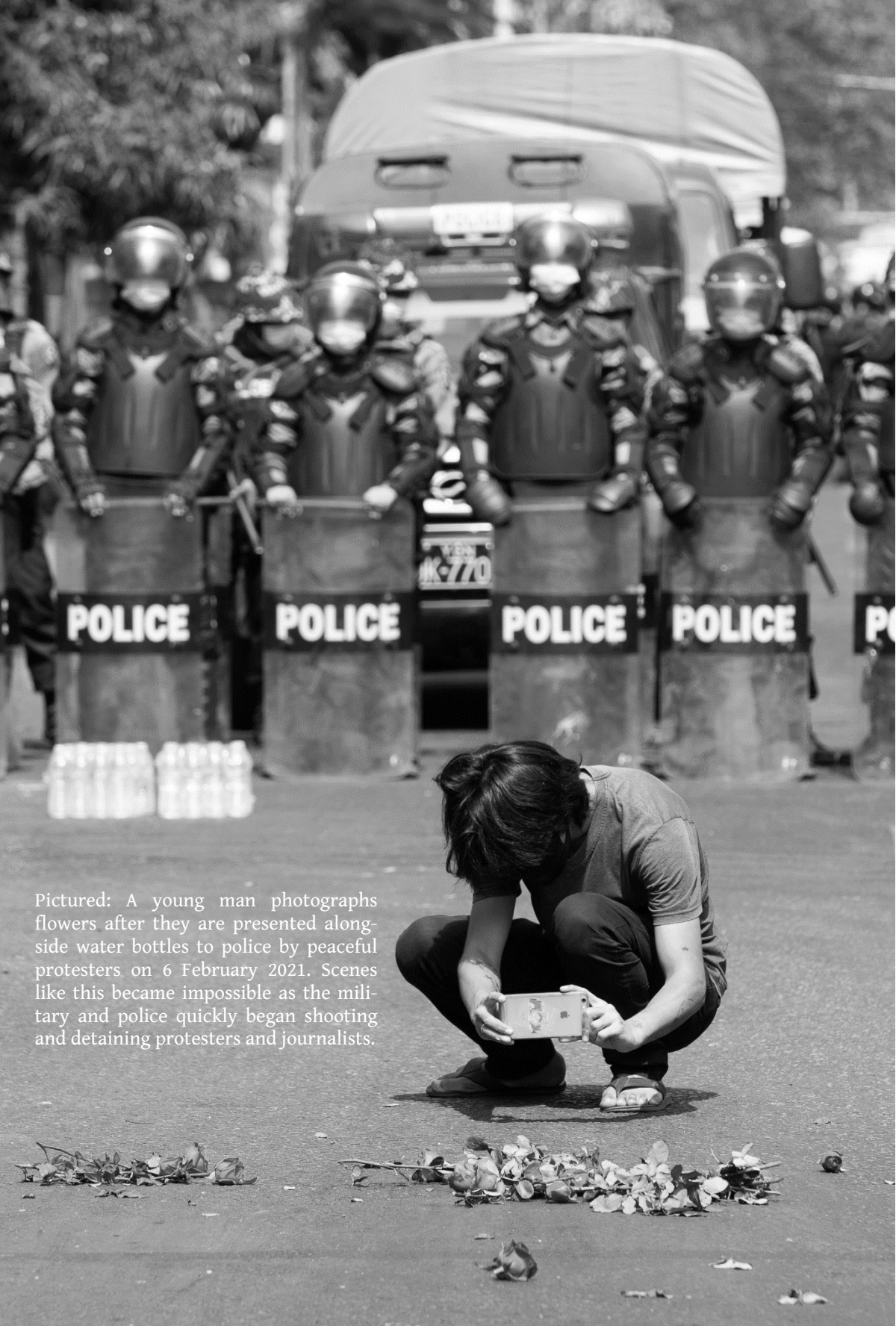


Pictured: A young man photographs flowers after they are presented alongside water bottles to police by peaceful protesters on 6 February 2021. Scenes like this became impossible as the military and police quickly began shooting and detaining protesters and journalists.

Thrust Back into the Dark Age: Challenges Facing the News Media After the Coup

Myo Thawdar[1]

Abstract

The military coup of 1 February 2021 led to immediate and sustained assaults on press freedom in Myanmar. This article focuses on journalists and media agencies and details examples of how the Myanmar military in the first year after the coup attempted to systematically squeeze the sector into submission by issuing decrees, amending laws, revoking media licenses, raiding media offices, and intimidating, detaining, torturing, and killing journalists. The article is based on interviews with 17 Myanmar media outlets and 80 journalists, as well as a review of relevant laws, statements and other secondary sources. It issues several recommendations to the Myanmar military, the international community and other stakeholders, to best assist a return to a brighter future for the media in Myanmar.

Introduction

This article charts the challenges faced by news media and journalists following the 1 February 2021 military coup, detailing examples of how the military repressed press freedom and violated the rights of journalists throughout 2021. The article is based on primary and secondary sources. Primary data was generated by interviewing 17 Myanmar news media outlets, 80 journalists and several legal experts in November and December 2021. All interviews were undertaken using the Telegram and Signal applications and secure email. The names of interviewees have been omitted due to safety concerns. Secondary data came from a wide range of academic, media and grey literature

[1] This name is a collective pseudonym. This article was prepared by members of the Athan organization who go unnamed for security reasons.

sources, and most of it is not directly cited, as security concerns necessitated omitting citation when the authors were threatened by military authorities.

Military rule is the greatest threat to press freedom in Myanmar, with each of the country's historic military regimes arbitrarily arresting journalists and prosecuting them with spurious laws. In 1958, a decade after Myanmar's independence, the then-democratic nation entered its first period of military rule, which lasted until 1960. Two years later, in 1962, the military took over again, leading to five decades of military rule. The military socialist government banned privately owned newspapers, of which there were more than 40, including Lu Du (The People) and Kyae Mone (The Mirror), and sent many journalists to the penal colony on Great Coco Island in the Andaman Sea. Journalists and others who sought to expose and communicate the truth were regularly targeted and imprisoned by the regime, as was anyone deemed to be politically active. Many journalists suffered for covering the major public uprisings against military rule in 1988 and in 2007.

After ten years of hybrid civilian-military rule from 2010, including two major national elections, Min Aung Hlaing's coup d'état on 1 February 2021 reversed the nation's gains and restarted its oppression against journalists and privately-owned news media organizations. On 2 February 2021, the day after the coup, the new military State Administration Council (SAC) announced outright that it would restrict press freedom. The SAC subsequently shut down nine news media outlets and raided and ransacked these nine organizations' offices, first arresting their senior media personnel, and later anyone at all connected to the shuttered outlets. Throughout 2021, hundreds of journalists were arrested and many more were threatened with arrest. Some detained journalists were put on trial with serious charges while others suffered long interrogations in military camps, which included torture and intimidation. The harassment and security concerns of media personnel has forced them to live in hiding or displaced them to new accommodations in areas under the control of ethnic armed organizations, or even abroad, so they can continue to report without fear of suppression.

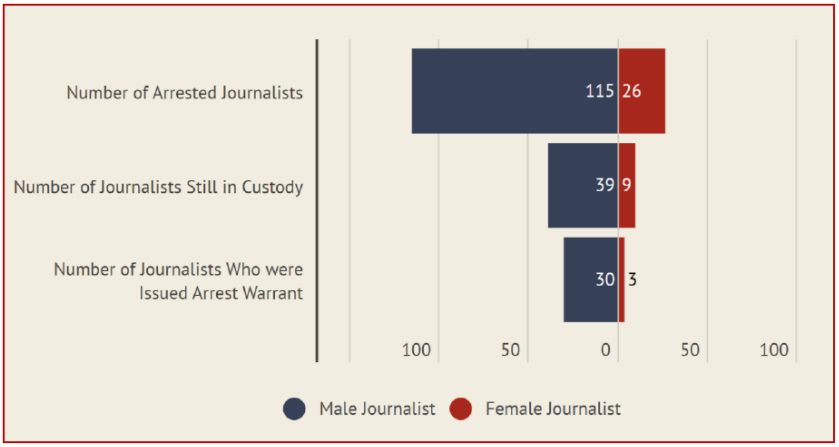
The post-coup policy of harassing journalists is a deliberate tactic by the SAC. Oppressing media companies and personnel, and forcing them to live and work underground, contributes to keeping knowledge of the regime's crimes hidden and violates the people's right to information. The SAC uses various approaches: revoking media licenses; terminating broadcasting channels; torturing, arresting and persecuting journalists; raiding and ransacking offices; applying criminal procedures and laws; and amending laws to affect journalists and media agencies. On top of amending laws to repress journalists and the media sector, the SAC has often disregarded the News Media Law and charged journalists under the Penal Code. Most of those arrested underwent judiciary procedures after being transferred to police stations from the military interrogation centers where they were threatened and tortured.

In post-coup Myanmar, journalists' family members are also in danger. Family members of wanted journalists often get arrested by the military when the journalist eludes capture. The SAC arrests former journalists who are no longer working in the media industry, threatening their safety and security. From February to the end of December 2021, 141 journalists (115 male and 26 female) were arrested, and 13 (nine male and four female) were sentenced to imprisonment on criminal charges.

On 20 June 2021, the SAC released 14 journalists in an amnesty. On 18-20 October, another 18 journalists received an amnesty. In total, 93 journalists were released in 2021, 61 of whom had only been held by the SAC for brief periods of time, not more than a few days. Meanwhile, 30 male and three female journalists had arrest warrants issued for them and 27 journalists faced trials in special courts. Figure 1 shows journalist arrest statistics at the end of 2021.

Figure 1

Journalist arrest statistics at the end of 2021, based on primary and secondary sources.



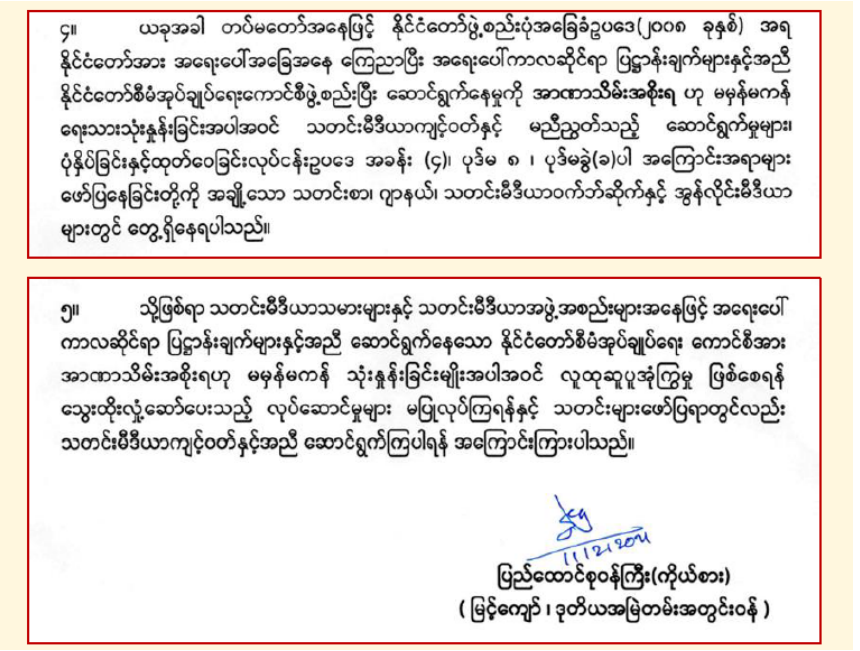
How the Rights and Freedoms of the News Media and Journalists are Repressed by the SAC

The day after the coup, the Ministry of Information (MoI), now controlled by the SAC, released Order 1/2021, which warned: "Do not post rumors on social media or make statements encouraging rioting and instability" and announced that media organizations should cooperate with the government in accordance with existing laws. By effectively equating press freedom with "creating rumors", the SAC made the first step in its campaign. The next step was restricting the terms used by the media to describe the new military council. On 11 February, the SAC-controlled MoI sent the Myanmar Press Council a directive to immediately cease using the terms "military regime" or "junta" when writing about the SAC. The directive claimed journalists and media organizations must operate according to existing laws, in particular section 4, article 9 (a) and (b) of the News Media Law, and section 4, article 8 (a) and (b) of the Printing and

Publishing Enterprise Law. This warning letter, shown in figure 2, clearly illustrates that journalists' rights were violated. The SAC disregarded the rights and freedoms enshrined in the existing News Media Law.

Figure 2

SAC warning letter.



၄။ ယခုအခါ တပ်မတော်အနေဖြင့် နိုင်ငံတော်ဖွဲ့စည်းပုံအခြေခံဥပဒေ(၂၀၀၈ ခုနှစ်) အရ နိုင်ငံတော်အား အရေးပေါ်အခြေအနေ ကြေညာပြီး အရေးပေါ်ကာလဆိုင်ရာ ပြဋ္ဌာန်းချက်များနှင့်အညီ နိုင်ငံတော်စီမံအုပ်ချုပ်ရေးကောင်စီမှဲ့စည်းပြီး ဆောင်ရွက်နေမှုကို အာဏာသိမ်းအစိုးရ ဟု မမှန်မကန် ရေးသားသုံးနှုန်းခြင်းအပါအဝင် သတင်းမီဒီယာကျင့်ဝတ်နှင့် မညီညွတ်သည့် ဆောင်ရွက်မှုများ၊ ပုံနှိပ်ခြင်းနှင့်ထုတ်ဝေခြင်းလုပ်ငန်းဥပဒေ အခန်း (၄)၊ ပုဒ်မ ၈ ၊ ပုဒ်မခွဲ(ခ)ပါ အကြောင်းအရာများ ဖော်ပြနေခြင်းတို့ကို အချို့သော သတင်းစာ၊ ဂျာနယ်၊ သတင်းမီဒီယာဝက်ဘ်ဆိုက်နှင့် အွန်လိုင်းမီဒီယာ များတွင် တွေ့ရှိနေရပါသည်။

၅။ သို့ဖြစ်ရာ သတင်းမီဒီယာသမားများနှင့် သတင်းမီဒီယာအဖွဲ့အစည်းများအနေဖြင့် အရေးပေါ် ကာလဆိုင်ရာ ပြဋ္ဌာန်းချက်များနှင့်အညီ ဆောင်ရွက်နေသော နိုင်ငံတော်စီမံအုပ်ချုပ်ရေး ကောင်စီအား အာဏာသိမ်းအစိုးရဟု မမှန်မကန် သုံးနှုန်းခြင်းမျိုးအပါအဝင် လူထုဆူပူအုံကြွမှု ဖြစ်စေရန် သွေးထိုးလှုံ့ဆော်ပေးသည့် လုပ်ဆောင်မှုများ မပြုလုပ်ကြရန်နှင့် သတင်းများဖော်ပြရာတွင်လည်း သတင်းမီဒီယာကျင့်ဝတ်နှင့်အညီ ဆောင်ရွက်ကြပါရန် အကြောင်းကြားပါသည်။

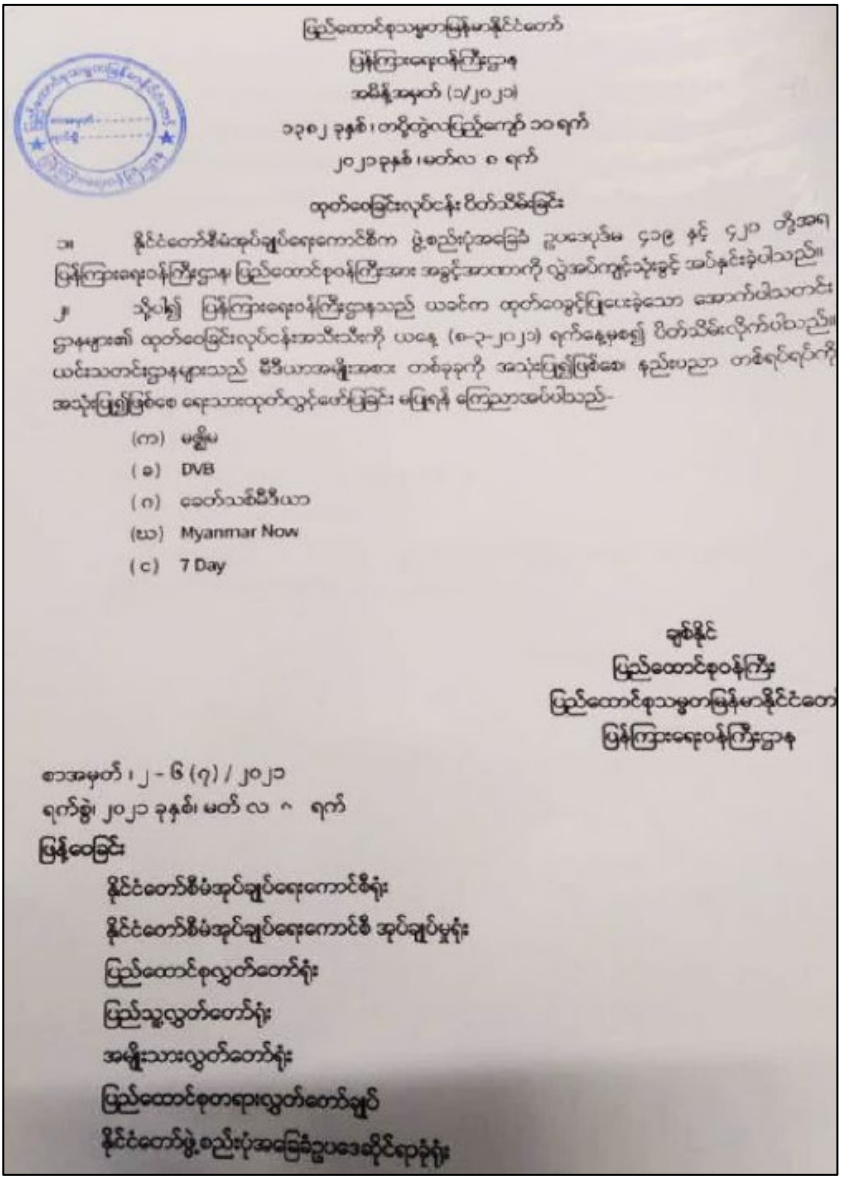
11/12/2021

ပြည်ထောင်စုဝန်ကြီး(ကိုယ်စား)
(မြင့်ကျော် ၊ ဒုတိယအမြဲတမ်းအတွင်းဝန်)

Senior General Min Aung Hlaing, the leader of the coup, reportedly claimed during a Security, Peace, Stability and Rule of Law Committee meeting on 28 September 2021 that "local, international and online media are deteriorating security and the rule of law; the Ministries of Home Affairs and Information must control the media". Later, a directive was distributed to all subordinate agencies in the different states and regions advising amendments to the Television and Radio Broadcasting Law.

Figure 3

MoI notice about revoking news media licenses.



ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်
ပြန်ကြားရေးဝန်ကြီးဌာန
အမိန့်အမှတ် (၁/၂၀၂၁)
၁၃၈၂ ခုနှစ်၊ တပို့တွဲလပြည့်ကျော် ၁၀ ရက်
၂၀၂၁ ခုနှစ်၊ မတ်လ ၈ ရက်

ထုတ်ဝေခြင်းလုပ်ငန်း ပိတ်သိမ်းခြင်း

၁။ နိုင်ငံတော်စီမံအုပ်ချုပ်ရေးကောင်စီက ပွဲ့စည်းပုံအခြေခံ ဥပဒေပုဒ်မ ၄၁၉ နှင့် ၄၂၁ တို့အရ ပြန်ကြားရေးဝန်ကြီးဌာန၊ ပြည်ထောင်စုဝန်ကြီးဌာန အခွင့်အာဏာကို လွှဲအပ်ကျင့်သုံးခွင့် အပ်နှင်းခဲ့ပါသည်။

၂။ သို့ပါ၍ ပြန်ကြားရေးဝန်ကြီးဌာနသည် ယခင်က ထုတ်ဝေခွင့်ပြုပေးခဲ့သော အောက်ပါသတင်းဌာနများ၏ ထုတ်ဝေခြင်းလုပ်ငန်းအသီးသီးကို ယနေ့ (၈-၃-၂၀၂၁) ရက်နေ့မှစ၍ ပိတ်သိမ်းလိုက်ပါသည်။ ယင်းသတင်းဌာနများသည် မိဒီယာအမျိုးအစား တစ်ခုခုကို အသုံးပြု၍ဖြစ်စေ၊ နည်းပညာ တစ်ရပ်ရပ်ကို အသုံးပြု၍ဖြစ်စေ ရေးသားထုတ်လွှင့်ဖော်ပြခြင်း မပြုရန် ကြေညာအပ်ပါသည်-

(က) မဇ္ဈိမ
(ခ) DVB
(ဂ) ခေတ်သစ်မီဒီယာ
(ဃ) Myanmar Now
(c) 7 Day

ချစ်နိုင်
ပြည်ထောင်စုဝန်ကြီး
ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်
ပြန်ကြားရေးဝန်ကြီးဌာန

စာအမှတ်၊ ၂ - ၆ (၇) / ၂၀၂၁
ရက်စွဲ၊ ၂၀၂၁ ခုနှစ်၊ မတ် လ ၈ ရက်

ဖြန့်ဝေခြင်း
နိုင်ငံတော်စီမံအုပ်ချုပ်ရေးကောင်စီဝင်များ
နိုင်ငံတော်စီမံအုပ်ချုပ်ရေးကောင်စီ အုပ်ချုပ်မှုဝန်ထမ်းများ
ပြည်ထောင်စုလွှတ်တော်ဝင်များ
ပြည်သူ့လွှတ်တော်ဝင်များ
အမျိုးသားလွှတ်တော်ဝင်များ
ပြည်ထောင်စုတရားလွှတ်တော်ချုပ်
နိုင်ငံတော်ပွဲ့စည်းပုံအခြေခံဥပဒေပိုင်ရာခုံဝင်များ

Revoking Media Licenses

After the 1 February coup, the SAC shut down the free-to-air Mizzima and Democratic Voice of Burma (DVB) television channels, which had been permitted to broadcast by the MoI through an agreement with Myanmar Radio and Television since February 2018. An official from Mizzima remarked when interviewed that shutting down the channels not only reduced press freedom but also breached broadcasting business contracts.

On 8 March, more than a month after the coup, the MoI announced it was revoking the news media licenses outright for DVB, Myanmar Now, Mizzima, 7 Days, and Khit Thit Media. This was not based on them having violated any law and was simply a direct abuse of power. Later, the SAC banned the Tachileik News Agency on 20 April, the Myitkyina News Journal and 74 Media on 29 April, and Delta News Agency on 4 October 2021, claiming that those media outlets had violated article 8 of the Printing and Publishing Enterprise Law, which is concerned with the publishing that affects national security, the rule of law, and community peace and tranquility. An SAC statement on the license revocations declared the organizations void and prohibited, in perpetuity, from reporting in any form and through any medium. As mentioned, in total, nine news media agencies were banned in 2021 following the coup. The Ministry of Hotels and Tourism also sent a 22 November 2021 letter to hoteliers warning of punishments for providing access or displaying broadcast media from DVB, Myanmar Now, Mizzima, 7 Days, and Khit Thit Media.

Wanted Journalists and Raids on News Media Offices

Many news media organizations have had their offices, and the homes of their senior personnel, illegally attacked, raided and ransacked by Myanmar military troops since the coup. On 8 March, the office of the award-winning Myanmar Now news agency was raided by soldiers, who confiscated computers and property from the site. The next day, the offices of Mizzima and

Kamayut Media were raided the same way. Kamayut Media chief editor Nathan Maung, an American citizen, and co-founder Han Thar Nyein, were arrested. Also on 9 March, the office of the Hakha Post, in the capital of Chin State, was raided and had property stolen in the same way. The office of the Tachileik News Agency was also raided, as was that of the Monywa Gazette on 21 April, which had already suspended its print operation at the end of February but published online until the raid. The office of Myaylatt Athan was raided twice: first on 5 March and again on 26 August. On 5 May, the office of Lashio-based Shwe Phee Myay news agency was raided. On 25 June, police and military forces raided the Mawlamyine Township office of the Thanlwin Times and interrogated the landlord who leased the property to the organization. The SAC also raided the then-Yangon-based Irrawaddy News office on 14 and 15 October.

Some organizations were not raided per se but suffered similar effects: The SAC searched for the location of the Ayeyarwady Times news agency office in Pathein Township but two of the publication's editors managed to shut down the office and move it before it was raided. Western News, a media organization in Rakhine State, reported that SAC forces investigated their office on 19 November 2021. On the same day, security forces in Myitkyina, Kachin State, physically assaulted a reporter from the Myitkyina Journal.

In the course of research for this article, several cases came to light of reporters being attacked and injured by the military. One DVB reporter, Aung Kyaw, suffered a head injury when the SAC pelted his home with projectiles. He recorded and live-streamed the incident via DVB's Facebook page. After his injury and arrest, Aung Kyaw was prosecuted under Penal Code section 505(a) and sentenced to three years in prison. While in custody, the SAC did not allow him to communicate with his family for eight months and tortured him regularly, including kicking him in the face, burning his face and hands with cigarettes, pulling off his fingernails and wrapping plastic bags over his head. Aung Kyaw was kicked, hit and bludgeoned with batons, causing one of his eyes to swell and shut, and his nose was broken. He regularly collapsed from his injuries and was released at the end of

2021 in an amnesty. He has not recovered from the physical and emotional trauma of being tortured by the military.

On 3 March, military and police forces targeted a video journalist who was reporting on an anti-coup protest, hunting him and shouting, "Kill that guy!". The journalist was violently arrested after being kicked and beaten on the street, bleeding badly from his head. He was tortured and interrogated for two consecutive days without food and water, developing bruises on his back, bottom, and legs.

As mentioned above, Nathan Maung and Han Thar Nyein of Kamayut Media were arrested at their office on 9 March. They were brought blindfolded to a room in the interrogation unit and violently dragged along the floor. Han Thar Nyein was handcuffed, kicked and beaten. For three days, Nathan Maung was interrogated and tortured without sleep, kept awake by constant beatings. Even after the interrogator discovered he was an American citizen, the torture continued. They were not allowed to have food or water until the fourth day of interrogation. Both were interrogated for 15 days in total. Nathan Maung was finally exiled to the United States on 14 June.

On 27 March, Htet Myat Thu, a reporter from the Voice of Thanbyuzayat news agency, was shot in the leg and arrested by military and police forces while covering news in Kyaikto, Mon State. On the same day, Si Thu Lwin, a reporter from Mandalay, was shot in his right hand. On 21 April, Dawei-based Dakkhina Insight reporter Naing Tun Lin was shot and arrested while covering an anti-coup protest. At around 12 a.m. on 14 September, dozens of military and police officers surrounded a local journalist's house in Magway Region. They dragged him outside and threatened him. They made him kneel on the tarmac road and handcuffed him. Jabbing at his wife's chest with gun-muzzles, they commanded she hand over his computer. He was then brought to the police station and tortured until 5 a.m.

Of the four foreign journalists arrested in 2021, Nathan Maung, the chief editor from Kamayut Media, and Danny Fenster, from Frontier Myanmar, are American citizens. The others are Robert Bociaga from Poland and Yuki Kitazumi from Japan. Robert Bociaga was arrested particularly violently. According to

this author's survey, at least 21 journalists suffered direct violence in the course of their work following the coup. The raids, arrests and intimidation have had a calamitous effect on the country's media, with some journalists explaining to the author that they decided to switch careers as a result.

Figure 4

Zayar Myint, a reporter with Myaylatt Athan, was shot with a rubber bullet while covering protests on 28 February 2021.

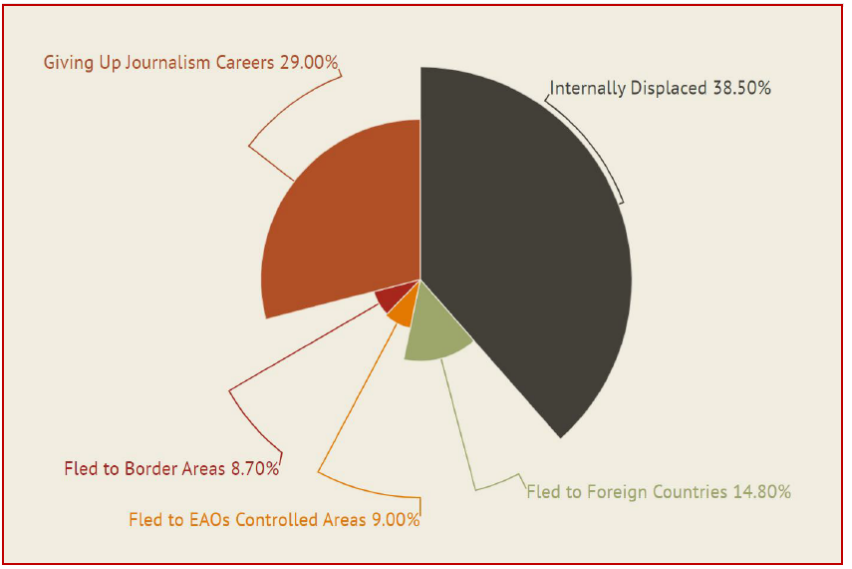
Displacement of Journalists

Many journalists have been forced to flee due to the military's strategy of targeting media personnel with intimidation, interrogation, torture and arrest. Journalists, editors, and reporters from a Mon State-based news agency, as well as their family members, moved quickly to areas outside the control of the SAC at the end of February 2021, after the chief editor's house was raided and police targeted the news agency's employees. This pattern has played out nationwide, with journalists from an Ayeyarwady Region-based news agency being forced to flee

from their homes when the military tried to arrest two of the agency's editors in March. They fled to a border area where they could continue working. Reporters and personnel from several news media organizations based in Rakhine and Kachin states, and Yangon, Magway, Bago, Mandalay, and Sagaing regions have also fled to safe areas, including border areas or foreign countries. Figure 5 shows a sampling of decisions journalists made about their careers following the coup.

Figure 5

Journalists' responses to the SAC's brutal subjugation of citizens and the media following the 2021 coup, based on the survey of 80 journalists undertaken for this article.



Deaths of Journalists

On 10 December 2021, which also happens to be Human Rights Day, photojournalists Soe Naing and Zaw Tun were arrested while taking photographs of a nationwide silent strike in Yangon. Soe Naing was tortured to death in an interrogation center on 14 December. His death was the first official journalist

fatality, ten months after the coup. Others died later in the year, including A Sai Kay, or Sai Win Aung, editor of the Federal Journal, who was shot dead by the military in Myawaddy Township, Kayin State on 25 December.

Targeting of Journalists' Family Members

While journalists themselves are subject to torture at the time of arrest and again when in custody, their families are also at risk. As mentioned earlier, the SAC often detains family members of journalists when the journalists are not at home or on the run. Examples include arrests of the brother-in-law of the chief editor of the Chin Land Post, the husband of freelance reporter Thuzar, and the father and grandfather of Pyay-based Myaylatt Athan reporter Pyae Phone Paing. The father of one reporter with a Shan State-based news agency was arrested as a hostage, forcing the reporter to come out of hiding to the police station and sign a pledge to quit his job in exchange for his father's release. Several family members of journalists with the Thanlwin Times were also threatened with arrest.

Intimidation via the SAC's 'Press Conferences'

The SAC organized its first press conference on 16 February, more than two weeks after the coup. Major General Zaw Min Tun, head of the SAC's press team and chief of the Tatmadaw True News Information Team, chaired the press conference, with Thet Swe as vice-chair. In this very first conference, Zaw Min Tun publicly intimidated the news media. He said, "the security of journalists is not completely guaranteed because the SAC must take actions when news media use restricted terms such as 'military regime' and 'junta'. Licenses will be revoked". This was just the beginning of regular intimidation of the media during SAC press conferences, which quickly degenerated into scripted performances of military-friendly journalists asking leading questions, likely pre-approved and endorsed by the SAC.

At the SAC's 23 March 2021 press conference, Zaw Min Tun warned news media against reporting on the Committee

Representing Pyidaungsu Hluttaw (CRPH), declared by the SAC as an unlawful organization in its Ministry of Home Affairs statement 2/2021. He added that any means of supporting the CRPH would not be tolerated and would violate article 17(a) of the unlawful association act. During these conferences, the news media is regularly wrongfully accused of incitement, bias and reporting fake news. Moreover, press conferences repeatedly include assertions that the media is dangerous for the public, potentially influencing young and vulnerable populations. At the SAC's 30 September 2021 press conference, Zaw Min Tun claimed that journalists were being arrested because of their supposed infringements of journalistic ethics.

Amendment Laws in Order to Increase Repression

Following the military coup, the SAC amended 28 laws and prosecuted media entities and personnel under the Penal Code and anti-terrorism legislation. The SAC ignored the provisions in the News Media Law that protect the rights of journalists. At the time of writing, at the end of 2021, there are nearly 50 journalists facing charges in the special courts of various prisons across the country. Most have been charged under Penal Code section 505(a), but some face more complicated charges under the Explosive Substances, Unlawful Associations, and Anti-Terrorism acts.

A few days after the coup, there were reports that newly drafted amendments to the Cyber-Security Law would be applied, resulting in even less press freedom for journalists and media outlets. The drafted amendments hamper democratic values and freedom of expression in reporting news protected by the News Media Law. They include restrictions on online news media and their rights to freely report, broadcast, and provide information. The drafted amendments undermine the purpose of the News Media Law, which is to protect freedom of expression, the right to information and journalists' rights and freedoms. The amendments also contravene article 19 of the Universal Declaration of Human Rights, and many media organizations

and advocates for freedom of expression have strongly denounced them.

The Amended Penal Code Sections

On 14 February 2021, sections 121, 122, 124 (a, b), and 505 (a-d) in the Myanmar Penal Code were amended. New clauses (c) and (d) were added to section 124, while section 505(a) had three new sub clauses added. The amendments to article 124(a) show how these amendments are being applied in lawsuits against journalists in post-coup Myanmar. While the original provision is "(to) bring or attempt to bring into hatred or contempt, or excite or attempt to excite disaffection towards the government", the amendment continues with the phrase of "or the Defense Services or Defense Services Personnel". Moreover, the punishment was changed from "... or with imprisonment which may extend to seven years" to "20 years". Si Thu Aung Myint, a veteran journalist, faces a lawsuit under this amended section 124(a).

A legal analyst observed, when interviewed, that the amendments and extensions of sections and sub-sections have been designed to be used against the media. At the time of writing at the end of 2021, one third of the nearly 50 journalists facing trial in the special courts of various prisons are facing charges under section 505(a) of the Penal Code, while 33 have live warrants for their arrest. One third of all journalists arrested since the coup (and some subsequently released) have faced lawsuits under 505(a). The Myanmar police also accused Irrawaddy News of breaking section 505(a) on 10 March 2021, referring to one of its articles.

Figure 6

The number of journalists charged nationwide in 2021, with data sorted by the law under which they were prosecuted.

Lawsuits	Under detained	Released	Total
N/A	21	47	68
Penal 188		1	1
Penal 505A	16	33	49
Penal 505A, 124(a)	2		2
Penal 505A, 505(b) | Telecommunication Law 33(b), 66(d)		1	1
Penal 505A | Counter Terrorism Law 50(a), (c)	2		2
Penal 505A | Export and Import Law 5	1		1
Penal 505A | Telecommunication Law 66(d)		2	2
Penal 505A | Unlawful Association Act 17(a), Immigration Act 13(a)		1	1
Penal 505A | Unlawful Association Law 17(1)		2	2
Penal 505A,134,135		1	1
Penal 505A | Unlawful Association Act 17(a)	1		1
Counter Terrorism Law 50(a), 52(a)	1		1
Counter Terrorism Law 52(a)	1		1
Illegal residence		3	3
Immigration Act 13(1)		1	1
Penal 145, 505A,		1	1
Penal 323, 334, 336, 341, 436	1		1
Explosion Substances Act	2		2
	48	93	141

The Amended Counter-Terrorism Law

On 1 August 2021, the Counter-Terrorism Law was amended. The amendments stipulate it is an offense to participate in, conceal, harbor, help to escape, or otherwise assist, a designated terrorist group. Clauses 15-18 of sub-section (b) of section 3 of the law

were amended, and journalists are often prosecuted under section 52(a). For example, at the time of writing Channel Mandalay reporter Win Naing Oo is currently being prosecuted under section 50(a) rather than under Penal Code section 505(a), the initial charge. Zeyar Times reporters De Myat Nyein and Pyae Phyo Aung have both been charged under section 52(a) of the Counter-Terrorism Law in addition to charges under section 505 of the Penal Code.

The Unlawful Associations Act

The SAC has prosecuted several journalists under sections 17/1 and 17/2 of the Unlawful Associations Act. Section 17/1 states it is an offense to be a member of, facilitate or take part in meetings with, contribute to or solicit contributions to, or manage or otherwise assist, any organization declared unlawful by the SAC. Section 17/1 is punishable by two to three years of imprisonment. BBC Media Action presenter Htet Htet Khaing currently faces charges under article 17/1 of the act (as well as under section 505 of the Penal Code). Mizzima News Agency's co-founder Thin Thin Aung and office staff James Pu Htaung faced the same charges before being released in an amnesty on 18 October 2021. The founder of Myaylatt Athan also confirmed that a case was filed against that organization under the same two charges.

The Explosive Substances Act

Two journalists faced charges under section 5 of the Explosive Substances Act in 2021. This section is punishable by transportation, and/or five to 14 years' imprisonment, to which a fine may be added. Thingangyun Post editor Htet Htet Aung and journalist Wai Lin face lawsuits under this section, as well as other sections under the Counter-Terrorism Act. By the end of 2021, another two journalists had also been charged under that section.

The Amended Television and Radio Broadcasting Law

The SAC passed additional amendments to the Television and Radio Broadcasting Law on 1 November 2021. Section 2(a) was amended to include "(broadcasting via) any other technology". Moreover, sections 96-99 were amended with extended imprisonment terms and/or increased fines. Section 99(a) was amended with the condition that "the materials related to the case shall be confiscated for public finances", while section 105(a) defines offenses "(to) be identified as cognizable offenses". The latter definition means the police force has the authority to arrest journalists and news media agencies without a warrant issued by the court, according to a legal specialist, who also commented that the law's amendments in general are devised to broaden its scope, restricting online news outlets. The amended law particularly represses media agencies that continue to publish online after being stripped of their broadcasting licenses.

Journalists Jailed with Criminal Offenses

As mentioned, many journalists have been detained by the SAC and jailed on spurious criminal charges. In the 11 months from the coup to the end of 2021, 13 journalists were sentenced by different courts in closed-door hearings. The hearings occurred under tight observation of police, military intelligence, and staff from the Bureau of Special Investigations, and were politically motivated; the judiciary has been compromised. Just under 50 journalists are still in various prisons, charged with criminal offenses. This section lists just some of those who have suffered in this way.

On 1 March, Aung Kyaw, a DVB correspondent in Myeik, was arrested and sentenced to two years in prison under section 505 of the Penal Code. On 3 March, Min Nyo, a DVB correspondent based in Pyay, was beaten, arrested, and then on 12 May sentenced to three years in prison under section 505(a) of the Penal

Code. Both DVB journalists were later released on 18 October in an amnesty.

On 16 March, May Thwe Aung, a female DVB correspondent based in Okkan, was arrested while covering the news with her journalist husband. She was charged under section 188 and sentenced to a month in prison for 'violating curfew'. On 24 March, Taunggyi-based Kanbawza Times editor Nang Nang Tai, reporter Nang Win Yee, publisher Tin Aung Kyaw, and housekeeper Sai Sithu (who was accused of being a journalist) were arrested while hiding in Hopong Township. They were sentenced to three years in prison on 10 December under section 505(a) of the Penal Code. Likewise, on 5 April, Thet Naing Win, a journalist in Minhla, was arrested and then sentenced on 16 June to three years in prison under section 505(a), and Zaw Zaw, a Mizzima correspondent in Myeik, was arrested on 7 April, then sentenced on 2 June to two years in prison under section 505(a). Zaw Zaw and Thet Naing Win were also released in the amnesty of 18 October.

Thet Tun Aung (a.k.a. Maung Htoo San), a freelance photojournalist, was arrested and sentenced to three years in prison on 3 June under section 505(a). On 20 April, Aung Myo Htet, a freelance journalist based in Kanbalu Township, was arrested, and then sentenced on 30 November to two years in prison under section 505(a). Ko Nyein Chan Wai, a journalist from the Bago Weekly Journal, was arrested on 14 May and sentenced on 16 December to three years in prison under sections 505(a) and 124(a) of the Penal Code. Ma Mya Wun Yan, editor-in-chief of the Than Lwin Thway Chin News Agency, was also arrested with her two daughters in Taunggyi on 20 July and sentenced on 30 December to two years in prison under section 505(a).

On May 4, Frontier Myanmar Editor Danny Fenster was arrested at Yangon International Airport and charged under section 505(a) of the Penal Code and section 17/1 of the unlawful associations act. Later, he was also charged under section 13/1 of the Immigration Law, section 124(a) of the Penal Code and section 50(a) of the Counter-Terrorism Law. On November 15, three days after being sentenced to 11 years' imprisonment, he was released and immediately deported.

Journalists' Rights Under the News Media Law

The military regime is stripping away the meager legal protections guaranteeing journalists and citizens their rights, which are already routinely violated. Given that this article aims to clarify how journalists are losing their rights and protection, some discussion of the existing legal provisions is warranted. Article 3 in chapter 2 of the News Media Law directly acknowledges the press as the fourth estate.

Objectives of the News Media Law:

> (a) To materialize News Media Industries which are offered freedom from censorship to express, publish, or distribute freely as part of rights and privileges granted to every citizen in compliance with regulations stated in the national constitution.
> (b) To ensure that News Media can stand up firmly as the Fourth Estate of our nation.
> (c) To guarantee that News Media workers are fully provided with their entitlements and freedom.
> (d) To establish and develop responsibilities, ethics, rules and regulations, and practices to be adopted within relevant industries and organizations.
> (e) To make news accessible to every citizen.
> (f) To ensure any complaints, arguments regarding publications or broadcasting of a certain media are settled and negotiated in a conciliatory manner.[2]

Article 7 of the law provides:

> While a news media worker is trying to get news in compliance with regulations specified by relevant and responsible organizations, in the areas where

[2] News Media Law, 2014.

> wars break out, and where conflicts or riots and demonstrations take place, (a) he/she shall be exempt from being detained by a certain security related authority or his/her equipment being confiscated or destroyed and (b) he/she shall be entitled to ask for their safety and protective measures from the security related organizations.[3]

Other than these legal rights, articles 4-6 and 8-9 also ensure protection for journalists. However, the SAC ignores those legal protections. A legal specialist interviewed for this article remarked, "arresting and prosecuting journalists by applying only some laws and regulations, and ignoring the existing legal provisions protecting journalists, is a great blow to journalists, who are rendered vulnerable ... they are unprotected in their time of need".

Other Threats to Journalism and Livelihoods

There are other major challenges threatening journalism in Myanmar after the 2021 coup. Some of these include closures, financial challenges, restricted sources, and telecommunications blackouts and cuts. They are detailed below in this section.

Media Outlet Bans, Closures and Resurrections

Numerous media outlets discontinued official publication following the coup. This included Yangon-based agencies like 7 Day Media, with its daily newspaper, weekly periodical, and online video and news platforms; Myanmar Times' daily newspaper, weekly periodical, and online news; and the Voice Daily's newspaper, weekly journal and online news. Many regional outlets also closed, including the Magway Journal, Myitkyina Journal, the Monywa Gazette journal and its online news, the Kanbawza Times, Magway Post online, and the Tanintharyi Journal. The only privately-owned newspapers still publishing at the end of

[3] News Media Law, 2014.

2021 were Sandawchain (the Standard Time) and Daily Eleven. But even they halted their print circulations in the first months after the coup.

There are many media agencies whose licenses were revoked but continue to try and report. These include DVB, Mizzima, Myanmar Now, Khit Thit Media, Tachileik News, 74 Media, Delta News Agency, Salween Times, and Border News Agency. Moreover, journalists organized at least nine new online media outlets following the coup, such as the influential Lu Nge Khit. Experienced journalists joined these new outlets after their former media agencies were closed or disbanded.

Figure 7

Some of the new media outlets formed after the military coup in 2021.

	New Online Media
1	The Nation Voice
2	National Unity Media
3	Border News Agency
4	Mandalay Free Press
5	Pyu Regional News
6	Chindwin Post
7	Burma Associate Press
8	The Light Myanmar
9	Myanmar Press Freedom

Financial Sustainability Challenges

Media agencies were already struggling with the effects of the COVID-19 pandemic, including in-person news reporting and financial difficulties, when the military enacted its coup. According to a survey of 17 news agencies, revenue shortage is still the biggest challenge to continuing their work. Advertising revenue has completely stopped, and some international organizations have suspended their media development programs supporting independent news media. The situation poses a significant challenge for the sustainability of media agencies. When interviewed, the founder of one local news agency said, “revenues

have ceased since the coup ... to stay afloat is tough when media development programs become limited ... we can only afford to cover the telecommunication costs for our journalists instead of paying a decent salary. Even that is difficult to sustain". Another official from a Yangon-based news agency stated bluntly, "we have no advertisement revenue to carry on".

Most media outlets currently have no income, and journalists have no salary or wages. However, they are still doing their best to report accurate news and information to the public. Only one out of the 17 media outlets surveyed for this paper received small-scale support for their news and articles. Of the 80 journalists surveyed, approximately 55 percent continue to survive on support from families and friends, 15 percent receive only a portion of their salaries, and 15 percent rely on unrelated side jobs, such as selling goods online. Five percent receive only telecommunication costs and internet subsidies from their employer in lieu of a salary. Only ten percent were still being paid a full salary by their news agency employer by the end of 2021. More than 90 percent stated that income, livelihood, and security issues are pressing challenges, especially for journalists forced to flee their homes. Living costs while in hiding and rising commodity prices make the lives of journalists on the run even harder.

Restricted Sources and Access to Information

Of those surveyed, all 17 news outlets interviewed acknowledged challenges to reporting objectively and independently in the post-coup environment. The SAC's unwillingness to countenance criticism, its lack of response to basic questions, media agencies and journalists' major and legitimate security concerns, and fact-checking difficulties stemming from revolutionary conflict generate key ethical challenges for journalists. Six news agencies responded that ethical standards of journalism weaken when press freedom wanes. Two other agencies reflected that poor journalistic ethics affects audiences' analytical abilities. Four agencies said that they assume one-sided reporting corrupts ethical standards. Only one agency said it adheres

to its established media policy without violating its code of conduct. Most news agencies stated they want to follow a code of conduct; however, this ultimately depends on the SAC and its continued campaign against journalists and media agencies.

Internet and Telecommunications Cuts

There are over 30 townships in Kachin, Chin, and Shan states, and Sagaing, Magway, and Mandalay regions, where military-enforced internet blackouts regularly occur, often accompanied by massacres and arson in villages. It is difficult for news outlets to report from and confirm information in areas under blackouts. Journalists claim that the flow of information slows, fact-checking becomes complicated, and accessing photos and video footage is almost impossible. Journalists rely on communicating with local sources who are directly engaging in or experiencing the conflict in blackout areas.

Deleterious Effects of the New Media Council

A few days after the coup d'état, most members of the Myanmar Press Council, which is organized according to the News Media Law, chose to resign. At the council's meeting on 17 February, a total of 17 councilors resigned en masse, with others renouncing membership later. The SAC confirmed a dismissal statement related to those 23 councilors on 4 March. However, the acting chairperson and treasurer chose to remain.

Due to the resignation of the councilors elected for the second term of the Myanmar Press Council, an election was held for the vacant seats on 30 April. The substituted council was not acknowledged by most media organizations. The Press Council immediately issued a series of statements condemning and repressing the freedoms and rights of journalists and media professionals. Up to December 2021, the new Press Council had issued six statements parroting the SAC's standpoint of repressing press freedom. The Press Council ignored the provisions and purposes of the News Media Law and condemned media

organizations whose licenses had been revoked. On 25 June, its statement no. 5/2021, read:

> The State has banned some media outlets inciting to escalate conflicts across society and revoked their licenses because of violating the News Media Law and code of conduct. Hence, the Myanmar Press Council will not be held responsible for resolving any disputes over the violations of existing laws, the News Media Law, or breaching journalist code of conduct in communicating and reporting with those banned media outlets.

Similarly, statement, no. 4/2021, issued just four days earlier on 21 June, stated in relation to a single case of SAC arson that was widely reported on:

> (The council) strongly condemns the reporting and publications of some local media outlets with no licenses, international media, and embassies related to the Kinma village fire incident that happened on 15 June, since those descriptions were merely false information contrary to the realities.

The new Press Council, which is supposed to protect the rights of journalists, in fact simply mirrors the military council's policy of suppressing press freedom. One interviewed journalist remarked that "the council has become a puppet of the military regime. It is of no use for journalists anymore". On 24 November, the council's third swearing in ceremony was held. The coup reversed the council's original purpose to promote press freedom, the rights of journalists, and the capacity building of the sector. The council now suppresses journalism and silences claims for press freedom and the rights of the journalists.

Statements From Organizations and Agencies

During the first few months following the 2021 coup, journalist organizations issued statements about the repression of journalists, calling for the rights and freedoms of journalists. These statements were consistently ignored by the SAC, and as the suppression of journalists intensified, statements from media organizations became less frequent. This section lists some of the statements made in the early months of the coup.

A 10 February 2021 statement by Burma News International (BNI), a coalition of ethnic media outlets, demanded the SAC stop suppressing and undermining press freedom and rights to information, given the contemporary political instability, and when ethnic people across the country need access to accurate information. It called on the SAC to cease violent actions against journalists and to work with local and international media organizations and donors to ensure press freedom, public access to information, and the safety of journalists. Then on 10 March, BNI issued another statement that strongly opposed revoking the broadcasting rights of the five news outlets covered earlier in this article, and the raiding of two media offices and theft of their equipment.

On 13 February, a total of 28 media outlets and journalism organizations denounced the SAC's drafted amendment of the Cyber-Security Law, covered earlier in this article. In response to warning letters delivered on 13 and 23 February by the MoI, ordering writers and publishers not to use the terms "military junta, military regime, or military council", 30 media outlets responded with a statement on 25 February stressing that the ministry's warning undermined press freedom, and saying that independent media outlets would continue to publish content under the terms of their editorial standards and media ethics.

On 2 March, the Myanmar Journalist Network, Lashio Journalist Group, Taunggyi Reporters Association, Myaylatt Journalist Network, Southern Myanmar Journalist Network, Myanmar Journalist Network (Ayeyarwady Region), and Myanmar Women Journalist Association issued a joint statement calling for the

immediate release of journalists; condemning violent crackdowns, arrests, and night raids on journalists' residences, and the confiscation of journalism equipment including phones and cameras; and denouncing the prosecutions of journalists. The same group of organizations released another statement on 13 May condemning the three-year prison sentence given to Min Nyo, a DVB reporter based in Pyay, who was charged under 505(a).

In the early months following the coup, many networks, associations and organizations representing journalists from across the country issued statements condemning the SAC's information warfare and persecution of journalists. As time went on, those statements were gradually silenced as the numbers of journalists arrested and pushed into hiding increased. In one interview, an executive member of the Myanmar Journalist Network said that journalist organizations now view statements to be an ineffective advocacy approach due to so many journalists being forced into hiding. However, BNI continued to issue statements condemning the suppression of press freedom throughout 2021. A BNI statement from 28 September 2021 condemned the ongoing arrests of journalists. It added that the internet blackouts in 25 townships in Chin and Kachin states, and Sagaing, Mandalay, and Magway regions, are deliberate violations of citizens' right to information and freedom of expression. The statement called for the immediate release of arrested journalists, the cessation of physical and psychological torture and harassment in prisons and interrogation camps, and the abandonment of arrest warrants placed on journalists. It also called for the relicensing of banned media outlets, acknowledgement of press freedom and the right to information.

Recommendations for Stakeholders in Sustaining Local Media in Myanmar

Ensuring Press Freedom and Real Journalism in Myanmar

1. Freedom of the press needs to be fully guaranteed in accordance with article 19 of the Universal Declaration of

Human Rights. The SAC must prevent its laws from contravening press freedom standards.
2. The SAC must immediately stop threatening, detaining and torturing journalists and prosecuting the media and journalists under the Penal Code, Unlawful Association Act, Explosive Substance Act and other criminal laws.
3. The SAC should strictly adhere to the provisions of the News Media Law and amend the Counter-Terrorism Law.
4. The SAC should reverse its revocation of broadcasting licenses, shutting down of television channels, and banning and blacklisting of websites and Facebook pages.
5. Offices and agencies under the SAC must acknowledge the rights of journalists and news media to do their reporting without restrictions or persecution.
6. Local and international organizations working towards media development must stand in solidarity with local news media and journalists, provide adequate and continuous support and effectively call for press freedom and journalists' rights.
7. The international community needs to integrate policies to ensure Myanmar journalists have their rights protected and access to career opportunities and support in an environment of press freedom.

Securing the Rights and Safety of Journalists

1. The safety and security of journalists must be fully protected in accordance with the provisions in chapters two and three of the News Media Law. The safety and security of journalists must prevail.
2. Every journalist and news media organization must be protected from surveillance, investigation, intimidation, threats and prosecution, with their rights and legal entitlements fully realized.
3. Local and international organizations should prioritize the safety and security of journalists and implement protection mechanisms accessible to every journalist.

4. Short- and long-term plans must be put in place to ensure journalists' safety and livelihoods and the sustainability of the news media when displaced domestically or abroad. Such plans should consider accessibility and inclusivity for every journalist.
5. International governments, armed organizations, and non-governmental organizations need to provide access to protection and opportunities to assist the safety and wellbeing of those displaced internally and across borders.

Creating an Enabling Environment for Journalism

1. True sustainability of the news media and exercising the provisions of chapter two in the News Media Law requires democratic governance.
2. The revoking of media licenses, ongoing surveillance, intimidation, arrests of journalists, and criminalization of journalism, all interfere with an enabling environment and must stop.
3. All arrested journalists must be released immediately and unconditionally.
4. Short- and long-term support from local and international organizations must be put in place and implemented immediately and effectively for the sustainability of the news media.

References

News Media Law of the Republic of the Union of Myanmar, Pyidaungsu Hluttaw Law No. 12/2014. (2014). Unofficial English translation. *Burma Library.* https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs18/2014-Media_Law-en.pdf