work to attend training events.

This is especially the case for smaller media houses, which may only employ a few journalists. Consequently, most training courses are short-term and last one week or less. Internews offers a longer, three-month course but filling the class has proven difficult at times.²³⁶

Geographic distance and associated costs are additional disincentives to attending training events. The wide majority of training courses are offered in the country's economic capital, Yangon. Focus group discussions (FGD) with journalists based elsewhere in the country indicate that attending training in Yangon is expensive not only in terms of travel and accommodation but also in time. Poor infrastructure in Myanmar makes travelling to Yangon a long and arduous process, particularly when coming from the far north of the country.

Media houses are also hesitant to invest in staff when returns are not guaranteed. Data from the Training Needs Assessment shows considerably high employee turnover within the media industry. These rates are higher in smaller media houses. It is not uncommon for unskilled media workers to start off in smaller media houses and then move to better-paying jobs at larger media houses after receiving training.

A lack of information about training courses is another obstacle faced by rural media houses. Information about training is generally shared through the personal networks of journalists and media managers in Yangon and it is difficult for media houses elsewhere in the country to tap into these networks. The Myanmar News Media Council (MNMC) and journalist associations could play an important role as an intermediary or knowledge sharing platform in this regard. This could entail the creation of online platforms for information sharing. For this to come to fruition, a proper stock take of all existing media houses would first be needed in order to create a comprehensive contact database.²³⁷

²³⁶ Interview with the project director of Internews Myanmar, 26 June 2014.

²³⁷ The Ministry of Information provided the research team with a contact list of media houses as of July 2014. At the time the list required some updating. Some of the media houses on the list have since closed down and some ethnic media houses visited during the fieldwork were found missing (possibly because they were not registered with the MOI). Updating this list would be the first step in developing a comprehensive database.

Some training institutions have taken steps to reach out to more remotely-based journalists. The Yangon Journalism School and the Myanmar Journalist Network have provided on-site training in a handful of state and regional capitals. Alternatively, some training institutions such as Internews award scholarships to cover the travel expenses and accommodation of trainees attending from outside Yangon. BBC Media Action provides distance training via an online portal and a journalist mentorship programme. The target market for these online trainings is rural, freelance journalists.²³⁸ While this has not been without success, slow internet connectivity in Myanmar continues to be a challenge.

In regards to gender balance, there appears to be little bias against women participation in media training. Training institutes interviewed stated that women account for approximately half of all trainees.²³⁹ Other research has noted that a small bias may persist in some media houses, which prioritize sending men to trainings instead of women.²⁴⁰ Minority groups are also present in media training events, though they appear to be generally underrepresented. This is not so much a matter of ethnic bias towards the Bamar majority but rather a matter of training location. Ethnic minorities traditionally hail from remote areas of the country. Furthermore, the vast majority of training courses are offered in either Burmese or English. There are seldom enough potential training participants from a specified ethnic group to justify conducting a training event in Yangon in an ethnic language.²⁴¹

The majority of media houses interviewed conduct some sort of in-house training, although this varies widely in terms of formality and length. Only large, well-established media houses are able to provide quality training to their staff. For example, the *Myanmar Times* provides a two-month long training course for new staff. Smaller media houses spend only a few days on in-house training or new staff simply learn on-the-job.

4.2 Media managers, including business managers, can access training appropriate to their needs

Opportunities for media managers to receive training are few. Fojo Media Institute has occasionally run training courses on news room management. However, the research did not discover any training institutes which offer media management training on a regular basis. Even senior editors of well-established journals stated that they could substantially benefit from attending newsroom management training. This is particularly important given the current

²³⁸ Interview with BBC Media Action, 17 July 2014.

²³⁹ Most training institutes do not keep accurate records of trainee numbers, gender or ethnicity. The views expressed here are rough estimations by the training institutes.

²⁴⁰ Article 19 (2015). Censored Gender: Women's Right to Freedom of Expression and Information in Myanmar. Author. Retrieved from: <https://www.article19.org/resources.php/resource/38032/en/country-report-censored-gender>

²⁴¹ Interview with the project director of Internews Myanmar, 26 June 2014.

media business environment. The dropping of pre-censorship in 2013 brought with it a wave of new daily newspapers. Many of them have already closed due to limited market demand and stiff competition from state-owned print media. Properly trained managers could potentially keep more media houses in business and the industry more diverse. A course should also be specifically tailored for small, remotely-based ethnic media. They tend to have limited operation capacity and face a different set of challenges than larger media houses.

Media managers also need training on how to manage online media and advertising. Although, many media houses in Myanmar already have a website or Facebook page, most media managers admitted that they do not know how to make online media profitable.²⁴²

4.3 Training equips media professionals to contribute to democracy and development

For the time being, the majority of training events within the country cover basic journalism skills. Many of these training courses touch tangentially on subjects such as human rights or democracy but do not go into great depth. International media development organizations such as Internews and International Media Support (IMS) often fund thematic training events related to democratic principles (e.g. human rights, representation of marginalized groups, etc.). However, these training events do not occur on a large scale or on a regular basis. Myanmar EGRESS was a notable forerunner in providing training on democracy and human rights. The title 'mass communications course' is actually a misnomer for the training provided. Under the previous military government in 2008, Myanmar EGRESS could not title courses with politically sensitive words such as 'human rights'. The mass communications course had a strong focus on human rights and democratic principles as do many of the other courses that they continue to offer.²⁴³ Although the mass communications course has since ended, many of the original participants are currently active journalists in the media.

Training on electoral reporting was also conducted in the run-up to the 2015 national elections. This required a consolidated effort between international organizations, the Interim Myanmar Press Council and CSOs. International organizations would often play a coordinating role and provide training of trainers (TOT) in electoral reporting to CSOs and media associations. For example, the Asian Network for Free Elections (ANFREL) provided TOT to 18 CSOs and media associations in the run-up to the elections. Training courses were given in several locations across the country to regional CSOs such as; the Kyauk Me Development Association, the Yangon Irrawaddy Farmers Institute, and the Tedim Youth Fellowship, to name a few.²⁴⁴

²⁴² DW Akademie and CFI (2015). 'Training needs assessment for journalists in Myanmar'. Yangon, Myanmar.

²⁴³ Interview with the editor of the Voice Journal and former trainer at Myanmar EGRESS, 7 July 2014.

²⁴⁴ Asian Network for Free Elections. (n.d.). ANFREL TOT-level 1 and 2. Retrieved from: <http://anfrelmyanmar.org/anfrel-tot-level-1-2>

In general, ethics constitute a large part of basic journalism training. Even small media houses with informal in-house training courses stated that they teach new reporters the basic 'do's' and 'don'ts' of journalism. There seems to be a general understanding throughout the industry that it is unethical to take gifts or reveal sources. Risk awareness was covered to some extent in conflict-sensitive journalism training.

B. Availability of academic courses in media practice

4.4 Academic courses accessible to a wide range of students

The National Management College's department of journalism offers students a four-year bachelor of arts in journalism. It is the only academic institution in Myanmar to offer a degree in media. Most course materials are provided in English, but the language of instruction is Burmese. The NMC is a state-run entity, operating under the Ministry of Education (MOE). The hierarchical nature of the MOE, paired with previous regimes' efforts to control the media, greatly limited the journalism department's scope of activities in the past. Formal coordination with the media industry was kept to a minimum, creating a large gap between academic theory in the classroom and the pragmatic skills needed in the workplace. Furthermore, the country's previous policies made partnering with foreign universities an impossibility.

The NMC's department of journalism has evolved rapidly over the past few years, becoming a veritable lightning rod for capacity building initiatives by international media organizations and foreign universities. UNESCO has played a significant role in supporting the NMC and strengthening its reputation. The current syllabus for the journalism degree was developed in cooperation with UNESCO and adapted from the UNESCO Model Curricula of Journalism Education. In addition, this MDI Assessment has been conducted in tandem with the department of journalism to promote media research within the institution. Under the Thein Sein government, the department of journalism has also been allowed to collaborate with foreign academic institutions. Both students and lecturers from the department have participated in study trips abroad and have also played host to foreign university students and faculty visiting Myanmar. The department has also improved ties with the media industry. Now, it is not uncommon to see experienced journalists and editors providing guest lectures.

Despite these positive developments, challenges remain. The department is chronically underfunded, charging students only 135,000 Kyat (USD104) per year in tuition fees.²⁴⁵ The department lacks the budget to afford adequate technical facilities and equipment for online media and broadcasting courses. It has no TV or radio studio, and audio-visual equipment is limited to a few cameras. The department can do little to change this situation as tuition

²⁴⁵ Exchange rate as of 1 January 2016 (USD1 = 1,301 MMK).

rates and its budget are decided by the MOE. In addition, the lecturers in the programme are employees of the Ministry of Education.

Although they have been tasked with teaching journalism, they come from different academic backgrounds and lack work experience in the media industry. They are climbing a steep learning curve.

Box 3: A financially feasible broadcast training model

The Myanmar Media Development Centre (MMDC) is one of the few institutions within Myanmar to provide technical broadcast training. MMDC has up-to-date audio-visual and broadcasting equipment as well as both national and international staff.

MMDC offers a 10 month Diploma in TV Broadcasting. This includes six months of classroom-based work and four months of studio-based, hands-on learning. MMDC also offers individual courses covering technical broadcasting skills. These include: digital video editing, professional graphic design, fundamentals of the audio profession, vocal training, and a taste of scriptwriting.²⁴⁶ Although the broadcasting diploma does include a section on journalism, the course focuses mainly on the technical aspects of broadcasting.²⁴⁷

Course fees and admission fees for the diploma course total 2,100,000 MMK (USD1,614).²⁴⁸ While this cost is substantially higher than the fees charged at other training institutes, there is still significant demand for this course. This could be due to the fact that the programme often leads directly to employment. MMDC is a joint-venture company by the Forever Group and MRTV. Many of its graduates go straight into employment for MRTV4, which has its main office located on the adjacent compound.

Recognizing the limited supply of academic courses in the media field, a consortium of international donors and 39 local media organizations established the Myanmar Journalism Institute (MJII) in May 2014. Although the MJII is not an academic institution in the traditional sense, it does offer a ten-month diploma in multi-media journalism. The language of instruction is both Burmese and English. This programme is offered to individuals who are new to the media industry as well as media professionals who want to improve their skills through additional training. Tuition is USD800 per year, although, all of the current students have received full-scholarships to accommodate the limited purchasing power of journalists and media houses. It is anticipated that scholarships will be phased out over time as the media industry matures

²⁴⁶ Myanmar Media Development Centre (MMDC) Course Syllabus (2015).

²⁴⁷ (ibid).

²⁴⁸ Exchange rate as of 1 January 2016 (1 USD = 1,301 MMK).

and the reputation of MJI grows. Apart from its diploma programme, MJI also offers a variety of training courses and workshops to media workers. Since July 2014, MJI has provided some form of training to nearly 500 journalists.²⁴⁹ At the moment, MJI has campuses in both Yangon and Mandalay with long-term plans to open two more campuses in the East and West of the country. Although the MJI receives financial and technical support from a donor consortium, it is for all intents and purposes a local institution. The governance structure of the MJI is designed to be independent from donor organizations and managed by the media industry.²⁵⁰

Both MJI and the NMC's department of journalism address a significant need for academic training in a burgeoning media industry and will likely continue to mature alongside it in the years to come. At the time of writing, there were 154 students enrolled in the NMC's department of journalism and 19 in the MJI's diploma course. In a country with a population of 51.5 million people, these two institutions alone cannot adequately satisfy the need for academic media courses.

4.5 Academic courses equip students with the skills and knowledge to contribute to democratic development

The syllabus for the department of journalism's degree programme was developed in coordination with UNESCO. As such, the syllabus mirrors that of most internationally accredited journalism programmes covering such topics as media law and ethics, human rights, democracy and the rights of the citizen. The curriculum also includes specialized courses such as economic reporting, public affairs, environment and health, political science, etc. Courses also incorporate components of the modern communications environment including the use of audio-visual equipment and new online technologies. Unfortunately, a lack of adequate technical equipment limits the efficacy of some courses. Classes covering internet reporting and broadcasting are mostly theoretical in nature.²⁵¹ The MJI syllabus is similar in composition, though with fewer classes given its shorter time frame. Its close ties to the media industry also promote a fair degree of hands-on training for students.²⁵²

It should also be noted that topics such as media policy and media literacy are highly relevant in the rapidly evolving media environment. The (I) MPC and some INGOs have provided short training courses on media policy, but media policy and media literacy remain absent from academic curricula.

²⁴⁹ Myanmar Journalism Institute Factsheet (2016).

²⁵⁰ For more information, see MJI's Articles of Association: <http://www.mjimyanmar.org/?cat=11>

²⁵¹ Chau, Y. (2013). Enriching the Journalism Program of the National Management College. University of Philippines, UNESCO, Paris, France.

²⁵² Interview with project manager of the Fojo Media Institute, 18 February 2015.

C. Presence of trade unions and professional organizations

4.6 Media workers have the right to join independent trade unions and exercise this right

On 20 July, 2014 President Thein Sein signed into law a new Associations Law thereby simultaneously repealing the highly oppressive 1988 Associations Law. The new law permits the formation of not-for-profit organizations such as media associations and unions. To become registered, an organization must submit an application for a registration certificate to a registration committee at the township, district, State or union Level. Registration is valid for five years, after which time it may be renewed at no additional cost. The Law stipulates that registration committees are to be formed entirely by government officers, meaning that these committees are, by definition, not independent from government. In addition, the criteria for accepting or rejecting applications is not stated in the law; thereby granting the committee wide discretion in the approval process. The law is still a considerable improvement on its predecessor. Most notably, it lacks criminal penalties for being a member of an unregistered association and does not restrict local associations from affiliating with global unions. Under the law, registered associations are also allowed to take industrial action, such as labour dispute resolution on behalf of their members.²⁵³

At present, three large membership-based journalists' associations exist in Myanmar; the Myanmar Journalists' Association (MJA), the Myanmar Journalists' Network (MJN), and the Myanmar Journalists' Union (MJU). MJA is the largest of the three with approximately 1,000 members. It is also the oldest, founded shortly after the country's independence as the Burma Journalist Association under the U Nu government. During subsequent regimes it was restructured as the Myanmar Journalist and Writers' Association and under the management of the Ministry of Information.²⁵⁴ In 2013, the association became an independent entity; although, many journalists still perceive it as linked to the government.²⁵⁵ Upon becoming independent, the association split into the Myanmar Writers' Association and the Myanmar Journalists' Association. On an international level, the organization is affiliated with the International Federation of Journalists (IFJ).²⁵⁶

²⁵³ The Associations Registration Law was recently enacted. Many associations remain unregistered.

²⁵⁴ Interview with MJA Secretary-2 and MJA Head of office, 22, February 2015.

²⁵⁵ This view was widely held by journalists and media managers interviewed during fieldwork.

²⁵⁶ As of 2013, PEN International has also been active in Myanmar. Su, C. (20 October 2013). Myanmar takes up PEN. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/lifestyle/8523-myanmar-takes-up-pen.html>

By contrast both the MJN and MJU are younger, smaller associations. The MJN was established in 2011 and consists of approximately 300 members.²⁵⁷ In general, MJN members are young journalists that have recently joined the industry. Many have previously worked in the field of civil society. The MJU consists of approximately 230 members. It was established in 2012 by activists and media workers who were part of the 88' generation.²⁵⁸ Many of its members are politically active, senior journalists.²⁵⁹

The combined membership of these three associations represents only a proportion of the estimated 4,000 journalists in Myanmar. In the Training Needs Assessment, 27 per cent of respondents stated that they are members of a journalist's association. It should also be noted that membership is not mutually exclusive, with some journalists joining more than one association. Many of the journalists registered as members in these associations are not active.²⁶⁰ Although most media houses are receptive towards these associations, some discourage their journalists from taking leadership roles in associations or forbid them from joining entirely.²⁶¹

Apart from journalist associations, a Myanmar Broadcasting Association (MMBA) was also formed in December of 2015. So far, the association has 15 broadcasters as members.²⁶² It also has plans to include broadcasters that are not officially recognized by the State as associate members.²⁶³

4.7 Trade unions and professional associations provide advocacy on behalf of the profession

The MJA, MJN and MJU should not be understood as journalist unions in the traditional sense because they do not undertake all of the functions of a union. Most notably, they do not involve themselves in labour dispute resolution between media workers and media houses. At this stage in their development, it is better to view them as membership-based associations which broadly support the interests of the media industry. They also serve as useful networks for information sharing among journalists. According to the CEO of an ethnic media outlet in Chin State:

²⁵⁷ Interview with general-secretary of the MJN, 21 September 2014.

²⁵⁸ In 1988, university students staged mass protests across the country, calling for the end of the Ne Win socialist regime. The protests were violently put down. Many of the students were killed or jailed, while others fled the country or joined rebel groups. Students from this era are generally referred to as the "88 generation". Many of them continue to play a leading role in Myanmar's civil society.

²⁵⁹ Interview with Founder of MJU, 19 February 2015.

²⁶⁰ Interviews with MJN, MJA and MJU management.

²⁶¹ FGD with Yangon-based journalists.

²⁶² Member of MBA, MDI Validation Workshop, 19 January 2016.

²⁶³ (ibid).

“The reason journalists join MJN is to extend their network and to get more information, since MJN usually shares news and sources to (sic) its members. I think current trade unions still need to do a lot to be powerful organizations. I think they are still only at the level of releasing statements on some issues.”

In the past few years, MJA, MJN and MJU have facilitated protests against the criminal sentencing of journalists.²⁶⁴ These associations also serve as a mechanism through which the needs of the industry can be voiced to higher levels of government. Some of the board members from these associations also sat on the (I) MPC, resulting in the associations’ indirect participation in the drafting of media laws and policy over the past two years. Some members from journalists associations also sit on the current Myanmar News Media Council (MNMC). MJA also provides its journalists with membership cards.²⁶⁵ A means of formal identification provides journalists with a degree of credibility in the field. It also increases their chances of receiving information from government departments and other sources.

Journalists associations in Myanmar also provide journalist training both within and outside Yangon and raise awareness on media ethics. They were instrumental in supporting the (I) MPC in the dissemination of the Code of Conduct and have promoted discourse on media ethics and setting industry standards.

The operations and influence of these associations is greatly limited by financial and human resource constraints. Apart from a handful of office staff, these associations rely primarily on volunteer support from their members to carry out activities. Obtaining financing is also a challenge. Both MJN and MJA rely on donor funding, but MJU has made it a policy not to take donor funding. Both MJN and MJU collect membership fees but admit that many members do not pay them on a regular basis.²⁶⁶ Membership of the MJA is free, but this leaves the association “stuck on donor funding”.²⁶⁷ MJA also relies on donations from government and private companies, which some would argue could lead to a conflict of interest.

There is also a trust deficit between many media workers and the associations. This deficit is more pronounced for media houses based outside of Yangon. The majority of journalists and editors interviewed from these media houses believe that the associations are focused on supporting the interests of big media in Yangon and out of touch with the needs of smaller media houses. Many journalists interviewed also criticized the associations’ lack of transparency and lack of support. They also stated that some association members are not actual journalists. Criticism was most pronounced within Bago Region in central Myanmar.

²⁶⁴ MJN, MJA and MJU have protested many of the controversial rulings listed in Chapter one such as the Unity Journal Case and the Be Mon Ti Ney Case.

²⁶⁵ Interview with MJA Secretary-2 and MJA Head of Office, 22 February 2015.

²⁶⁶ According to the MJN General Secretary, MJN membership fees are approximately USD1 per month.

²⁶⁷ Interview with MJA secretary-2 and MJA head of office, 22 February 2015.

Under previous military governments, government-sponsored ‘associations’ and government non-government organizations (GONGOs) were used to exert government influence over different social and economic spheres. Scepticism is to be expected. Promises backed up by repetitive action and time will be required from these associations to garner trust amongst the various actors in the media industry.

In response to the perceived lack of representation by these associations, many regional journalist associations have recently been established. Examples include the Northern Shan State Journalists Network, the Southern Myanmar Journalists Network, and the Rakhine Journalists Network. These associations are independent entities, not branches of the MJN. Members of these associations state that they are closely involved with their members and well-aware of pressing regional issues.

However, a small membership base and limited financial means are hallmarks of these regional associations and may limit their operational capacity. A balance must be struck between the need for accurate representation and the danger of fragmentation.

4.8 CSOs monitor the media systematically

Media monitoring activities are new to Myanmar and are becoming more widespread. To date, monitoring has primarily focused on religious hate speech on social network sites and other online media. The Myanmar ICT for Development Organization (MIDO) continuously monitors online hate speech, which has become prevalent on social networking sites in the country. Relatedly, in January 2016 PEN Myanmar released a report on its findings from eleven months of monitoring hate speech in broadcast, print and social media. In December 2015, the Pandita Development Institute (PDI) – a civil society organization which promotes citizen participation and the practice of democratic principles – began a six-month project to monitor hate speech on social networking sites. PDI also currently produces news bulletins in the Burmese language, which summarize all news relating to political parties, the parliament, ethnic conflict, religious and inter-communal violence and other pertinent issues.²⁶⁸ A handful of other media monitoring activities have been conducted. Most have been one-off research initiatives rather than continuous monitoring. Some have been implemented by international organizations rather than national CSOs. The majority of output has been in the English language, particularly those produced by international organizations. Monitoring of the media’s electoral coverage was also conducted in the run-up to the national election on 8 November 2015. A comprehensive list of media monitoring activities in Myanmar is given in the table below.

²⁶⁸ Email communications with team leader and trainer for IRI and PDI media monitoring projects, 10 February 2016.

Table 9: Media monitoring activities

Year	Organization	Int'l/ Nat'l	Monitoring Activity
2013	MIDO	Nat'l	Monitoring hate speech on social networking sites (duration unknown).
2013	International Media Support (IMS)	Int'l	Monitoring of ethnic armed conflict in print media (60 days duration).
2013	Internews	Int'l	Monitoring of news coverage and frequency on religious violence, political parties, parliament, etc. in print media (six-week duration).
2014	Myanmar EGRESS	Nat'l	Content analysis of media on religious and ethnic conflict (duration unknown).
2015	European Union (EU) Election Observation Mission	Int'l	Media monitoring of election coverage in both print and electronic media (duration unknown, period prior to election).
2015	International Republican Institute (IRI)	Int'l	Hate speech monitoring of social networking sites regarding political parties, figures and arising issues (two-month duration leading up to the national election).
2015	PEN Myanmar	Int'l	Monitoring of broadcast, print and social media (11 months).
2015-16	Center for Diversity and National Harmony (CDNH)	Nat'l	The CDNH's Early Warning and Early Response Programme produces monthly bulletins and weekly situation updates that monitor hate speech on social networking sites and on-the-ground events leading to religious tension. (Running since September 2015).
2016	Pandita Development Institute (PDI)	Nat'l	Monitoring hate speech on social networking sites as a basis for the second phase of awareness and counter speech programme; (five month duration; January to May 2016). Monitoring and summarizing important news headlines on political parties, parliament, peace and conflict, human rights, and other areas to produce a monthly bulletin.

These activities should be seen as a positive development in CSO engagement with the media and a useful tool with which to inform media literacy activities. This has already occurred to some extent. MIDO has launched the Panzagar 'Flower Speech' campaign to counter hate speech and promote online media literacy. The campaign is also supported by other CSOs such as Phandeeayar. PDI's media monitoring activities is the first stage of a two stage project. The second stage will consist of hate speech awareness and counter-hate speech advocacy activities.²⁶⁹ Although a promising start, these initiatives are the first of their kind in Myanmar and have only just begun. Continued support of such activities should be encouraged. At present, media literacy activities are not widely available in Myanmar and CSOs have not increased people's understanding of the media on a large scale.

4.9 CSOs provide direct advocacy on issues of freedom of expression

Under President Thein Sein's government, legal reform has been more inclusive of civil society than previous regimes. Civil society's participation²⁷⁰ in the drafting of media law and laws that affect freedom of expression has varied. Although CSOs were kept at arm's length from the recent drafting of the News Media Law and the Printing and Publishing Enterprise Law, they did provide feedback and comments on a draft version of the Public Service Media Bill. Civil society also had a significant role in the drafting of the 2014 Law Relating to the Formation of Organizations. The draft law stipulated criminal penalties for belonging to an unregistered organization. Due to heavy criticism from civil society, criminal penalties were removed in the enacted version of the law.

4.10 CSOs help community access information and get their voices heard

Perhaps the most significant links between media, CSOs and communities can be found in the formation and development of ethnic media outlets. In Myanmar, ethnic-based media has been used as a way of expressing and preserving ethnic identity. According to focus group discussions with ethnic populations, ethnic media has also served as an alternative to state-media, which they believe promotes a pro-government agenda and does not cover topics relevant to their lives (see indicator 3.11). It is often the case that ethnic-based CSOs are affiliated with ethnic-based media. They are often one and the same organization. For example, the *Thanlwin Times* in Mon State is a bi-lingual journal in both the Mon and Burmese languages. Though the editors admit that it is not a lucrative business, the journal is one of the activities that the CSO conducts to promote Mon language and culture.

²⁶⁹ (ibid).

²⁷⁰ MJU, MJN, MJA, MIDO, Pen Myanmar, Community Response Group, Colors Rainbow, Pandita Development Institute, etc.

The recent softening of media restrictions within the country has brought with it a new opening for ethnic-based CSOs and media outlets to grow. Many that had previously operated in neighbouring countries have moved back into Myanmar and have become officially registered entities. Burma News International (BNI) is a prominent CSO that supports the interest of ethnic media. Originally founded in Calcutta, India in 2003 by four exiled media workers, BNI has been instrumental in providing media training events and technical support to ethnic based-media. It has done so on a limited budget. It has also conducted research covering peace and conflict issues in collaboration with international organizations. At present, BNI has offices in both Chang Mai and Yangon. It has twelve ethnic media houses as members; although, it endeavours to provide operational support and media training to all ethnic media. It also advocates for greater press freedoms and has helped to facilitate protests against the imprisonment of journalists. The Ethnic Media Group (EMG) is a similar entity that works closely with BNI.²⁷¹

271 Interview with the director of BNI, 22 February 2015.

Chapter 4 Recommendations

- Given the limited financial capacity of media houses to afford training courses/ events, media development organizations should continue to subsidize and provide training courses in collaboration with training institutes.
- Basic journalism training should be the main focus for journalists' capacity-building projects. Efforts should be made to provide more of these training courses/ events outside of Yangon as well as to conduct training in ethnic languages for ethnic media.
- More conflict sensitive journalism training should be provided, particularly to journalists and media professionals who are based in conflict areas.
- Gender and diversity should be included in both academic journalism education programmes and training events for media professionals.
- Media management training should be more commonly conducted. A course should be specifically tailored for managers of small ethnic media outlets situated in remote locations.
- The Myanmar News Media Council (MNMC) should proactively publish information on training opportunities through its website in order to inform media outlets situated in remote locations.
- Media development organizations should play a role in equipping small media publishing houses with reference textbooks and publications. Providing open access resource centres for all journalists would serve to promote this goal.
- The National Management College should be supported to procure modern, audio-visual and broadcasting equipment so that it is appropriately equipped to teach broadcast media. International media development organizations should consider providing technical and financial support to this end.
- The Ministry of Education (MOE), Ministry of Information (MOI), and relevant media development organizations should work together to promote the development of journalism programmes in universities across Myanmar. Emphasis should be placed on selecting a university in Mandalay to offer a degree in journalism with a view to improve access to academic journalism training in the north of the country.
- In tandem with the opening of new academic journalism programmes, the MOE should provide adequate training to new lecturers. Training for new lecturers should include journalism-related fields such as human rights and democracy. The MOE should also consider sourcing new lecturers from the media industry, graduates from the MNC's journalism programme, and the Myanmar Journalism Institute.

- Media development organizations should continue to support media professional associations so that they are able to effectively advocate for media workers' rights and provide them with support both in Yangon and across the rest of the country.
- Media development organizations should conduct programmatic monitoring of media workers' associations located outside of Yangon. Associations which have both the ability to grow and remain representative of their members' interests could be considered for financial and capacity-building support. The unification and/or federation of smaller regional associations should also be promoted where contextually appropriate and geographically proximate.
- The government and media development organizations should continue to support CSOs in media monitoring efforts, media literacy programmes and research in order to address the existence of hate speech on social media and develop mechanisms to counter it. Media literacy should also be mainstreamed in the formal academic education system.



Category 5:

Infrastructural capacity is sufficient to support an independent and pluralistic media

Category 5:

Infrastructural capacity is sufficient to support an independent and pluralistic media

A. Availability and use of technical resources by the media

5.1 Media organisations have access to modern technical facilities for news gathering, production and distribution

Under President Thein Sein's government, a series of telecommunication reforms were undertaken which greatly improved access to ICT in Myanmar. The most notable developments have been a significant drop in the price of mobile SIM cards and an improving telecommunications network across the country. Internet censorship has also been widely removed. The government no longer blocks access to websites on a large scale. These changes have significantly improved media workers' access to information via the Internet, especially through mobile phone applications. In addition, some government websites are starting to post more information. The parliament and president's office websites upload new laws when they are passed, and the MOI's website serves as a portal for obtaining up-to-date information about government events, policies and statements. As part of their larger technical assistance package on telecommunications reform, the World Bank also plans to aid the government in developing a 'Myanmar National Portal'. This portal will provide citizens with a single, comprehensive window for government information and services.²⁷²

Apart from using the Internet to gather information, journalists' use of technology varies. The divide between Yangon-based print media and print media in the rest of the country can clearly be seen. Larger, Yangon-based media houses often have the budget to provide their journalists and media workers with a variety of ICT tools. Many of them have computers and audio-visual equipment in the office which journalists can borrow. Small media houses in the rest of the country tend to own less electronic equipment. Journalists working for small print media houses

²⁷² World Bank. (2014, February 6). Myanmar moves toward connectivity for all. Retrieved from: <http://www.worldbank.org/en/news/press-release/2014/02/06/myanmar-moves-toward-connectivity-for-all>

often have to buy their own cameras and dictaphones or simply go without. They typically rely on mobile phones or Internet cafes to connect to the Internet. Unlike large or state-owned media houses, small media houses typically do not have access to archival materials either. At best, a small media house may have a library composed of a few bookshelves and a limited number of publications.

Despite a growing online presence, the large majority of print media houses in Myanmar do not yet adequately harness the potential of the Internet and other electronic mediums for communication. In a Training Needs Assessment, 72 per cent of media outlets surveyed had a website and 70 per cent had a Facebook page.²⁷³ However, the potential benefit of these online mediums has yet to be realized. Website design tends to be basic, and content is often a verbatim reiteration of a media houses' print edition. Online platforms for audience engagement are limited, often consisting of a comments section on a website, a reader's 'like' facility, or a comments section on articles posted on Facebook. Multi-platform media systems are not common. The idea has only been embraced by a few formally exiled media houses that tend to be ahead of the curve in terms of ICT capacity.²⁷⁴

Media training institutes do conduct some training on blogging and 'web reporting'. Although these training events provide individuals with ICT skills, they do not commonly address changing the use of ICT on an organizational level (e.g. developing multi-media platforms).

B. Press, broadcasting and ICT penetration

5.2 Marginalised groups have access to forms of communication they can use

Myanmar's infrastructure for print media is limited. There are 32 registered printing presses in Myanmar – eight of which are privately owned.²⁷⁵ The other 24 are owned by various government ministries. The large majority of these printing presses are located in Yangon, while some government-owned printing presses are located in Mandalay and Nay Pyi Taw. This gives state-owned print media wider geographic coverage than private print media. Given the small number of printing presses and poor transport infrastructure, a large proportion of the population does not have timely access to print media.

²⁷³ DW Akademie and CFI (2015). Training needs assessment for journalists in Myanmar. Yangon, Myanmar: Author.

²⁷⁴ See examples from Mizzima Media and the Democratic Voice of Burma. <http://www.mizzima.com/> and <http://burmese.dvb.no/>

²⁷⁵ This data is provided by the Department of News and Periodicals Enterprise of the MOI as of 11 August 2015. This figure does not include unregistered printing presses which may exist. It is also important to note that not all the government printing presses mentioned above are used for printing news publications. Some ministries own a printing press for printing internal documents, notices, policies, etc.

As the national broadcaster, MRTV (Myanma Radio) disseminates its core signal through a medium wave (MW) 200 KW transmitter located in Takone just outside the capital, Nay Pyi Taw. The core signal is also sent through a short wave (SW) 200 KW transmitter in Yangon (Yeku). These signals are then relayed through a series of 252 transmission stations. MRTV radio has also recently started transmitting in FM frequency. As of December 2015, MRTV had installed 95 FM transmitters with the aim of installing a total of 145 transmitters by March 2016.²⁷⁶

Joint-venture FM broadcasters have also developed their own networks of transmission towers. All seven stations rely on 48²⁷⁷ transmission towers and also transmit through some government transmission towers. The government has assigned each joint venture FM radio station to broadcast over a specified geographic area, even when it is not economically advantageous to do so. This has helped to promote wider geographical coverage across the country than would have otherwise been expected.

In November of 2014, the MDI Assessment commissioned a nationally representative survey regarding citizens' access to and perceptions of the media. According to the findings, the most wide reaching types of media within Myanmar are free-to-air TV channels and joint-venture FM radio stations reaching 89 per cent and 87 per cent of the sample respectively.²⁷⁸ Apart from MRTV-4 and Myawaddy, all TV and radio mediums have 80 per cent coverage or above. Print mediums range between 66 per cent to 53 per cent coverage, while the Internet has the lowest coverage, reaching 48 per cent of the sample.²⁷⁹

Access to print media is much lower in rural than urban areas. Newspapers have 93 per cent coverage in urban areas but only 55 per cent in rural areas.²⁸⁰

²⁷⁶ Interview with the chief engineer of MRTV, 1 December 2015.

²⁷⁷ This figure excludes MRTV Radio and Thazin FM.

²⁷⁸ TV and radio mediums are subdivided to show the most common stations (i.e. Channel 7, MRTV (National), MRTV 4, etc.)

²⁷⁹ The purpose of this question is to better understand media access, not usage. In this survey, 'access' is defined as having a particular media source 'available in the respondent's village/town/city'. This does not mean that they as an individual use that particular media source or have the technology necessary to access it. For example, 66 per cent of respondents stated that they have access to newspapers, but this does not mean that they read the newspaper. Similarly, 48 per cent of respondents have 'access' to the Internet but do not necessarily use the Internet or own an Internet-enabled device. It only means that an Internet-enabled device would be able to receive an Internet signal in their village/town/city.

²⁸⁰ The figures given from the opinion poll represent coverage of a population, not geographic coverage.

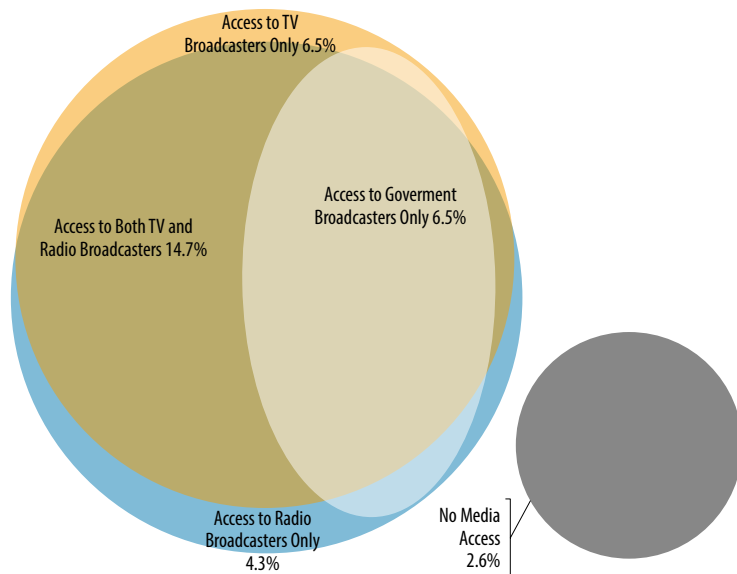
Table 10: Access to types of media

Medium (general)	Medium (specific)	Total Sample	Rural	Urban
Radio	Joint Venture FM Stations	87%	89%	83%
	Myanma Radio	85%	87%	79%
TV	Free-to- air Channels(general)	89%	86%	94%
	Channel 7(free-to-air channel)	82%	79%	90%
	MRTV(free-to-air channel)	80%	76%	90%
	Myawaddy (free-to-air channel)	61%	59%	64%
	MRTV-4 (free-to-air channel)	66%	59%	83%
Newspapers		66%	55%	93%
Journals		66%	54%	94%
Magazine		53%	39%	85%
Internet		48%	35%	78%

Given the limited coverage of print media and the Internet, many citizens in Myanmar are dependent on broadcast media. The survey found that over 1/5 of the sample (21.5 per cent) was solely reliant on broadcast media. This means that they do not have access to print media or the Internet, but they do have access to at least one TV or radio broadcaster. Similarly, media access for 6.5 per cent of the sample was limited to only state-owned TV or Radio. An additional 2.6 per cent of the sample claimed no access to any type of media. These findings are displayed in the figure below. Another nationally representative survey (2014) conducted by BBC Media Action cites a lower level of media access, with seven per cent of respondents claiming to have no media access.²⁸¹

²⁸¹ For the BBC Media Action survey, 'Access' to a media source was defined as 'either in home or elsewhere'.

Figure 3: Respondents who have no media access or rely on broadcast media only



Stratifying the sample by ethnicity reveals that minority ethnic groups have less access to media than the Bamar majority. Only 0.8 per cent of Bamar had not access to any type of media compared to 7.9 per cent for minority ethnic groups. In addition, approximately 1/3 of respondents from minority ethnic groups either have access to broadcast media only, or no media at all. This can most likely be attributed to the fact that minority ethnic groups make up a larger proportion of the population along the periphery of the country in remote areas.

Table 11: Media access by ethnicity

Type of access	Total sample n=1020	Bamar n=755	Minority ethnic Groups n=265
Broadcasters only (TV or Radio)	21.5%	19.7%	26.4%
TV broadcasters only	2.5%	1.6%	4.9%
Radio broadcaster only	4.3%	3.7%	6.0%
Both TV and radio broadcasters only	14.7%	14.4%	15.5%
Government broadcasters only (TV or radio)	6.5%	2.8%	7.9%
No media access	2.6%	0.8%	7.9%

In present times, many people in rural areas rely on state-produced news which is broadcasted either through state broadcasters or joint-venture FMs (see indicator 3.1). Given the importance of broadcast media as a tool for reaching Myanmar citizens and minority ethnic groups in particular, it is imperative that the government promote the development of a pluralistic broadcast media environment representing a wide variety of content providers with equally diverse voices and opinions.²⁸²

Regarding ICT penetration, prior to 2014, Myanmar Post and Telecoms (MPT) held a state monopoly on telecommunications. MPT existed as a government entity under the MCIT and was the sole provider of fixed-line and mobile phone services in the country. Under this system, SIM cards were far out of the price range for most Myanmar citizens; thereby greatly limiting mobile penetration. Similarly, Internet Service Providers (ISP) had to buy bandwidth from MPT or a government joint venture ISP known as Yantanarpon Teleport (YTP).²⁸³ The high cost of Internet subscriptions prohibited much of the population from accessing the Internet.

With the enactment of a new Telecommunications Law in 2013, the industry began a transition towards privatization. The MCIT decided to permit a total of four private telecommunications companies to operate in the country; two of which would be international companies and two of which would be domestic companies. A total of 22 international telecommunications companies and consortiums submitted bids²⁸⁴ for national telecommunications licences in what was widely seen by the international community as a fair and transparent process. In early 2014, international companies Telenor and Ooredoo were each awarded a national telecommunications licence. The licences are for a period of 15 years and grant the companies the ability to build, own and operate a telecommunications network and provide mobile phone services.²⁸⁵

282 Foreign media outlets represent a source of news for Myanmar citizens, particularly those living in remote areas. The BBC Burmese Service, Voice of America and Radio Free Asia transmit on shortwave radio in Myanmar and have long been a source of credible news. TV and radio stations from neighbouring countries such as Thailand, China, India and Bangladesh can also be viewed by Myanmar citizens living near the border. Since these media sources are foreign and are not transmitted from within Myanmar, they do not face the same regulatory or operating environment as local media outlets. Consequently, they have not been included in this analysis.

283 Hammond, C. (15 May 2015). Local consortium to claim Myanmar's fourth telco license. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/14479-local-consortium-to-claim-myanmar-s-fourth-telco-licence.html>

284 Than, Z. W. & AFP (8 April 2013). Twenty-two bidders in phone licence battle. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/national-news/6414-twenty-two-bidders-in-phone-licence-battle.html>

285 Ministry of Communications and Information Technology (MCIT) (30 January 2014). Joint Press Release with Telenor Myanmar and Ooredoo. Author. Retrieved from: <http://www.mcit.gov.mm/sites/default/files/Press%20Release%20Licence%20Signing%20Ceremony%2020140129%202130.pdf>

MPT received the third national telecommunications licence as it is transitioning to a private company and partnering with the military-affiliated Myanmar Economic Corporation (MEC).²⁸⁶

In July 2014, MPT also signed a partnership agreement with two Japanese companies, KDDI Corporation and Sumitomo Corporation.²⁸⁷ The fourth telecommunications license has yet to be awarded; though, Yatanarpon Teleport (YTP) has been often cited as a potential recipient. Like MPT, it is also being restructured as a private company; though, government and military interests have purchased significant shares.²⁸⁸ At present, YTP is attempting to form a consortium of local companies and find an international partner before bidding for the remaining telecommunications license.²⁸⁹

The privatization of the telecommunications sector has led to ambitious plans for upgrading Myanmar's telecommunications infrastructure and increasing network coverage. After receiving its license, Telenor announced that it would expand network coverage to 90% of the population within five years.²⁹⁰ Similarly, Ooredoo pledged to achieve 90% coverage of the population within two years and also invest 15 billion USD in telecommunication infrastructure.²⁹¹ Expansion plans are being implemented at a drastic pace. As of October 2015, Ooredoo has spent 1.4 billion USD on building network infrastructure and operates more than 2,800 sites.²⁹² Population coverage has reached more than two-thirds of the country. Similarly, Telenor's 3G network was the largest in the country with 3,300 sites.²⁹³

The entry of private businesses to the telecommunications sector and the drastic reduction in the price of mobile SIM cards have greatly contributed to increased mobile phone penetration in Myanmar. A notational Census was conducted in April of 2014 and found that 33% of the population had access to a mobile phone.²⁹⁴ In terms of phone ownership, a nationwide survey

²⁸⁶ Song, S. (8 January 2013). Myanmar's telecom landscape gets complicated with a military-backed joint venture set to compete with Telenor and Ooredoo. *International Business Times*. Retrieved from: <http://www.ibtimes.com/myanmars-telecom-landscape-gets-complicated-military-backed-joint-venture-set-compete-telenor>

²⁸⁷ Aung, S. Y. (17 July 2014). To stay competitive, Burma's state telecoms firm looks to Japan. *The Irrawaddy*. Retrieved from: <http://www.irrawaddy.org/business/stay-competitive-burmas-state-telecoms-firm-looks-japan.html>

²⁸⁸ Freedom House (2014). *Freedom on the Net: Myanmar*. Author. Retrieved from: <https://freedomhouse.org/sites/default/files/resources/Myanmar.pdf>

²⁸⁹ Trautwein, C. (17 September 2015). YTP still in the mix for fourth licence. *Myanmar Times*. Retrieved from: <http://www.mmimes.com/index.php/business/technology/16525-ytp-still-in-the-mix-for-fourth-licence.html>

²⁹⁰ Ministry of Communications and Information Technology (30 January 2014). Joint Press Release with Telenor Myanmar and Ooredoo. Retrieved from: <http://www.mcit.gov.mm/sites/default/files/Press%20Release%20Licence%20Signing%20Ceremony%2020140129%202130.pdf>

²⁹¹ Long, K. (27 June 2013). Telenor and Ooredoo granted network licences. *Myanmar Times*. Retrieved from: <http://www.mmimes.com/index.php/national-news/7277-telenor-and-ooredoo-granted-network-licences.html>

²⁹² Trautwein, C. (30 October 2015). Telenor strides further ahead of Ooredoo. *Myanmar Times*. Retrieved from: <http://www.mmimes.com/index.php/business/technology/17295-telenor-strides-further-ahead-of-ooredoo.html>

²⁹³ (Ibid).

²⁹⁴ Myanmar Population and Housing Census (2014). Republic of the Union of Myanmar. Retrieved from: <http://www.themimu.info/census-data>

(2015) on ICT usage found that 39% of the population aged 15-65 owns a mobile phone and an active SIM card.²⁹⁵ Rural penetration was lower than urban at 27% and 63% respectively. Despite the lower penetration in rural areas, the survey also found that 80% of rural respondents have access to a mobile phone in their household. In addition 50% of respondents who didn't own a mobile phone stated that they plan to buy one in the next 12 months. The highest penetration figures come from mobile phone subscriptions. By July 2015, Telenor Ooredoo, and MPT had 10, 5, and 14 million mobile phone subscribers respectively for a total of 29 million.²⁹⁶ Assuming one mobile phone subscription per person, this would equal over half of the population. In June 2015, the MCIT announced that it had achieved their goal of 50% phone density.²⁹⁷

Although exact figures on internet usage in Myanmar are difficult to define or verify, it can safely be assumed that internet usage has grown in tandem with the spread of mobile phones.

Internet-based phone applications have quickly become the primary channel through which people in Myanmar access the Internet. According to the ICT survey cited above, only two per cent of the population accessed the Internet in the last 12 months through a 'traditional browser' (via a computer, tablet or phone). Internet-based phone applications such as Facebook, instant messenger and email applications are much more commonly used. Internet calling applications such as Viber and Skype are also popular.²⁹⁸

Internet bandwidth in Myanmar has also increased substantially. According to MCIT figures Internet bandwidth increased from 3.72 gigabits per second (Gbps) in the 2011-12 financial year (FY) to 27.36 Gbps in 2014-15 FY.

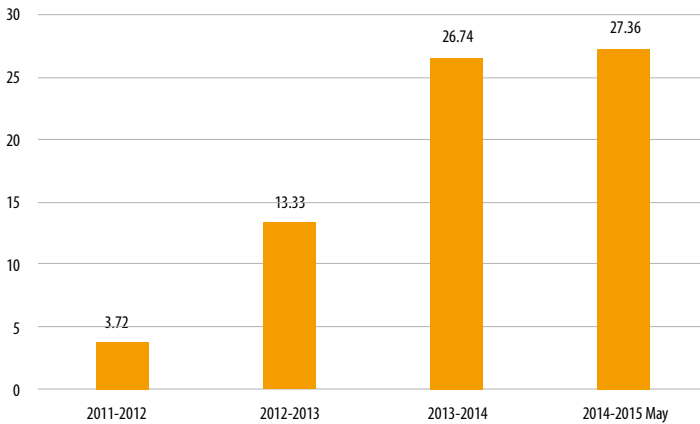
²⁹⁵ Galpaya, H., Zainudeen, A., and Suthaharan, P. (2015). A Baseline Survey of ICT and Knowledge Access in Myanmar. Retrieved from: LIRNEasia website: http://lirneasia.net/wp-content/uploads/2015/07/LIRNEasia_MyanmarBaselineSurvey_DescriptiveStats_V1.pdf

²⁹⁶ Dujacquier, D. (8 September 2015). Advancing Myanmar's telecom infrastructure. Retrieved from: <http://www.mmtimes.com/index.php/opinion/16415-advancing-myanmar-s-telecom-infrastructure.html>

²⁹⁷ Thant, H. (2 June 2015). Mobile penetration reaches half the country. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/14815-mobile-penetration-reaches-half-the-country.html>

²⁹⁸ Galpaya, H., Zainudeen, A., & Suthaharan, P. (2015). A baseline survey of ICT and knowledge access in Myanmar. Retrieved from the LIRNEasia website: http://lirneasia.net/wp-content/uploads/2015/07/LIRNEasia_MyanmarBaselineSurvey_DescriptiveStats_V1.pdf

Chart 2: Total Internet bandwidth in Myanmar (Gbps)²⁹⁹



At present Myanmar is connected to the global Internet via two main access points; one deep sea cable (SEA-ME-WE-3) running through the Andaman Sea to Singapore and one terrestrial cable running across the Thai border. Both of these cables are owned by MPT, which sells bandwidth to other ISPs such as Ooredoo.³⁰⁰ In addition, Telenor has established its own independent connection to the global Internet by laying terrestrial cables across the Thai border. These cables connect to its Thai subsidiary, DTAC.³⁰¹ Relying on a limited number of links to the global Internet results in a connection that is neither stable nor robust. When one cable is damaged, there is not enough bandwidth on the other cables to adequately compensate. Consequently, significant slowdowns in Internet connectivity occurred in July of 2013 when the deep sea cable was damaged³⁰² and in August of 2015³⁰³ when the terrestrial cables were damaged.

Additional connections to the global Internet are planned in the near future. MPT and China Unicom have signed a Memorandum of Understanding to link Myanmar to the SEA-ME-WE-5 deep sea cable in the Andaman Sea. This cable is expected to be ready for service in

²⁹⁹ <http://www.mcit.gov.mm/content/about-ministry.html>

³⁰⁰ Trautwein, C. (22 February 2015). MYTHIC set to compete. Myanmar Times. Retrieved from <http://www.mmtimes.com/index.php/business/technology/13220-mythic-set-to-compete.html>

³⁰¹ (ibid)

³⁰² Gingold, N. (30 July 2013). Fiber fix brings Burma's Internet back up to speed. The Irrawaddy. Retrieved from: <http://www.irrawaddy.org/investment/fiber-fix-brings-burmas-Internet-back-up-to-speed.html>

³⁰³ Trautwein, C. (17 August 2015). Fibre cuts slow Internet speeds. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/16020-fibre-cuts-slow-internet-speeds.html>

2016.^{304,305} Similarly, a Singaporean-based company by the name of Campana Group has received a Network Facilities Service (individual) NFS (I) licence from the Post and Telecommunications Department (PTD) of MCIT to construct an undersea cable known as MYTHIC (Myanmar-Malaysia-Thailand Internet Connectivity).³⁰⁶ Construction is scheduled to start in April 2016 and the cable should be operational by August 2016. Once completed, Campana plans to sell bandwidth to local ISPs.³⁰⁷ Myanmar's internal Internet infrastructure is also likely to see improvements. Several companies have been awarded NFS (I) licences.³⁰⁸ Under this licence, companies are permitted to build network infrastructure and offer fixed telecommunication and Internet services.³⁰⁹

Despite the rapid pace at which Internet connectivity is increasing, Myanmar still lags behind most other countries. The International Telecommunications Union (ITU) ranked Myanmar 150 out of 166 countries in its ICT Development Index (IDI) index in 2013.³¹⁰ Myanmar also ranked 146 out of 148 countries in the World Economic Forum's Networked Readiness Index (NRI) in 2014.³¹¹ It should be noted that these indexes are not updated every year, so they do not fully capture the rapid telecommunication developments in Myanmar. The rapid uptake of affordable SIM cards in Myanmar denotes an ICT environment that is rapidly evolving and a citizenry that is quickly connecting to new avenues for information. However, there remains much work to be done for the telecommunications sector in Myanmar to catch up with the rest of the world.

304 Map of deep sea Internet cables(active and planned) TeleGraphy (n.d). Submarine cable map. Last updated 14 February 2016. Retrieved from: <http://submarinecablemap.com/#/submarine-cable/seamewe-5>

305 Gringold, N. (1 December 2013). The roots of Myanmar's Internet woes. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/8897-the-roots-of-myanmar-s-Internet-woes.html>

306 Trautwein, C. (22 February 2015). MYTHIC set to compete. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/13220-mythic-set-to-compete.html>

307 (ibid).

308 The NFS (I) licence should not be confused with the national telecommunications licence mentioned earlier. Unlike a national telecommunications licence, the NFS (I) licence does not permit its holder to offer mobile phone services.

309 Trautwein, C. (15 July 2015). Vietnamese telecom firm looks to make Myanmar a 'second homeland' after receiving first licence. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/15512-vietnamese-telecoms-firm-looks-to-make-myanmar-a-second-homeland-after-receiving-first-licence.html>

310 International Telecommunication Union (2014). Measuring the Information Society. Geneva, Switzerland ISBN 978-92-61-15291-8 <http://www.itu.int/en/newsroom/PublishingImages/wtis14/table-2-1.jpg>

311 The NRI is a composite of three components: the environment for ICT offered by a given country or community (market, political, regulatory, and infrastructure environment), the readiness of the country's key stakeholders (individuals, businesses, and governments) to use ICT, and the usage of ICT among these stakeholders.

5.3 The country has a coherent ICT policy which aims to meet the information needs of marginalised communities

In the past 15 years, Myanmar has had three Telecommunications Master Plans: 2001-05; 2006-10; and 2011-15. None of these documents were drafted by the government,³¹² so they were not officially adopted or enforced as a government policy framework.³¹³ In August 2015, a draft Telecommunications Master Plan was released for public consultation. The plan was developed by the MCIT through a consultative process involving: “licensees and stakeholders, regulators, ICT-focused agencies and organizations, civil society organizations and the general public.”³¹⁴

The master plan sets forth a vision to establish Myanmar as a “mobile-first, digitally connected nation”. To this end, the master plan is framed around three objectives:

- Create a Myanmar national broadband infrastructure asset;
- Deliver communications content and services for the Myanmar people;
- Create an enabling institutional framework.

The Master Plan also sets forth the following connectivity targets to be achieved by the end of 2020.

- Over 90 per cent of the Myanmar population is covered by a telecommunications network;
- Over 85 per cent of the Myanmar population is covered by a network that provides Internet access;
- Over 50 per cent of the Myanmar population has access to a high-speed Internet connection³¹⁵

Under the second objective, the plan recognizes the State’s role of promoting telecommunications infrastructure and services in remote areas where investments are not economically viable for private telecommunications operators. To this end, the plan calls for the establishment of a Universal Service Fund (USF) by 2017. Telecommunications operators will pay a proportion

³¹² Previous telecommunication master plans were drafted by non-government entities such as the Myanmar Computer Federation (MCF). This is an umbrella organization consisting of ICT related organizations that are recognized by the government.

³¹³ Myanmar Centre for Responsible Business. (2015). Myanmar ICT Sector-Wide Impact Assessment (2015). Retrieved from: <http://www.myanmar-responsiblebusiness.org/swia/ict.html>

³¹⁴ Ministry of Communications and Information Technology (2015). Myanmar Telecommunications Master Plan. Author. Retrieved from: <http://www.mcit.gov.mm/content/draft-telecommunications-masterplan.html>

³¹⁵ (ibid). It should be noted that these targets exist in a draft document and may be revised by the MICT before the document is officially adopted.

of their revenue towards this fund starting from either 2018 or 2020 depending on their performance to meet their licence obligations. The USF will be used to provide basic and high speed Internet to remote areas of the country. Along similar lines, the master plan also cites the 'aspiration' of the MICT to bring down the cost of broadband Internet access to less than five per cent of Myanmar citizens' income. According to the plan, the ministry may also consider establishing an Affordable Internet Task Force comprised of government officials and CSO representatives. This task force would be responsible for developing action plans for more affordable Internet services.

The draft master plan sets forth ambitious targets for the growth of the telecommunications industry as well as progressive steps to promote the spread of ICT infrastructure and services in remote areas.

The master plan is yet to be formally adopted, so it is too early to comment whether it will, in fact, meet the information needs of remote and marginalized communities. However, many of the objectives stated in the plan are already well-underway in the current telecommunications reform process. For example, in August 2015 the MICT posted a tender for technical support in the development of a Universal Service Strategy.³¹⁶ This is in-line with the draft master plan's focus on extending ICT infrastructure and services to populations in remote areas. Furthermore, the draft master plan specifically addresses the need for affordable telecommunications services and sees a competitive telecommunications market as a means to this end.

In-line with this view, on-going telecommunications reform has already liberalized the telecommunications market. This has had a positive and dramatic effect on making ICT more affordable. Mobile phones have been used in Myanmar since the 1990s but were cost prohibitive for the majority of the population with SIM card prices ranging from USD2,000-USD5,000. In 2012 the price dropped to USD200,³¹⁷ and as of writing the price for a mobile SIM is 1,500 kyat (USD1.15)³¹⁸.

Mobile phone applications are a major pathway through which individuals access the Internet in Myanmar; hence, access to information is promoted not only through reasonably priced SIM cards, but also affordable Internet access. In the current, market-oriented telecommunications environment, MPT, Telenor and Ooredoo all offer Internet options via their SIM cards. Each provider offers both a pay-as-you-go plan and a variety of monthly packages. Prices range between 5 kyat to 7.5 kyat per megabyte for pay-as-you-go Internet.³¹⁹ According to the ICT

³¹⁶ The tender for technical support for a Universal Service Strategy can be found here: <http://www.mcit.gov.mm/news/invitation-expression-interest-myanmars-universal-service-strategy.html>

³¹⁷ Freedom House (2014). Freedom on the Net: Myanmar. Author. Retrieved from: <https://freedomhouse.org/sites/default/files/resources/Myanmar.pdf>

³¹⁸ Exchange rate as of 1 January 2016 (1 USD = 1,301 MMK).

³¹⁹ Prices of mobile internet were accessed as of 17 July 2015 for this research. Telenor, Ooredoo and MPT offered pay-as-you-go internet at 5 kyat, 6 kyat and 7.5 kyat per megabyte respectively.

survey cited earlier, respondents spend an average of approximately 8USD per month on topping up.³²⁰ Telecommunications companies in Myanmar are vying for control of a rapidly expanding market. Consequently, prices for phone and Internet services have dropped steadily over the past two years in what has been described in the media as a price war.³²¹ This continues to be a driving force for more affordable telecommunications services in the short-term.

The switch from analogue to digital

Myanmar is undertaking the switch from analogue to digital TV broadcasting as agreed upon since 2008 by the ASEAN Digital Broadcasting Meeting;³²² however, there is no formal document outlining Myanmar's digitalization plan. In 2012-13 FY the MRTV installed DVBT-2 broadcasting platforms on three main sub-stations. The installation of digital transmitters has continued over the past few years. At present, 104 MRTV relay stations have been equipped with digital transmitters which can cover 89 per cent of the population according to government officials.³²³ The entire digitalization process is scheduled to be completed in 2020.³²⁴

In order to promote access to digital TV channels, MRTV has purchased DVB-T2 set-top boxes and distributed them free of charge to some public places such as schools, clinics, orphanages, schools for the disabled, universities, libraries, charities and some poor households.³²⁵ While positive, these steps will not be sufficient to help Myanmar's large rural population undertake the digital transition. Switching to digital (i.e. purchasing set-top boxes or digital TVs) entails a heavy financial burden for people living off rural incomes. A national digital transition plan should be developed that not only focuses on building new towers but also lays out comprehensive strategies to help rural households cope with the transition so that it does not negatively impact on their access to information.

³²⁰ Galpaya, H., Zainudeen, A., & Suthaharan, P. (2015). A baseline survey of ICT and knowledge access in Myanmar. Retrieved from LIRNEasia website: http://lirneasia.net/wp-content/uploads/2015/07/LIRNEasia_MyanmarBaselineSurvey_DescriptiveStats_V1.pdf

³²¹ Trautwein, C. (20 August 2015). Another lowest rate in growing telco race. Myanmar Times. Retrieved from: <http://www.mmtimes.com/index.php/business/technology/16079-another-lowest-rate-in-growing-telco-race.html>

³²² Interview with the director of Myanmar Radio and Television, 19 August 2015.

³²³ (ibid).

³²⁴ Presentation by the director-general of MRTV, Third Annual Media Conference, September 2014.

³²⁵ (ibid).

Chapter 5 Recommendations

- The government should develop a national digital migration plan. This plan should cover not only infrastructure development but also include strategies to help rural households cope with the transition and stay connected. Media development organizations should play an important role in providing technical support in this regard.
- The MCIT should adopt the Telecommunications Master Plan after taking into consideration suggested revisions by civil society and telecommunications operators.
- The government should design the guidelines and management structure of the Universal Service Fund (USF) in consultation with civil society. Mechanisms for transparent oversight of the USF should also be developed prior to collecting revenue from operators.
- INGOs and media training institutes should consider providing training and programmatic support to media houses to help them develop multi-platform delivery systems as well as enhancing the quality of their online presence. Additional effort should be made to reach out to small print media houses based outside of Yangon where the digital divide is larger.

Annex 1: List of organizations met³²⁶

No.	Organization	Organization Type
1	Bagan FM	Broadcast Media
2	BBC	Broadcast Media
3	CITY FM	Broadcast Media
4	Forever Group	Broadcast Media
5	Mandalay FM	Broadcast Media
6	Myanmar International Television (MITV)	Broadcast Media
7	Padamyar FM	Broadcast Media
8	Shwe FM	Broadcast Media
9	Sky Net	Broadcast Media
10	Kamayut Media	Broadcast Media (online only)
11	Myanmar Radio and Television (MRTV)	Broadcast Media (state-owned)
12	Myawaddy Broadcasting Station-1	Broadcast Media (state-owned)
13	Department of Law, Yangon University Myanmar Human Rights Commission	Government
14	Department of Police (Media Team)	Government
15	Department of Revenue	Government
16	Ministry of Communications and Information Technology (MCIT)	Government
17	Ministry of Information (MOI)	Government
18	Hygienic Legal Clinic	Law Firm
19	PEACE Law Firm	Law Firm
20	Centre for Law and Democracy	Law NGO/CSO
21	Myanmar Legal Aid Network (M-Law)	Law NGO/CSO
22	Myanmar Journalists Network (MJN)	Media Association
23	Myanmar Journalists Association (MJA)	Media Association

³²⁶ This list does not include the media outlets of journalists who took part in focus group discussions.

No.	Organization	Organization Type
24	Myanmar Journalists Union (MJU)	Media Association
25	IFEX	Media Expert
26	BBC Media Action	Media NGO/CSO
27	Burma News International (BNI)	Media NGO/CSO
28	Fojo Media Institute	Media NGO/CSO
29	Myanmar ICT for Development Organizations (MIDO)	Media NGO/CSO
30	Pandita Development Institute	Media NGO/CSO
31	National League For Democracy (NLD)	Political Party
32	Myit Ma Kha News Agency	Online Media
33	Chin World Media	Print Media
34	Citizen Journal	Print Media
35	Eleven Media Group	Print Media
36	Favourite News	Print Media
37	Hantharwaddy Times	Print Media
38	Irrawaddy Magazine	Print Media
39	Mandalay Age Journal	Print Media
40	Mandalay Alinn Journal	Print Media
41	Mizzima Journal	Print Media
42	Modern and Kamudra Journal	Print Media
43	Myanmar Times	Print Media
44	7 Days Journal	Print Media
45	Pegu Voice	Print Media
46	Pegu Weekly	Print Media
47	People's Age Journal	Print Media
48	Popular News Journal	Print Media
49	Reporter News Journal	Print Media
50	Shwe Mandalay Journal	Print Media
51	Tanintharyi Weekly	Print Media
52	Thamaga Media	Print Media
53	Thanlwin Times	Print Media
54	The Farmer Myanmar Journal	Print Media

No.	Organization	Organization Type
55	The Karen News	Print Media
56	The Myanmar Herald	Print Media
57	The Rising Star	Print Media
58	The Sun Way Journal	Print Media
59	The Voice Journal	Print Media
60	Tomorrow Journal	Print Media
61	True News Journal	Print Media
62	Union Daily	Print Media
63	Upper Myanmar Journal	Print Media
64	Yangon Media Group	Print Media
65	Myanma Alin	Print Media (state-owned)
66	The Global New Light of Myanmar	Print Media (state/private joint-venture)
67	The Mirror	Print Media (state-owned)
68	Telenor (CEO Office)	Telecommunications
69	51 media house	Training Institute
70	Center of Myanmar Media Development	Training Institute
71	Human Dignity Film Institute	Training Institute
72	Internews	Training Institute
73	Myanmar EGRESS Capacity Development Center	Training Institute
74	Myanmar Journalism Institute (MJl)	Training Institute
75	Myanmar Media Development Center (MMDC)	Training Institute
76	Yangon Journalism School	Training Institute

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Assessment of Media Development

The UNESCO/IPDC Media Development Indicators are a useful diagnostic tool for all stakeholders to assess the level of media development in a given country. The MDI studies serve to map the strengths and weaknesses of the national media environment and propose evidence-based recommendations on how to address the identified media development priorities. The MDIs have been endorsed by the Intergovernmental Council of UNESCO's International Programme for the Development of Communication (IPDC). They have proved invaluable in contributing to an improved environment for free, pluralistic and independent media in many countries, thereby supporting national democracy and development.

List of countries in which MDI-based assessments have been completed to date: Bhutan, Croatia, Curaçao, Ecuador, Egypt, Gabon, Jordan, Libya, Maldives, Mozambique, Nepal, Palestine, South Sudan, Timor-Leste, Tunisia.

For more information, see
www.unesco.org/new/en/communication-and-information/intergovernmental-programmes/ipdc/initiatives/media-development-indicators-mdis/



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