



Myanmar: Worsening Climate for Free Expression despite UN Commitments

May 2019

Executive Summary

In this Universal Periodic Review (UPR) mid-term report, ARTICLE 19 assesses the progress made by the Government of Myanmar in implementing freedom of expression-related recommendations received during its second UPR in November 2015. With just over 18 months until its third cycle review, the report sets out the urgent steps the government must take if it is to demonstrate a genuine commitment to improving the human rights situation in the country.

During its 2015 UPR, Myanmar received 108 recommendations relevant to freedom of expression, of which it supported 56 and noted 52. In early 2016, the NLD government took office after a landslide general election victory and on the back of commitments to implement sorely needed democratic reforms. However, civic space has continued to shrink in the past three years amidst an escalating human rights crisis in the country. Increased international scrutiny has not prompted remedial action from the Myanmar government, as authorities have largely ignored recommendations from the UN Human Rights Council,¹ UN Special Rapporteur on the situation of human rights in Myanmar,² the Independent International Fact-Finding Mission on Myanmar³ and others.

Little progress has been made on the repeal or reform of the laws most frequently used to target government critics, while legislative proposals expected to come before Parliament in the coming months threaten to further erode already weak legal protections for the right to freedom of expression, in particular for ethnic and religious minorities. 'Hate speech' has continued to thrive, in part because of the absence of principled leadership by senior politicians in speaking out against discriminatory hatred, and the lack of a comprehensive plan to promote pluralism, diversity and inclusion in Myanmar.

Myanmar authorities have continued to repress and criminalise dissent and criticism of the State and its policies, in particular in relation to ongoing conflicts and human rights abuses perpetrated by the State. The operating environment for the media and civil society remains fraught, with human rights defenders, protesters, journalists and media workers routinely threatened with arrest and prosecution simply for exercising their right to freedom of expression. Against this backdrop, self-censorship is widespread and government officials seek to control and manipulate the flow of information in the country.

To honor commitments made during its previous UPR, Myanmar must immediately take steps to end arbitrary arrests of those exercising their rights to freedom of expression, assembly and association, initiate a

¹ HRC Resolution 34/22 on the situation of human rights in Myanmar (March 2017); HRC Resolution 37/32 on the situation of human rights in Myanmar (March 2018); HRC Resolution 39/2 on the situation of human rights of Rohingya Muslims and other minorities in Myanmar (September 2018); and HRC Resolution 40/29 on the situation of human rights in Myanmar (March 2019)

² Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar,' UN Doc. A/HRC/40/L.19, 19 March 2019; Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar,' UN Doc. A/72/382, 8 September 2017; Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar,' UN Doc. A/HRC/34/67, 1 March 2017; Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar,' UN Doc. A/71/361, 29 August 2016; Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar,' UN Doc. A/HRC/31/71, 18 March 2016.

³ Human Rights Council, 'Report of the independent international fact-finding mission on Myanmar,' U.N. Doc. A/HRC/39/64, 12 September 2018.

comprehensive program of legislative reform, ratify key human rights conventions, and take steps to tackle the advocacy of discriminatory hatred towards ethnic and religious minorities in Myanmar.

Stalled legal reform

In the early months of its administration, the NLD government committed to a broad program of legislative reform touching on laws that restrict the right to freedom of expression. This reform agenda has ground to a standstill, however, and the government has intensified the application of abusive provisions against journalists, human rights defenders, lawyers, politicians and social media users.

There has been no progress in the repeal or reform of the range of colonial-era laws most often used to limit the exercise of free expression in the country, including the Unlawful Associations Act, the Official Secrets Act, and several sections of the Penal Code, including section 124A (sedition), section 153 (provocation), section 295A (outraging religious feelings), sections 499-500 (defamation) and section 505 (incitement). These laws all require the urgent attention of Parliament to bring them in line with international human rights law and standards.

Section 66(d) of the 2013 Telecommunications Law is a vaguely defined online defamation provision that has been one of the primary legal provisions used to target journalists and others expressing critical opinions online.⁴ The NLD government has used the law to prosecute individuals for online expression much more frequently than the previous USDP government, which was responsible for passing the law.⁵ Amendments passed by Parliament in August 2017—including to reduce the maximum penalty under section 66(d) from three to two years' imprisonment and to allow for release on bail—have not been sufficient, failing to address the incompatibility of criminal defamation provisions with international human rights law.⁶ Section 68(a) is additionally of concern: it vaguely criminalises the communication online of 'incorrect information with dishonesty or participation'. Prosecutions under the law have increased since the previous UPR, and throughout 2018.⁷ Together with the criminal defamation provisions found in section 34(d) of the Electronic Transactions Law, these provisions seriously restrict the right to freedom of expression in the country.

Recommendations:

- Take immediate steps to repeal or reform all legislation that restricts the right to freedom of expression, and bring such laws in line with international human rights law and standards, including by:
 - Repealing or reforming in line with international law sections 124A, 153, 295A, 499-500, and 505 of the Penal Code
 - Repealing sections 66(d) and 68(a) of the Telecommunications Law
 - Repealing section 34(d) of the Electronic Transactions Law
 - Repealing or reforming in line with international law the Official Secrets Act
 - Repealing or reforming in line with international law the Unlawful Associations Act

Prosecution of journalists, human rights defenders, and others exercising their right to freedom of expression and information

During the 2015 UPR, Myanmar supported one recommendation relating to reprisals against those exercising their rights to freedom of expression and assembly and one related to the release of political prisoners.⁸ Myanmar noted eight recommendations relating to the release of political prisoners, prisoners of conscience, human rights defenders and others who expressed dissenting viewpoints.⁹

Regrettably, since 2015 the number of arbitrary arrests and prosecutions of journalists, human rights defenders, protesters and political opponents under the above-mentioned laws has notably increased, with a surge of prosecutions in 2017 continuing throughout 2018.¹⁰

⁴ ARTICLE 19, 'Myanmar: Telecommunications Law, 2013: Legal Analysis', March 2017, <http://bit.ly/2BCn1UI>.

⁵ Human Rights Watch, 'World Report 2018: Burma', January 2018, <http://bit.ly/2C6zKj1>.

⁶ ARTICLE 19, 'Myanmar: Proposed changes to Telecommunications Law fail to protect free expression', 13 July 2017, <http://bit.ly/2o7VL8C>.

⁷ Athan, 'Analysis Report on Law Amendment of Telecommunications Law', 11 September 2018, <https://bit.ly/2SubLBY>.

⁸ 143.99 (Italy) (supported);

⁹ 143.65 (France)(supported); 144.65 (Germany) (noted); 144.66 (Greece) (noted); 144.67 (Spain) (noted); 144.68 (Czech Republic) (noted); 144.69 (United States of America) (noted); 144.70 (Croatia) (noted); 144.71 (Norway) (noted).

¹⁰ ATHAN, 'Analysis Report on Law Amendment of Telecommunications Law', 11 September 2018, <https://bit.ly/2SubLBY>.

In many cases, public officials—including both military and civilian officials—initiated criminal proceedings against journalists, activists and others for their work reporting on human rights violations and abuses, or otherwise for exercising the right to freedom of expression.

The government has targeted media workers seeking to report on events in conflict areas in Rakhine, Shan and Kachin States:

- In June 2017, authorities arrested and charged journalists Lawi Weng, Aye Nai and Phyaee Phone Aung under the Unlawful Associations Act for reporting on a drug burning ceremony by an ethnic armed organization in Shan State.¹¹ The charges were withdrawn and the men released from prison in September 2017.
- In June 2017, Kyaw Min Swe and Kyaw Zwar Naing, journalists with The Voice, were arrested and charged after they published an article satirizing a military propaganda video.¹² The charges were dropped and they were released in September 2017.
- In October 2017, a court in Shan State convicted Kachin men Dumdaw Nawng Lat and Langjaw Gam Seng—a Baptist pastor and youth leader, respectively—under the Unlawful Associations Act and the Import and Export Law in relation to their role facilitating a trip by journalists to the region.¹³ They were later freed by presidential pardon.
- In December 2017, Reuters journalists Wa Lone and Kyaw Soe Oo were arrested while investigating a massacre of Rohingya civilians in northern Rakhine State. In September 2018, they were convicted under the Official Secrets Act and sentenced to seven years' imprisonment. In April 2019, the Supreme Court upheld the conviction. In May 2019, the pair were pardoned and released.¹⁴
- In June 2018, Myanmar Now reporters were briefly detained and threatened with arrest under the Official Secrets Act while pursuing a story related to the alleged recruitment of a disabled child soldier, but were released after an intervention by the Myanmar Press Council.¹⁵
- In May 2019, Aung Marm Oo, editor-in-chief of the privately-owned Rakhine State-based news agency Development Media Group, went into hiding after authorities filed a complaint under the Unlawful Associations Act.¹⁶

The authorities have also targeted individuals critical of NLD officials, including Aung San Suu Kyi, the government or the military, in other contexts. Criminal defamation suits are particularly common:

- In April 2017, researcher and former political prisoner Myo Yan Naung Thein was convicted under section 66(d) of the Telecommunications Law for criticising Myanmar's commander-in-chief on Facebook.¹⁷
- In June 2017, a military officer filed criminal defamation charges against Kachin human rights defender Dashi Naw Lawn after he distributed pamphlets accusing military personnel of committing human rights violations against the Kachin population.¹⁸ The same month, human rights defender Tun Tun Oo was charged under section 66(d) of the Telecommunications Law for livestreaming a video of a play deemed defamatory of the military.¹⁹

¹¹ ARTICLE 19, 'Myanmar: Release journalists charged for reporting in armed conflict area', 28 June 2017, <http://bit.ly/2C683af>.

¹² ARTICLE 19, 'Myanmar: Release and drop charges against journalists and activist charged under Article 66(d)', 26 June 2017, <http://bit.ly/2FcyAkH>.

¹³ Amnesty International, 'Myanmar: Further information: Kachin pastor sentenced to four years in prison', 5 December 2017, <http://bit.ly/2CvyTUY>.

¹⁴ Simon Lewis & Shoon Naing, 'Two Reuters reporters freed in Myanmar after more than 500 days in jail', *Reuters*, 7 May 2019, <https://reut.rs/2W0E64J>.

¹⁵ Naw Lwin, 'Myanmar Now Reporters Threatened With Arrest by Military', 25 June 2018, *Irrawaddy*, <https://bit.ly/2N5LOOK>.

¹⁶ Committee to Protect Journalists, 'Myanmar journalist Aung Marm Oo in hiding as police seek his arrest', 13 May 2019, <http://bit.ly/2Q6FNlm>.

¹⁷ Reporters without Borders, 'Criminal defamation law blocks freedom of information', 11 April 2017, <http://bit.ly/2EzN68Z>. Days after his conviction, Myo Yan Naung Thein, who had been detained since November 2016, was released as part of a prisoner amnesty.

¹⁸ Fortify Rights, 'Myanmar: Drop Criminal Defamation Charges Against Kachin Activist', 14 November 2017, <http://bit.ly/2FayM3U>.

¹⁹ ARTICLE 19, 'Myanmar: Release and drop charges against journalists and activist charged under Article 66(d)', 26 June 2017, <http://bit.ly/2FcyAkH>.

- In September 2018, former newspaper columnist Ngar Min Swe was sentenced to seven years in prison and fined 100,000 kyat for sedition under section 124A of Myanmar's Penal Code, in relation to Facebook posts critical of Aung San Suu Kyi.²⁰
- In February 2019, the editor-in-chief of the weekly Tanintharyi Journal was found guilty under the News Media Law of defaming regional officials and fined 500,000 kyats; an appeal is pending. The case was filed on behalf of former Chief Minister Daw Lei Lei Maw who has since been removed from her post and is facing corruption charges.²¹
- In April 2019, seven members of the Peacock Generation Thangyat troupe were charged under section 505(a) of the Penal Code, which criminalises any statement 'with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force to mutiny or otherwise disregard or fail in his duty as such.' The charges stem from a performance satirizing the military.²²
- In April 2019, the government filed charges under section 66(d) of the Telecommunications Law against The Irrawaddy for its coverage of fighting in Rakhine State.²³
- In May 2019, a complaint against monk U Thawbita for Facebook posts allegedly defaming the military was filed by a military officer and accepted by the Amarapura Township Court in Mandalay. U Thawbita is currently on trial under section 66(d) of the Telecommunications Law.²⁴

Criminal defamation proceedings also continue to be initiated by private citizens. Myanmar Now chief editor Swe Win was arrested in July 2017 and currently faces charges under section 66(d) of the Telecommunications Law in relation to messages posted on Facebook which were critical of ultra-nationalist monk Wirathu.²⁵ Swe Win has travelled to court at least 55 times since the case began.²⁶

Individuals have also been targeted using incitement provisions in the Penal Code:

- In May 2018, former child soldier Aung Ko Htwe was sentenced to two years' imprisonment under section 505(b), after speaking to the media about his experiences.²⁷
- In October 2018, authorities arrested three journalists from Eleven Media—Kyaw Zaw Lin, Nayi Min, and Phyo Wai Win—on charges under section 505(b). The news outlet had posted an article regarding the financial management of the Yangon Regional Government, which is overseen by Phyo Min Thein, reportedly a protégé of the State Counsellor.²⁸
- In March 2019, a Sittwe court convicted Dr. Aye Maung, a politician from Rakhine State, and author Wai Hin Aung for criminal defamation against the State and incitement under sections 500 and 505(b) of Penal Code for remarks made at an event in Rathedaung Township commemorating the fall of the Arakan kingdom, in which they reportedly expressed support for the Arakan Army. Both were sentenced to 20 years imprisonment.²⁹
- In April 2019, documentary filmmaker Min Htin Ko Ko Gyi was charged under section 505(b) of the Penal Code for criticising the Army and its role in Myanmar politics, and has been denied bail despite health issues.³⁰

²⁰ Shoo Naing, 'Myanmar arrests government critic under sedition law', *Reuters*, 13 July 2018, <https://reut.rs/2Eag9hU>; Toe Wai Aung, 'Ngar Min Swe given 7 years for Facebook post', *Myanmar Times*, 19 September 2018, <https://bit.ly/2UmMPuz>.

²¹ Ye Mon, 'Dawei case deals another setback to press freedom', *Frontier Myanmar*, 3 March 2019, <http://bit.ly/2Jk4DnF>; 'Tanintharyi chief minister arrested on corruption charges', *Frontier Myanmar*, 11 March 2019, <http://bit.ly/2W6QRuB>.

²² Kyaw Zaw Win and Aung Thein Kha, 'Myanmar Satire Group Members Accuse Army of Meddling in Their Case', *Radio Free Asia*, 22 May 2019, <http://bit.ly/2YSqbeK>.

²³ Ibid.

²⁴ Zarni Mann, 'Military Seeks Second Defamation Suit Against Mandalay Monk', *Irrawaddy*, 24 May 2019, <http://bit.ly/2KhtzvZ>.

²⁵ 'Myanmar Journalist Charged With Defamation Refuses to Apologize to Firebrand Monk', *Radio Free Asia*, 13 February 2018, <http://bit.ly/2ECvfud>.

²⁶ 'Joint statement: Myanmar authorities must drop the case against Ko Swe Win and decriminalise defamation', 7 March 2019, <https://bit.ly/2JyPnDq>.

²⁷ Mratt Kyaw Thu & Oliver Slow, 'Former child soldier Aung Ko Htwe sentenced, new charges added', *Frontier Myanmar*, 29 March 2018, <https://bit.ly/2H6sgMo>.

²⁸ 'Myanmar arrests three journalists over article on Suu Kyi protégé', *Al Jazeera*, 10 October 2018, <https://bit.ly/2QGqG7A>.

²⁹ 'Myanmar court jails Rakhine leader for 20 years for treason', *Agence France-Presse*, 19 March 2019, <https://bit.ly/2VGQkeL>.

³⁰ San Yamin Aung, 'Filmmaker Accused of Insulting Army Is Denied Bail, Sent to Prison', *Irrawaddy*, 12 April 2019, <http://bit.ly/2VwwkR>.

- In April 2019, ex-Army Captain Ko Nay Myo Zin was charged under section 505 of the Penal Code in relation to a speech critical of the military.³¹

The NLD government released more than 6,500 prisoners after Myanmar's 2019 New Year,³² but the Assistance Association for Political Prisoners—Burma indicates that 45 political prisoners still remain behind bars with another 319 awaiting trial.³³

Recommendations:

- Take all necessary measures to create a safe and enabling environment for the flourishing of civil society and an independent, pluralistic and diverse media landscape, in particular by:
 - Ceasing the abuse of the legal framework to harass and silence journalists, human rights defenders, political opposition, government critics, and all those exercising their right to freedom of expression.
 - Immediately and unconditionally releasing all those arbitrarily detained for exercising their rights to freedom of expression, quash their convictions, and drop all outstanding charges against those currently facing prosecution.

Threats and violence against journalists and others exercising the right to freedom of expression

In 2015, Myanmar supported two recommendations related to the independent investigation and prosecution of crimes against ethnic and religious minorities.³⁴ It noted one recommendation relating to intimidation, harassment, persecution, torture and enforced disappearances of journalists, human rights defenders and others, and two recommendations related to maintaining protection and enabling environments for human rights defenders, journalists and civil society.³⁵

Since the 2015 UPR, journalists and human rights defenders have faced grave threats, and at times violence, because of their work.³⁶ Some have also been subject to persistent surveillance or harassment by police or intelligence officers, and foreign journalists have often had difficulty renewing visas.³⁷ These threats have forced some journalists and human rights defenders to flee the country or go into hiding.

Despite the February 2019 conviction of two individuals for the murder of prominent lawyer U Ko Ni, the investigation into his killing was deeply flawed and the trial was beset by procedural irregularities.³⁸ There has been little or no progress in investigations into several other high-profile murders, including of journalists Ko Par Gyi in 2014³⁹ and Soe Moe Tun in 2016,⁴⁰ and rights activist Naw Chit Pandaing in 2016.⁴¹ More broadly, the government has failed to create an environment where individuals can exercise the right to freedom of expression without fear of retaliation.

³¹ Zarni Mann, 'Thangyat Troupe Member Arrested over Performance Satirizing Military,' *Irrawaddy*, 19 April 2019, <http://bit.ly/2QtEO5j>.

³² Simon Lewis and Shoon Naing, 'Two Reuters reporters freed in Myanmar after more than 500 days in jail', *Reuters*, 7 May 2019, <https://reut.rs/2W0E64J>.

³³ Ye Mon, 'Third pardon planned for political prisoners as 6,948 inmates freed', *Frontier Myanmar*, 26 April 2019, <http://bit.ly/2JIT9Ad>.

³⁴ 143.78 (Iceland) (supported); 143.79 (Iceland) (supported).

³⁵ 145.23 (Uruguay) (noted); 144.82 (Chile) (supported); 144.83 (Norway) (supported).

³⁶ See, for example, Amnesty International, 'Rakhine journalist receiving death threats: Nay Min Aung (known as Min Min)', 24 April 2017, <http://bit.ly/2CsxNJD>; Committee to Protect Journalists, 'Journalist abducted, seriously injured in Myanmar', 30 May 2017, <http://bit.ly/2CvVyAw>; Toe Wai Aung, 'Journalist in critical condition after attack in Rakhine's Sittwe', *Myanmar Times*, 21 December 2017, <http://bit.ly/2Gknp8X>.

³⁷ Sean W. Chrispin, Committee to Protect Journalists, 'Threats, arrests, and access denied as Myanmar backtracks on press freedom', 12 February 2018, <http://bit.ly/2HskH2G>.

³⁸ International Commission of Jurists, 'Myanmar: ICJ marks 2nd year anniversary of the killing of lawyer U Ko Ni', 29 January 2019, <https://bit.ly/2FR883a>.

³⁹ ARTICLE 19, 'Myanmar: Government's handling of Par Gyi criticised at UN HRC', 18 September 2015, <http://bit.ly/2Bzof2C>.

⁴⁰ ARTICLE 19, 'Myanmar: Journalist investigating illegal logging killed', 14 December 2016, <http://bit.ly/2EBsLMu>.

⁴¹ FIDH, 'Burma: Murder of Ms. Chit Pandaing', 15 December 2016, <http://bit.ly/2hA2AKY>.

Recommendations:

- Combat impunity for threats and attacks against journalists, human rights defenders and others targeted for their expression, including by ensuring all such attacks are subject to prompt, thorough, independent, impartial and effective investigations by the authorities, and the direct perpetrators and masterminds behind the attacks are brought to justice.

Restrictions on access to Rakhine State

In 2015 Myanmar supported one recommendation and noted one recommendation on access to Rakhine State.⁴²

The Myanmar government has restricted reporting on active conflict and human rights abuses by enforcing restrictions on access to conflict areas, most notably northern Rakhine State. Elsewhere in the country, restrictions on access to conflict areas have been imposed through application of the Unlawful Associations Act, which has been used to target individuals who make contact with ethnic armed organizations.⁴³

In 2017, media outlets, human rights groups and UN investigators collected irrefutable evidence that Myanmar security forces have perpetrated widespread and systematic atrocities against the Rohingya minority in northern Rakhine State, likely amounting to crimes against humanity. Most of this evidence had to be collected from Rohingya individuals who had fled to Bangladesh, as the Myanmar government continued to enforce restrictions on access to the conflict-affected areas for media and independent observers.⁴⁴ The government has continued to deny access to journalists from inside and outside Myanmar, failing to provide guidance on how access could be obtained, with regional and union authorities placing responsibility on each other.⁴⁵

In lieu of allowing independent reporting on the 2017 crisis, the government facilitated highly choreographed visits to Rakhine State by diplomats and journalists. Despite the government's claims to the contrary,⁴⁶ the movements and activities of participants taking part in these trips were highly restricted, and journalists were unable to conduct interviews in confidence.⁴⁷ Moreover, officials clumsily attempted to fabricate evidence and introduce journalists to individuals who purported to be 'eyewitnesses' who would corroborate the government's narrative, but who were subsequently proven not to be credible.⁴⁸ The government's refusal to grant access to the country to the HRC-mandated Independent International Fact-Finding Mission and the UN Special Rapporteur on the situation of human rights in Myanmar underscored the increasing absurdity of the denials and alternative-narratives being advanced by official government spokespersons.

Recommendations:

- Immediately grant full access to journalists, humanitarian actors and the United Nations, including the Fact-Finding Mission and the Independent Investigative Mechanism, to all parts of the country, including conflict areas.

⁴² 143.121 (Kuwait); 145.9 (Ireland);

⁴³ Refugees International, 'Suffering in Shadows: Aid restrictions and reductions endanger displaced persons in Northern Myanmar', December 2017, <http://bit.ly/2sJaH1N>, p. 15; David Scott Mathieson, 'Gagging the messengers of Myanmar's wars', *Asia Times*, 6 July 2017, <http://bit.ly/2tPFEQW>.

⁴⁴ Human Rights Watch, 'Burma: Allow Access to Investigate Abuses in Rakhine State', 17 November 2016, <http://bit.ly/2f5SeQl>.

⁴⁵ 'Myanmar Keeps Media Away From Rakhine Conflict Zone', *Radio Free Asia*, 11 November 2018, <https://bit.ly/2UMH2hh>.

⁴⁶ See, for example, President's Office, the Republic of the Union of Myanmar, 'Journalists impressed with extensive media access in Rakhine', undated, <http://bit.ly/2og4RPJ>.

⁴⁷ See, for example, 'Rohingya crisis: At the scene in Rakhine state, Myanmar', *BBC*, 6 September 2017, <http://bbc.in/2ByMHRE>.

⁴⁸ 'Rohingya crisis: Seeing through the official story in Myanmar', *BBC*, 11 September 2017, <http://bbc.in/2xVnaNc>.

Restrictions on the right to protest

In 2015 Myanmar supported three recommendations relating to the right to peaceful assembly⁴⁹ and noted four recommendations relating to legal restrictions on the right to protest, in particular the Peaceful Assembly and Peaceful Procession Act.⁵⁰

Reforms to bring restrictive legislation in line with international human rights law and standards relating to the right to peaceful assembly have not been forthcoming since 2015.

The 2012 Peaceful Assembly and Peaceful Procession Act, despite a 2014 amendment, contains vague provisions that are applied arbitrarily against individuals protesting against the government or its policies.⁵¹ Proposed amendments to the Peaceful Assembly and Peaceful Procession Act that were passed by the Upper House of Parliament in 2018 would further limit the exercise of the right to peaceful assembly,⁵² imposing criminal penalties on those who provoke, persuade or urge others to join protests by providing money to protesters, and requiring the advance disclosure of the sources of funding for protests.⁵³

Since 2015, Myanmar authorities have continued to abusively apply this law and various Penal Code provisions against protesters to restrict and deter the exercise of the right to peaceful assembly. For example:

- In January 2018, five ethnic Karenni men were convicted of violating the Peaceful Assembly and Peaceful Procession Act and sentenced to 20 days' imprisonment after organizing a protest in Loikaw to call for accountability for Myanmar Army soldiers who executed unarmed Karenni soldiers.⁵⁴ A few weeks later, three individuals among hundreds who marched in solidarity with the imprisoned men were also charged under the Peaceful Assembly and Peaceful Protection Act.⁵⁵ The charges were later dismissed by the Loikaw Township court.⁵⁶
- In May 2018, authorities arrested more than twenty anti-war protestors in a series of rallies in Yangon, Mandalay and Myitkyina under sections 19 and 20 of the Peaceful Assembly and Peaceful Procession Act.⁵⁷
- In September 2018, eight residents of Patheingyi Township were arrested under section 19 of the Peaceful Assembly and Peaceful Protection Act after protesting the construction of a cement factory and road expansion project by Myint Investment Company.⁵⁸
- In September 2018, organisers who planned a protest demanding the release of jailed *Reuters* journalists Wa Lone and Kyaw Soe Oo were called to a meeting by the Bahan Township Administrator. The authorities had issued the organisers prohibition orders, and threatened them with arrest under the Peaceful Assembly and Association Act should they proceed without permission, making reference to

⁴⁹ 143.88 (Botswana) (supported); 144.84 (Brazil) (supported); 143.98 (New Zealand) (supported).

⁵⁰ 145.33 Delete or amend all legal provisions on peaceful assemblies, which restrict the exercise of the rights to freedom of expression and assembly (France)(noted); 145.34 Review and amend the Peaceful Assembly and Peaceful Procession Act to bring it in line with international standards on freedom of expression and assembly (Sweden)(noted); 145.35 Align domestic legislation on freedom of expression and association, especially the Peaceful Assembly and Peaceful Procession Act, with international norms (Luxembourg)(noted); 145.36 Remove the broad range of restrictions on the rights to peaceful assembly and freedom of expression in the Law on the Right to Peaceful Assembly and Peaceful Procession, replace the system of prior authorization for peaceful assemblies with a system of voluntary notification and remove criminal sanctions for acts protected under international standards on freedom of expression and peaceful assembly (Estonia)(noted).

⁵¹ ARTICLE 19, 'Myanmar: Peaceful Assembly and Peaceful Procession Bill', 16 May 2016, <http://bit.ly/2HrOmZR>

⁵² Translation of Bill of Amendment of the Peaceful Assembly and Peaceful Procession Law by Free Expression Myanmar, <https://bit.ly/2GjnpdB>.

⁵³ Human Rights Watch, 'Dashed Hopes', 31 January 2019, <https://bit.ly/2SrwX5z>; Free Expression Myanmar, '5 Violations That Need Addressing in Protest Law Amendment', 28 February 2019, <https://bit.ly/2DixEKS>.

⁵⁴ Zue Zue, '5 Karenni Men Sentenced Under Peaceful Assembly Law', *Irrawaddy*, 15 January 2018, <http://bit.ly/2DfCCue>. The sentence imposed by the court was a fine or imprisonment, but the individuals chose to serve the prison term.

⁵⁵ Nyein Nyein, 'Karenni Police Ready More Lawsuits Against Protesters', 18 January 2018, <http://bit.ly/2HnD3Si>.

⁵⁶ Nyein Nyein, 'Court Dismisses Peaceful Assembly Charges Against Karenni Protestors', *Irrawaddy*, 24 January 2018, <http://bit.ly/2EOzciJ>.

⁵⁷ Zarni Mann, 'Two Anti-war Demonstrators Jailed for 2 Months Over Yangon Protest', *Irrawaddy*, 22 May 2018, <https://bit.ly/2s2T1dE>.

⁵⁸ Zarni Mann, 'Court Refuses Bail for Elderly Trio Detained Over Land Protest', *Irrawaddy*, 26 September 2018, <https://bit.ly/2Sug8JG>.

the violent suppression of an anti-war march in Tamwe Township in May that year and the prosecution of its organisers.⁵⁹

- In September 2018, two activists were sentenced to two years' imprisonment for provocation and incitement under sections 153 and 505(b) of the Penal Code after joining a protest in support of the arbitrarily detained child soldier Aung Ko Htwe.⁶⁰
- In September 2018, Tin Maung Kyi, a member of Myanmar Democracy Current Force (MDCF) was charged under Section 505(b) of Penal Code for a protest that called on the international community to prosecute the Myanmar military.⁶¹
- In December 2018, Kachin youth activists Nang Pu, Lum Zawng, and Zau Ja were sentenced to six months' imprisonment and fined 500,000 kyat for defamation under section 500 of the Penal Code. The suit was initiated by a Tatmadaw officer in relation to an anti-war protest in which the activists participated in Myitkyina in April 2018.⁶² The three were later released.

Government forces have on several occasions resorted to the use of force to disperse protests:

- In March 2017, police fired rubber bullets at a group of individuals protesting the impacts of the Letpadaung copper mine in Sagaing Division, injuring at least 10.⁶³
- In January 2018, police opened fire on protesters in Mrauk-U, Rakhine State, killing at least seven individuals. The government later formed an investigation team to look into the incident, but has yet to release any findings.⁶⁴
- On 12 February 2019, authorities fired rubber bullets into a crowd that had gathered to protest the erection of a statue of Aung San, a prominent independence figure and father of State Counsellor Aung San Suu Kyi, causing injuries to several.⁶⁵ In total, 82 mostly ethnically Karenni individuals have been arrested since protests relating to the statue began in July 2018.⁶⁶ Charges have now been dropped against the protesters.⁶⁷
- In May 2019, 17 people were wounded by rubber bullets fired by police while protesting the construction of a coal-powered cement factory in Mandalay Division's Patheingyi Township.⁶⁸

Recommendations:

- Immediately reform the Peaceful Assembly and Peaceful Procession Act, including by removing content-based restrictions on protests and criminal liability for failure to notify authorities in advance of protests.
- Withdraw the current proposed amendments to the Peaceful Assembly and Peaceful Procession Act.
- Drop all outstanding charges against those exercising their right to peaceful assembly.
- Cease the use of unlawful and disproportionate force against peaceful protesters; and ensure prompt, independent, thorough and effective investigations into the unlawful and disproportionate use of force against protesters by the authorities.

Promotion of pluralism, diversity and tolerance and combating discrimination

In 2015, Myanmar supported 13 recommendations related to the promotion of religious and ethnic tolerance, dialogue and diversity, and noted 33 recommendations related to ending discrimination,

⁵⁹ Su Myat Mon, 'Authorities ban protests against jailing of Reuters journalists, threaten arrests', *Irrawaddy*, 13 September 2018, <https://bit.ly/2QtC6fC>.

⁶⁰ Lawi Weng, 'Activists Jailed for a Year for Protesting on Behalf of Ex-Child Soldier for Tatmadaw', *Irrawaddy*, 12 September 2018, <https://bit.ly/2OfR9lk>.

⁶¹ Amnesty International, 'Activist Charged for Peaceful Anti-Military Protest', 5 November 2018, <https://bit.ly/2GpjUBv>.

⁶² Ye Mon, 'Kachin youth activists handed prison sentences for 'defaming' the Tatmadaw', *Frontier Myanmar*, 7 December 2018, <https://bit.ly/2zNdU13>.

⁶³ Amnesty International, 'Myanmar: Investigate police use of force against protestors at troubled mine', 28 March 2017, <http://bit.ly/2ELVQsa>.

⁶⁴ 'Myanmar Government Begins Probe of Mrauk U Killings', 24 January 2018, <http://bit.ly/2C4OGxY>.

⁶⁵ ARTICLE 19, 'Myanmar: End crackdown on protesters in Kayah State', 12 February 2019, <https://bit.ly/2EaV7Q3>.

⁶⁶ Fortify Rights, 'Myanmar: End Crackdown, Drop Charges Against 82 Activists in Karenni State', 8 February 2019, <https://bit.ly/2UbIMRj>.

⁶⁷ Zue Zue, 'Cases Dropped Against 55 Karenni Anti-Statue Activists', *Irrawaddy*, 13 February 2019, <https://bit.ly/2GnGgnx>.

⁶⁸ Zarni Mann, '17 Injured as Police Break up Protest Against Cement Factory Project in Mandalay' *Irrawaddy*, 15 May 2019, <http://bit.ly/2I1AoPf>.

reforming discriminatory legislation, combatting intolerance, and promoting the rights of minorities. ⁶⁹ **The government supported one recommendation to increase its efforts to combat ‘hate speech’ and incitement to violence, while noting a more specific recommendation to ‘prohibit and prosecute hate speech and discriminatory practices that incite violence towards minorities, and especially clearly endorse non-discrimination and the right of all individuals in Rakhine State to equal protection under the law’.**⁷⁰

Since 2015, there has been a surge in ‘hate speech’, including advocacy of discriminatory hatred constituting incitement to violence, directed against the Rohingya and other Muslim communities in Myanmar. Much of this expression has been spread on social media, but inflammatory messaging has also been disseminated through traditional media outlets, on broadcast television, on DVDs, at public gatherings, and through many other channels. The content of ‘hate speech’ against Muslims has often focused on alleged threats to territorial integrity, Burmese purity, and religious sanctity, as well as the dangers of jihadism and sexual violence by Muslim men against Buddhist women.⁷¹

Buddhist nationalist groups such as the 969 Movement and the Organization for the Protection of Race and Religion, commonly known by its Burmese acronym Ma Ba Tha, have been at the forefront of the proliferation of ‘hate speech’. Ultra-nationalist monk Wirathu gained notoriety and hundreds of thousands of followers on Facebook while posting photographs allegedly depicting atrocities committed by Muslims and describing Muslims as ‘mad dogs’ and ‘radical, bad people’ and mosques as ‘enemy bases.’⁷²

Unfortunately, extreme nationalist groups have not been the only sources of ‘hate speech’. Increasingly ‘hate speech’ has become mainstreamed, with the participation of popular media outlets, civil society and the general population, leading to a hardening of opinions against the Rohingya and an increase in tensions between Buddhists and other Muslim communities.

The response of successive Myanmar governments to the proliferation of ‘hate speech,’ discrimination and incitement to violence in Myanmar has been halting at best. While senior officials in both the USDP and NLD-led governments have frequently made broad overtures toward tolerance and harmony,⁷³ they have tended to direct their condemnation towards only the most extreme and outspoken mouthpieces of the nationalist movement.

Senior officials, including Aung San Suu Kyi, have consistently failed to address broader discriminatory sentiment among the general population and to speak out against hatred or more forcefully advocate for the rights of the Rohingya and the country’s Muslim population.⁷⁴ Moreover, the government’s incessant denial of the veracity of reports of grave human rights violations perpetrated by state security forces in Rakhine State severely undermines any potential progress in combating hatred, discrimination and violence directed against the Rohingya, which may amount to crimes against humanity or genocide. The NLD government’s approach of censoring the most extreme viewpoints and disbanding the most radical groups, while failing to themselves denounce pervasive discrimination and human rights violations, runs contrary to the emphasis in HRC

⁶⁹ 143.23 (Russian Federation)(supported); 143.24 (Slovenia)(supported); 143.89 (Sudan)(supported); 143.90 (Malaysia)(supported); 143.91 (Turkey)(supported); 143.92 (China) (supported); 143.93 (Republic of Korea)(supported); 143.94 (Indonesia)(supported); 143.27 (Ethiopia)(supported); 143.25 (Holy See)(supported); 143.60 (Nepal)(supported); 143.61 (Ecuador)(supported); 143.62 (Sweden)(noted); 143.63 (Japan)(supported); 145.50 (Djibouti)(noted); 145.51 (Egypt)(noted); 145.65; 144.47 (Mexico)(noted); 144.48 (France)(noted); 144.49 (Nigeria)(noted); 144.51 (Algeria)(noted); 144.85 (Oman)(noted); 144.86 (Portugal)(noted); 145.10 (Austria)(noted); 145.13 (Turkey); 145.19 (Canada); 145.20 (Germany); 145.21 (Australia); 145.14 (Lithuania)(noted); 145.15 (Denmark)(noted); 145.16 (Uruguay)(noted); 145.17 (Italy)(noted); 145.18 (Czech Republic)(noted); 145.30 (Slovenia); 145.54 (Turkey)(noted); 145.41 (Pakistan)(noted); 145.55 (Iceland)(noted); 145.56 (Saudi Arabia)(noted); 145.57 (Canada)(noted); 145.58 (Slovenia)(noted); 145.59 (Mexico)(noted); 145.60 (Malaysia)(noted); 145.61 (Saudi Arabia)(noted); 145.62 (Australia)(noted); 145.63 (Netherlands)(noted); 145.64 (United Kingdom of Great Britain and Northern Ireland)(noted); 145.65 (Sweden)(noted); 145.66 (United States of America)(noted).

⁷⁰ 143.62 (New Zealand)(supported); 145.12 (Norway)(noted).

⁷¹ See, C4ADS, ‘Sticks and Stones: Hate Speech Narratives and Facilitators in Myanmar,’ 5 February 2016.

⁷² See, Hannah Beech, ‘The Face of Buddhist Terror,’ *Time*, July 1, 2013, <https://bit.ly/1bi3Ehk>; Sarah Kaplan, ‘The serene-looking Buddhist monk accused of inciting Burma’s sectarian violence,’ *The Washington Post*, May 27, 2015, <https://wapo.st/2VG8LzY>.

⁷³ See, for example, ‘We cannot let ethnic or religious differences become an excuse to revert to authoritarianism,’ *New Light of Myanmar*, 17 July 2013.

⁷⁴ ARTICLE 19, ‘Myanmar: Failure to condemn atrocity crimes and hate speech fanning flames of crisis in Rakhine’, 13 October 2017, <http://bit.ly/2BYTDIQ>.

Resolution 16/18 and the Rabat Plan of Action on dialogue over censorship, as well as the government's own commitments during the UPR. Moral leadership by government officials, as well as religious leaders, in shaping a narrative that promotes inclusivity, pluralism and respect for diversity is needed.

Beyond merely failing to condemn advocacy of hatred by others, government authorities have, at times, actively participated in campaigns of deliberate misinformation directed at the Rohingya, creating a climate in which the public may be made more receptive to calls of incitement to violence. In December 2016, the Information Committee in Aung San Suu Kyi's office issued a press release dismissing reports of sexual violence as 'rumours' under a banner stating 'Fake Rape'.⁷⁵ The same office has repeatedly dismissed reports of human rights violations as 'fake news', often posting photos of weapons purportedly captured from Rohingya militants and the bodies of alleged victims of their attacks. Some of the photographs shared by the Information Committee in order to advance the narrative that Rohingya villagers were burning their own homes have been demonstrated to have been staged.⁷⁶ Government statements have also advanced claims that INGO staff participated in militant attacks in Rakhine State,⁷⁷ and that the Rohingya were fleeing the country because they had been involved in attacks and were fearful of being arrested.⁷⁸

Historically, government officials have used derogatory language to perpetuate negative stereotypes against the Rohingya. In 2009, Myanmar's consul general in Hong Kong infamously called the Rohingya 'ugly as ogres'. Similar dehumanizing language has also been used by government officials more recently. In October 2016, a member of an official state-level commission investigating the Rakhine State crisis denied reports of the rape by military personnel, telling a BBC reporter that soldiers would not want to rape Rohingya women because they are 'very dirty [and] have a very low standard of living and poor hygiene'.⁷⁹

In the past two years, high ranking military and civilian authorities—including Commander-in-Chief Min Aung Hlaing and officials in Aung San Suu Kyi's office—have made statements denying the existence of the Rohingya as a distinct ethnic group. Although the NLD government has requested the use of the term 'Muslims from Rakhine State,' official government statements have also at times adopted the use of 'Bengalis'. Both terminologies deny the Rohingya their right to self-identification and contribute to their dehumanization and marginalization. In December 2018, Myanmar's Minister of Religion referred to Rohingya who had fled to Bangladesh as 'Bengalis' and stated that, 'the future goal of those over populated Bengalis is to march on Myanmar'.⁸⁰ In its 2018 report, the Independent International Fact-Finding Mission on Myanmar concluded that the Myanmar authorities 'have fostered a climate in which hate speech thrives'.⁸¹

In this context, tackling the proliferation of 'hate speech' must be an urgent priority, requiring concrete and immediate action across a diversity of policy areas. Regrettably, the government appears singularly focused on seeking to pass deeply flawed legislation which is dangerous to the rights to freedom of opinion and expression, freedom of religion or belief, and the right to equality and non-discrimination.

The government is in the process of drafting legislation that purports to address 'hate speech.' ARTICLE 19 has reviewed three successive versions of a draft Bill, now titled the 'Protection Against Hate Speech Bill', the most recent of which was released in 2017.⁸² Originally drafted by the Ministry of Culture and Religious Affairs, the bill has reportedly been transferred to the military led Ministry of Home Affairs.⁸³

⁷⁵ Information Committee, State Counsellor Office, 'Information Committee refutes rumours of rape', 26 December 2016, <http://bit.ly/2offWkd>.

⁷⁶ "Proof of Rohingya-set fires in Myanmar fails inspection," *Associated Press*, 12 September 2017.

⁷⁷ Information Committee of the State Counsellor's Office, 'Statement regarding Extremist Terrorists,' 27 August 2017.

⁷⁸ Ministry of Information, 'Local people arrive back home in peace', ARSA extremist terrorist news-52, 15 September 2017.

⁷⁹ Nikhil Kumar, 'Reprisals, Rape, and Children Burned Alive: Burma's Rohingya Speak of Genocidal Terror', *Time*, 12 December 2016. In September 2017, a Rakhine State minister made a similar claim regarding rape allegations. Lucy Pasha-Robinson, 'Rohingya Muslim crisis: Burmese colonel dismisses ethnic cleansing claims, asking 'who would want to rape them?''', *Independent*, 11 September 2017.

⁸⁰ Poppy McPherson and Thu Thu Aung, 'Myanmar religion minister says Rohingya 'brainwashed' to 'march' on the country', Reuters, 4 December 2018, <https://reut.rs/2BTfWhP>.

⁸¹ Human Rights Council, 'Report of the independent international fact-finding mission on Myanmar,' U.N. Doc A/HRC/39/64, 12 September 2018, para 73.

⁸² ARTICLE 19, 'Myanmar: Interfaith Harmonious Coexistence Bill (3rd Version): Legal Analysis', September 2017, <http://bit.ly/2syv95o>.

⁸³ Myanmar Constitution (2008), article 232.

Previous drafts of the bill raised serious concerns: threatening the rights to freedom of opinion and expression, freedom of religion or belief, and freedom from discrimination. The drafts adopted a very broad definition of 'hate speech,' relying excessively on criminal law and coercive measures to address ill-defined intolerant speech, while failing to precisely align restrictions on speech with those permissible under international human rights law. Any future legislation that adopts this approach will likely close space for inter-communal dialogue, increase tensions within and between groups, stifle the expression of ethnic and religious minorities, and fail to protect against incitement to violence.

Of further concern, the most recent draft of the government's proposed law would create a Central Committee and Board of Investigation: new executive bodies that would not be independent or free from political influence, and would have undefined and sweeping powers to determine what constitutes 'hate speech' and appropriate government responses.

The provisions contained in the drafts to date indicate that passing the bill would add to the numerous tools the government frequently uses to suppress the expression of critical views and dissent. This would pose particular risks for minority and marginalised groups, who are most often the victims of the most severe forms of 'hate speech'. The draft bill is therefore likely to be counter-productive to its purported objectives.

More comprehensive reforms to Myanmar's legislative framework are necessary to effectively combat discrimination and 'hate speech' in the country without violating the right to freedom of expression. In particular, the 1982 Citizenship Act erected insurmountable barriers to citizenship for many Rohingya and has operated to deny them free exercise of their rights, including the right to freedom of expression. Moreover, as noted above, article 295A of the Penal Code, which provides for up to two years of imprisonment for 'outraging religious feelings', and which has frequently been used against religious minorities and individuals speaking out against extremism, should be repealed as an urgent priority.

In its final report, Kofi Annan's Rakhine State Advisory Commission noted that some local authorities have facilitated dialogue between Buddhist and Muslim communities, helping to defuse tensions.⁸⁴ The Commission called for the government to empower local authorities to arrange these types of interactions and to initiate other activities to promote dialogue and understanding.⁸⁵ The Special Rapporteur on the situation of human rights in Myanmar reiterated the importance of the Rabat Plan of Action in her 2017 and 2018 reports.⁸⁶

Both the NLD and USDP government have organized various interfaith gatherings ostensibly aimed at diffusing tensions between religious groups in Myanmar.⁸⁷ These gatherings have been inclusive of leaders and members of the Buddhist, Muslim, Christian and Hindu faiths, and have been presented as positive steps towards promoting understanding between different faith communities.

However, interfaith activities organized by the government have tended to exclude dialogue on the plight of the Rohingya and the situation in Rakhine State. Moreover, some events appear to have been designed specifically to demonstrate support for the NLD-led government in the face of international condemnation of the government's handling of the crisis in Rakhine State.⁸⁸ In this way, government-sponsored interfaith initiatives could potentially promote religious tolerance in general, while hardening opinions against the Rohingya.

Recommendations:

- Ensure that public officials at all levels immediately and unequivocally condemn all intolerance, discrimination and violence directed at the Rohingya and other ethnic and religious minorities in Myanmar.
- Adopt a national implementation plan on HRC Resolution 16/18 and the Rabat Plan of Action, with the full and effective participation of all stakeholders.

⁸⁴ Advisory Commission on Rakhine State, 'Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine State: Final Report of the Advisory Commission on Rakhine State,' August 2017, p. 50.

⁸⁵ Ibid.

⁸⁶ Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar,' UN Doc. A/HRC/34/67, 1 March 2017, para 11.

⁸⁷ See, for example, 'Interfaith Dialogue for Peace, Harmony and Security held,' *Global New Light of Myanmar*, 6 August 2017.

⁸⁸ Su Myat Mon, 'Thousands rally behind NLD at interfaith prayer for peace', *Frontier Myanmar*, 11 October 2017, <https://bit.ly/2HuHlJw>.

- Take immediate measures to ensure an end to intolerant or discriminatory statements by government officials and institutions at all levels, including by holding accountable officials responsible for any incitement of imminent violence based on religion or belief.
- Withdraw the draft Protection Against Hate Speech Bill in its entirety, in favour of a new approach combining positive policy measures to promote and protect the rights to freedom of expression and equality, including through reforms to the Penal Code and the enactment of a comprehensive legal framework for the right to equality.
- Develop comprehensive non-discrimination legislation; consider creating an equality body tasked with fostering social dialogue and accepting complaints about incidents of incitement to hatred; and create a mechanism to identify and address potential areas of tension between members of different religious communities and to assist with conflict prevention and mediation.
- Prohibit the advocacy of discriminatory hatred that constitutes incitement to hostility, discrimination or violence in line with Articles 19(3) and 20(2) of the ICCPR, establishing a high threshold for limitations on free expression as set out in the Rabat Plan of Action, as well as prohibitions on direct and public incitement to genocide and incitement to crimes against humanity.
- Ensure the inclusion of Rohingya leaders and communities in government-sponsored interfaith dialogue initiatives and take measures to ensure that they are given space to express their concerns and opinions without fear of retribution, with a good-faith commitment for dialogue to be directed towards a resolution of grievances.
- Reform the 1982 Citizenship Act to comply with the principle of non-discrimination.

Media Freedom

In 2015 Myanmar supported three recommendations relating to media laws, including the reform of the News Media Law and the Printing and Publication Enterprise Law, and a recommendation on the independence of the Myanmar Press Council.⁸⁹ It noted one recommendation relating to internet access and information.⁹⁰

The News Media Law, passed in 2014, fails to adequately protect and promote media freedom. It requires reform to bolster the impartiality and credibility of the Myanmar Press Council, including by establishing an independent appointment process, improving funding transparency, and guaranteeing diverse representation.

The law qualifies media freedom by referring to a definition of 'media freedom' outlined in the 2008 Constitution, which is out of step with international standards. Restrictions on media freedom are not qualified in line with Article 19(3) of the ICCPR, which provides that any derogation of the right must be: 1) provided by law, 2) in pursuit of a legitimate aim, and 3) necessary in a democratic society. The law fails to explicitly prohibit banning or restricting expression ahead of publication, and fails to differentiate between various forms of media, which is required by international law. The law further created a Press Council that is not independent from government, and therefore fails to sufficiently safeguard the media from the politically-motivated application of content-based criminal laws that, while not imposing custodial sentences, still unjustifiably limit freedom of expression.⁹¹

The Broadcasting Law is also in need of reform to ensure fair treatment of non-state media, increase transparency, and provide adequate support to community media.⁹²

Recommendations:

- Reform the News Media Law to remove government power to make appointments to the Media Council.
- Amend Chapter 7 of the News Media Law to ensure that revenue streams to the Media Council are safeguarded to ensure independence.
- Amend the Broadcast Law to safeguard the media's independence from government control. In particular, the president should have no role in choosing or removing members of the Council.
- Privatise government media or transform it into public service media.
- Amend the Broadcast Law to clarify vague provisions on public service media.

⁸⁹ 144.80 (Belgium)(supported); 144.81 (Ghana)(supported); 144.31 (Thailand) (supported); 145.31 (Austria) (supported).

⁹⁰ 145.32 (Latvia)(noted);

⁹¹ ARTICLE 19, 'Myanmar: News Media Law, 2014: Legal Analysis', 28 July 2014, <http://bit.ly/2EAtqhp>.

⁹² ARTICLE 19, 'Myanmar: Broadcasting Law, 2015: Legal Analysis', 20 November 2015, <http://bit.ly/2Fa6era>.

Ratification of Core Human Rights Treaties

In 2015, Myanmar supported 30 recommendations related to the ratification of human rights treaties, noting one.

In a positive development, on 6 October 2017, Myanmar ratified the International Covenant on Economic, Social and Cultural Rights. Myanmar has not ratified the ICCPR or several other major international human rights treaties, however.

Recommendations:

- Sign and ratify the ICCPR and all other major international human rights treaties.