

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# MYANMAR: CENSORSHIP HARMS COVID-19 RESPONSE

The Myanmar authorities should immediately lift curbs on the free flow of information to at-risk communities; ensure journalists, human rights defenders and activists can operate freely and without any harassment, intimidation, arrest, prosecution and imprisonment; and encourage rather than threaten to punish people who criticize, openly discuss, or attempt to raise awareness about the government's response to the COVID-19 pandemic.

As Myanmar grapples with the outbreak, the authorities have blocked independent media websites; continued to intimidate, arrest and prosecute journalists, human rights defenders, activists and artists; and kept in place a sweeping internet shutdown in two of Myanmar's poorest states. These measures indicate harsher censorship at a time when access to information could literally be the difference between life and death. When states' responses to COVID-19 are paired with restrictions on information and a lack of transparency and censorship, they risk undermining the right to seek, receive and impart information on many important matters, including health and humanitarian issues.

### INDEPENDENT MEDIA UNDER ATTACK

The Myanmar authorities issued three directives between 19 and 31 March 2020 to block a total of 2,147 websites under Section 77 of the Telecommunications Law<sup>1</sup>, which grants the government broad and arbitrary powers to suspend telecommunications networks. The majority of the websites relate to explicit content, but there is also a separate category of "fake news". Some of the affected sites are ethnic media and small independent news outlets with upwards of hundreds of thousands of readers in marginalized communities in Karen (also known as Kayin), Shan, and Rakhine States, as well as Rohingya news websites. All these areas are affected by armed conflict, poverty and internal displacement, and information access is a lifeline.

At least three media workers were also accused of violating counterterrorism laws after airing interviews with a spokesperson for the Arakan Army group engaged in armed conflict with the military in Rakhine and Chin states. Amnesty International and others have documented serious crimes by the Myanmar military there, including war crimes, as well as abuses by the Arakan Army. Fighting between the two forces is ongoing, with continuing reports of violations.

- **Voice of Myanmar editor Nay Myo Lin (m):** On 30 March 2020, plainclothes officers from the Criminal Investigation Department (CID) in Mandalay Region, arrested Nay Myo Lin (also known as Nay Lin), the editor-in-chief of Mandalay-based news outlet Voice of Myanmar, at his home in Mandalay. The next day, the CID filed charges against him at the Chanmyathazi Township Court under Sections 50(a) and 52(a) of the Counter Terrorism Law for publishing an interview with Arakan Army spokesperson Khine Thu Kha. The interview, headlined "Peace Process has stopped", was published on 27 March, four days after Myanmar's President declared the Arakan Army an "unlawful association". Nay Myo Lin was taken to Obo prison in Mandalay on 31 March. He had his first court hearing on 9 April and was told that he was not entitled to bail as the Court had not accepted charges against him. He was then abruptly released on the same day but had to sign a form saying that while terrorism charges against him had been dropped, he would come to the court any time if other charges were to be filed against him. If convicted under the terrorism charges, he would face a sentence of up to life imprisonment. "I was charged and put in prison for 10 days in the section of the prison for those on death row as a way to intimidate other media workers," he told Amnesty International after his release. "They are sending a message that they can do whatever they want. It's all in their hand. So some journalists may be intimidated and practice self-censorship." After a 20 April shooting that killed a driver for the World Health Organization carrying COVID-19 samples in Rakhine state, Voice of Myanmar said it was unable to try and directly verify what happened through interviews with the AA because of the "challenges" involved in doing so, which suggests the risk of being prosecuted.

<sup>1</sup> Telenor, 30 March 2020 (updated on 8 April 2020), Blocking of 230 websites in Myanmar based on directives from the authorities. <https://www.telenor.com.mm/en/article/blocking-230-websites-myanmar-based-directive-authorities>

- **Khit Thit Media editor Hline Thit Zin Wai (m):** After Yangon-based Khit Thit Media republished the Voice of Myanmar interview with the Arakan Army spokesperson Khine Thu Kha, more than 10 police officers came to the house of the editor and founder Hline Thit Zin Wai (also known as Tha Lun Zaung Htet) in Sanchaung Township at midnight on 31 March 2020. He was not at home at the time, but they questioned his wife for 30 minutes, with their three-year-old son present. When she later asked them what her husband did wrong and why they were looking for him, they mentioned the Arakan Army interview. Police have opened a case against him under the Counter Terrorism Law. He said he had decided to go into hiding because of the COVID-19 pandemic and fear of being in Myanmar's overcrowded prisons where healthcare systems are inadequate. Khit Thit media reports on human rights issues often, including the situation in Rakhine state, and has taken part in training workshops with Transparency International, according to a statement from the anti-corruption watchdog. "I am not a criminal. I did not violate any law," Hline Thit Zin Wai told Amnesty International. "They are taking advantage of the COVID-19 crisis to crack down on the media."
- **Narinjara editor Mrat Kyaw (m):** On 31 March 2020 at about 6pm, police, including Special Branch officers, raided the offices of Narinjara – one of the websites blocked in the March 2020 telecommunications order – in the Rakhine state capital of Sittwe. Three journalists were briefly detained and released at midnight after five hours. Another raid on a reporter's house happened the next day. On 7 April, Special Branch police officers and a ward administrator searched for editor Mrat Kyaw at his home, but he had already fled and gone into hiding. Counter-terrorism charges were filed against him at a local police station in Sittwe in relation to a story that sought comment from the same Arakan Army spokesperson. Narinjara's office in Sittwe was also forced to close because the owner of the building was afraid of any further police action. Mrat Kyaw believes the government wants to stop reporting on the conflict in Rakhine state. "Freedom of expression is important in a democratic country as well as in such an important time with the coronavirus response," he told Amnesty International.

## INTERNET BLACKOUT AMID ONGOING ARMED CONFLICT

In June 2019, the authorities, also under Section 77 of the Telecommunications Law, shut down the internet in nine conflict-affected townships in Rakhine and Chin States, namely Buthidaung, Kyauktaw, Maungdaw, Minbya, Mrauk-U, Myebon, Ponnagyun, and Rathedaung in Rakhine State and Paletwa in Chin State. Although the shutdown was partially lifted in five townships starting in late August 2019, it was reinstated in those areas in February 2020 for a period of three months and is now under review as the May expiration date approaches, while the other four areas have been offline since June 2019.

Rakhine State has seen violent clashes between the Myanmar military and the Arakan Army, an ethnic Rakhine group fighting for "the way of the Rakhita", which calls for self-determination and restoration of Arakanese sovereignty. The fighting, marked by serious violations, including war crimes, by the military and abuses by the Arakan Army<sup>2</sup>, has dramatically escalated since early 2019. More than 120,000 people have been displaced as a result, with continuing reports of serious violations and an increase in civilian casualties in March 2020 compared to the previous month. The state is also home to beleaguered communities of the Rohingya who remain there after a campaign of violence by the Myanmar security forces in 2017, which drove hundreds of thousands of them into Bangladesh.

The threat of COVID-19 to these at-risk groups could be devastating. Civil society, NGOs, activists and lawmakers have pleaded with the government to lift the internet restrictions so communities have access to basic information about how to protect themselves. Nine activists who peacefully protested, calling for an end to the government-imposed internet shutdown, were charged for protesting without permission and seven of them were sentenced to prison terms in March 2020. Rakhine state is one of the poorest in the country and home to many migrant workers who recently streamed over the border from Thailand. The lack of information has kept residents in the dark about the growing threat of COVID-19.

Development Media Group, a Rakhine-focused news website blocked in Myanmar for "fake news", wrote in an editorial also posted on social media that affected residents were only getting "rumours and worrying messages". When their reporters phoned a handful of those living in internal displacement camps to ask about COVID-19, "they said they had merely heard about the virus, but did not have a good understanding of it".

<sup>2</sup>Amnesty International, "No one can protect us": War crimes and abuses in Myanmar's Rakhine State (Index: ASA 16/0417/2019), 29 May 2019, <https://www.amnesty.org/en/documents/asa16/0417/2019/en/>

In this regard, the Office of the United Nations High Commissioner for Human Rights (OHCHR) said on 17 April that the blackout has “greatly hampered” the availability of reliable public information on hygiene, including physical distancing guidelines.

The government is releasing much of its information to the public on Facebook, especially through the page of the Ministry of Health and Sports and a newly created account of State Counsellor Aung San Suu Kyi. People who are under the blackout have no access to these channels, which provide crucial information on everything from the spread of the disease, to personal hygiene tips, to how to wear a homemade mask. Additional announcements that could be missed by those with no internet access include information on quarantine guidelines, stay at home requirements for certain townships, curfews, a recently announced ban on gatherings of more than five people, and any smartphone applications used to disseminate information about COVID-19.

On 10 April, the Ministry of Foreign Affairs defended the internet blackout and refused to lift it. It claims that the Arakan Army uses the web to coordinate attacks against officials, plant anti-personnel mines, and incite hatred against the authorities. In the areas without internet, it said public awareness about the COVID-19 response would be disseminated via mobile SMS services and “vocal announcements”. These are important and widely used tools in many countries, but not adequate by themselves to keep communities informed about a fast-changing pandemic and could also delay the swift coordination of humanitarian aid.

## THREATS AND MISUSE OF LAWS CREATE CLIMATE OF FEAR

At a time when Myanmar should be encouraging public cooperation, constructive criticism, and input from members of the public on efforts to fight COVID-19, it is doing the opposite, creating a climate of self-censorship and fear. The misuse of a number of laws – including but not limited to the Counter Terrorism Law, Section 77 of the Telecommunications Law, and the Natural Disaster Management Law, are stifling efforts to raise awareness about the seriousness of the pandemic and discouraging debate about the consequences of quarantine and other lockdown measures that impact those who are most at risk. Authorities have warned that anyone spreading “fake news” about COVID-19 could be prosecuted under the Natural Disaster Management Law, while a former official spokesperson on the virus response said they would file charges against anyone who speaks out about the lack of Personal Protective Equipment at hospitals and the inadequate handling of the outbreak by the authorities. The following cases are indicative of the broad range of incidents in which open discussion about the virus and measures to contain it is being shut down.

- **The artists:** On 3 April, Zayar Hnaung (m), Naw Htun Awng (m), and Ja Seng (f) painted a mural on the wall of a shop in Myitkyina, the capital city of Kachin State in Myanmar. The mural depicts the Grim Reaper in a red robe holding a vase and distributing COVID-19-shaped objects that devour the earth, while a group of health workers wearing surgical masks fight back. Myanmar is a majority-Buddhist country and religious hardliners criticised the image on Facebook after artist Zayar Hnaung shared photos of it online. The complaints sparked a debate about whether the Grim Reaper in the mural resembles a monk with an alms bowl. After being questioned by police artist Zayar Hnaung and friends issued statements apologizing, and explained the mural was only meant to raise awareness, not insult any religion. The mural has since been erased. The three artists have been charged under Section 295(a) of Myanmar’s Penal Code, which carries a maximum prison sentence of two years.
- **Wage protests:** Labour rights activist Than Myint Aung (m), local political party representative Myat Kyaw (m), and five representatives of workers at an electronics factory in Yangon were charged under section 30(a) of the Natural Disaster Management Law in connection with peaceful protests on 9 April 2020 involving hundreds of people demanding unpaid wages, annual bonuses and overtime. They were charged for “failure to comply with...directives...to perform natural disaster management” on 12 April at the South Dagon Township Police after a complaint filed by Zaw Thant Thint, Director of South Dagon Labour Relations at the Ministry of Labour, Migration and Population. The labour rights activist Than Myint Aung refused to sign a form that says he agrees to appear before a court if called upon as he felt he did nothing wrong. He was released after being questioned at the police station. Myat Kyaw and five others signed the form and are on bail. If found guilty, they face up to a year in prison.
- Local media have also reported a number of cases involving charges under the Natural Disaster Management Law being filed against Facebook users for posting information about the spread of the virus in local

communities. This includes Section 27 which criminalises misinformation about a natural disaster that causes “dread among the public” and also allows for a maximum one-year prison sentence.

## CONCLUSIONS AND RECOMMENDATIONS

The right to freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights. While Amnesty International acknowledges that public health may be invoked as a ground for limiting the right to freedom of expression in order to allow a state to take measures to respond to COVID-19, any such measures must be provided by law and be necessary and proportionate, time-bound, specifically aimed at a relevant legitimate purpose such as preventing the spread of or otherwise addressing a disease like COVID-19, or providing care for the sick.

Blanket prohibitions on dissemination of information such as blocking news websites, retaining a sweeping months-long internet shutdown during a pandemic, and using disaster management laws to prosecute peaceful protesters and government critics are incompatible with international human rights standards.

The decision to continually deprive a large part of the population in Rakhine and Chin States their right to access all online information and secure messaging in mobile applications is a particularly broad and sweeping restriction, which clearly fails the requirements of proportionality and necessity.

In a 2016 resolution on the promotion, protection, and enjoyment of human rights on the internet, the U.N. Human Rights Council stated that it “[c]ondemns unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online . . . and calls on all States to refrain from and cease such measures”.

The UN Special Rapporteur on human rights in Myanmar has said that the right to access information is vital during the COVID-19 crisis in Myanmar, and that the right to seek, receive and impart information on health issues is part of the right to health.<sup>3</sup> Restrictions can undermine the effectiveness of any public health response, thereby potentially violating the right to health.

Amnesty International therefore calls on the Myanmar authorities to:

- **Immediately lift the internet blackout in Rakhine and Chin States to allow for the unimpeded flow of information on public health to at-risk communities;**
- **End the harassment, arrest, prosecution and imprisonment of journalists, artists, human rights defenders and activists and drop all charges against them;**
- **Repeal Section 77 of the Telecommunications law; and repeal or amend all other laws that violate the rights to freedom of expression, association, and peaceful assembly, and bring them in line with international human rights standards.**

## BACKGROUND

Myanmar confirmed its first COVID-19 case on 23 March. As of 26 April, there were 146 cases and five deaths.

The government has set up a committee chaired by State Counsellor Aung San Suu Kyi; blocked international flights; imposed quarantines of up to 28 days; and established night time curfews in major cities. It has also banned public gatherings of more than five people.

The rights to freedom of expression, association and peaceful assembly in Myanmar remain under threat as the country heads towards elections scheduled for November 2020<sup>4</sup>. In a presidential amnesty of nearly 25,000 prisoners on 17 April, several prisoners of conscience who were jailed solely for exercising their rights were excluded.

<sup>3</sup> <https://bangkok.ohchr.org/news-release-myanmar-must-allow-free-flow-of-information-and-aid-to-protect-right-to-health-in-covid-19-crisis-un-special-rapporteur-yanghee-lee/>

<sup>4</sup> Amnesty International, “I will not surrender”: The criminalization of human rights defenders and activists in Myanmar. (Index: ASA 16/2041/2020), 13 April 2020, <https://www.amnesty.org/en/documents/asa16/2041/2020/en/>