

# **COMPREHENSIVE STUDY ON LAWS REGULATING MEDIA IN MYANMAR**

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## **Abstract**

The media is the essential one in the society and it supports not only for producing, gathering and disturbing news but also entertaining for the peoples. The media can affect the political, economic, social and religious security of a country. The effect of media can be negative or positive for the society. In a state, the media is controlled by various regulation systems. The media regulation system may be taking legal action, licensing, censoring and creating code of conduct. In Myanmar, there are many ways to regulate the media such as taking action by enacted law, licensing, examining by censor board and abiding the code of conduct created by related Councils. Most of the media regulation system is controlled by the state government but nowadays, self-regulatory bodies are also created and allow to regulate the media. In Myanmar, the authorities of licensing for all media such as press media, broadcasting media and digital media are solely controlled by the related Ministry. Myanmar Media regulation system can be seen as the strict regulation systems because of many national laws that can affect media sectors and controlling systems.

**Keywords:** News Media, Entertainment Media, New Media, Licensing, Censorship, Code of Conduct

## **Introduction**

The media originated with press media since the ancient time. Nowadays types of media are improving more and more. The terms media includes press media or news media, entertainment media including video, television and radio broadcasting, and the latest new media or digital media including social media. The role of the media is important for a country and the regulation system of the media can reflect the situation of a country. Myanmar is a country that considers as a partly-free status for media freedom under International Standards. The media can be regulated by different ways. Under legal regulation system, the media can be controlled by government by means of imposing penalties, licensing and censorship systems. Censorship can also classify many types, such as moral censorship, military censorship, religious censorship, educational censorship and political censorship. As a self-regulation system, self-regulation bodies such as media press council can regulate the media by means of code of conducts, editorial independence and professional guidelines.

This paper focuses on national laws related with media in Myanmar and examines the all regulation systems for all kinds of media under the laws. The purpose is to highlight media regulation system and to improve media laws in accordance with the modern age.

## **Materials & Methods**

This paper used two different methods of gathering the national laws and analysis on media regulation system for all news media, entertainment media and digital media. The materials are national laws, books, articles (including on the internet) and cases.

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## The Media

Media, the plural form of *medium*, refers collectively to the print media (books, magazines, and newspapers); broadcast media (television and radio); digital media (sometimes referred to as new media, including internet, cell phones, and other medium that uses computer-based technology); and the entertainment media (all of these, plus movies, recordings and video games).<sup>1</sup>

The phrase “the media” began to be used in the 1920s. The notion of “mass media” was generally restricted to print media up until the post-Second World War, when radio, television and video were introduced. The audiovisual facilities became very popular, because they provided both information and entertainment, because the color and sound engaged the viewers/listeners and because it was easier for the general public to passively watch TV or listen to the radio than to actively read. In recent times, the Internet has become the latest and most popular mass medium. Information has become readily available through websites, and easily accessible through search engines. One can do many activities at the same time, such as playing games, listening to music, and social networking, irrespective of location. Whilst other forms of mass media are restricted in the type of information they can offer, the internet comprises a large percentage of the sum of human knowledge through such things as Google Books. Modern day mass media consists of the internet, mobile phones, blogs, podcasts and RSS feeds.<sup>2</sup>

Mass media which started from printed material in ancient times has gradually been developing and today many kinds of new media have emerged. Although the printed media or press media as the very first media was formerly very useful, important and popular, with the advance in technology, several other kinds of media were invented and nowadays, their use and popularity has spread rapidly all over the world.

## Media Regulation

Media regulation means the whole process of control or guidance, by established rules and procedures, applied by governments and other political and administrative authorities to all kinds of media activities.<sup>3</sup>

Types of media regulation may be legal regulation, self-regulation and co-regulation system. The legal regulation system includes the imposing of penalties or taking actions under statute law or licensing systems or censorship systems of a state.

The imposition of penalties is the most straightforward method of regulating speech and expression as it is a powerful method of controlling the publication of information. Licensing is a method employed by governments and authorities to restrict activities that have a possible negative effect on society or certain members of society. It is a powerful tool of control and regulation.<sup>4</sup> Although licensing is not legitimate, purely technical systems of registration may be, as long as the specific criteria for registration are reasonable.<sup>5</sup> Censorship has been widely used throughout the history by kings, religious organizations, governments and communities.<sup>6</sup> Funk & Wagnall defined

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<sup>1</sup> George Rodman, *Mass Media in a Changing World History Industry Controversy*, 3<sup>rd</sup> edition, 2010, p-7.

<sup>2</sup> Ajanta Bhattacharyya, *History of Mass Media*, Bazzle.com, 2011.

<sup>3</sup> [http://www.le.ac.uk/oerresources/media/ms7501/mod2unit11/page\\_01.htm](http://www.le.ac.uk/oerresources/media/ms7501/mod2unit11/page_01.htm)

<sup>4</sup> Teo Yi-Ling, *Media Law in Singapore*, 2003, p-3.

<sup>5</sup> *Assessment of Media Development in Myanmar*, UNESCO and IMS, 2016, p-41.

<sup>6</sup> Kyaw Thu, *The Impact of Censorship on the Development of the Private Press Industry in Myanmar/Burma*, 2012, p-9.

censorship as "supervision and control of the information and ideas that are circulated among the people within a society. In modern times, censorship refers to the examination of books, periodicals, plays, films, television and radio programs, news reports, and other communication media for the purpose of altering or suppressing parts thought to be objectionable or offensive." "Censorship is an official prohibition or restriction of any type of expression believed to threaten the political, social, or moral order. It may be imposed by governmental authority, local or national, by a religious body, or occasionally by a powerful private group."<sup>1</sup>

At present, human rights are being strongly advocated all over the world. So, the print media have been given freedom from censorship to express, publish, or distribute information, except in some politically restrictive countries. After moving to democracy society around the world, the media regulation systems are also changing to support media freedom. And some serious media regulation systems are canceled in most countries. But new media regulation systems are also creating to control the digital media, especially social media.

### **Media Regulation under National Laws**

Myanmar is a country that possesses strict media regulation system. There are many national laws that can regulate to the media such as the Penal Code 1861; sedition (S-124 A), sale of obscene book (S-292 (a)), deliberate and malicious acts intended to outrage religious feeling of any class by insulting its religion or religious beliefs (S-295 A), defamation (S-499), printing or engraving matter known to be defamatory (S-501), statements conducing to public mischief (S-505), the Myanmar Official Secret Act (1923), the Television and Video Law (1996), the Press Law (2014), the Printing and Publishing Enterprise Law (2014), the Telecommunication Law (2013), the Electronic Transactional Law (2014) etc.

### **News Media Regulation**

Myanmar's first newspaper, the Maulmain Chronicle newspaper was introduced for a handful of English-speaking readerships in 1836 in the city of Moulmein in British held Tenasserim. After 1988, The Newlight of Myanmar, Myanma Alin and Kyemon (The Mirror) dailies continued to be published. During the period 1962 to 2012, Myanmar did not have freedom of press and most of the newspapers were government owned. In October 2012, Myanmar's state newspapers became a public service media and were revamped with a new governing body. The new committee adopted necessary policies and programmes, ethics and principles to transform the newspapers into public service media and in August 2013, privately run daily newspapers hit the newsstands in the country.<sup>2</sup>

For news media, the Press Law and the Printing and Publishing Enterprise Law were enacted in 2014.

Section 2 (a) of the Press Law 2014 defines "press" means the public information industry carried out such as searching, acquiring, possessing, recording the news, analysing, distributing the information, by using the form of letter, voice, picture, television, figure, picture design by

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<sup>1</sup> The Columbia Encyclopedia, Sixth Edition. 2001.

<sup>2</sup> Dr. Cho Cho Thwin, Media and Communication Systems in Myanmar, pp-2 and 3.

printing media, television media, internet media taking responsibility by the editor or any other means.<sup>1</sup>

For press media, prior censorship system was canceled under Section 5 of the Press Law 2014. And it was replaced with the licensing system. Under Section 4 of the Printing and Publishing Enterprise Law 2014,

- “(a) The printers and publishers who wish to perform the printing and publishing enterprise shall apply for the recognition of their businesses to the Ministry with complete and correct facts.
- (b) The body based locally or internationally company or organization wishing to establish a news agency shall apply for the recognition of their businesses to the Ministry with complete and correct facts.”<sup>2</sup>

The Press Law provided that the published text of news media industry has the right to be exempted from censor but need to apply recognition from the Ministry. The recognition means the same as the making license for publication and for press media, the licensing system can be assumed as one kind of censorship system.

#### Section 9 of the

And as the terms to be complied for Printing and Publishing Enterprise, Section 8 of the Printing and Publishing Enterprise Law 2014 provided that

“The printer or publisher shall not print or publish the publications contained in any of the following matters:

- (a) expressing the matters to be affected the ethnic groups or the citizens racially, religiously or culturally;
- (b) expressing the matters to be affected national security, rule of law, community peace and tranquility, or equality, freedom, justice and rights of every citizen;
- (c) expressing obscene words;
- (d) encouraging and inciting crimes, brutality, violence, gambling, and the offence of narcotic drugs and psychotropic substances.”<sup>3</sup>

These terms exist as the censored terms covering for all publishers. And the offences and penalties shall be punished with a fine only.

In early 2014, the Myanmar Press Council drafted a Code of Conduct (COC) that has been distributed across the country.<sup>4</sup> The code of conduct, issued on May 3, applies to all independent media organizations and covers 27 thematic areas, including politics and election reporting, reporting on religion, using leaked or confidential information, protecting sources, relations with government officials, and conflicts of interest. It applies to all news media organizations and journalists from all print, broadcast and online media.<sup>5</sup> The code of conduct intends to self-

<sup>1</sup> Section 2 (a) of the Press Law, 2014.

<sup>2</sup> Section 4 of the Printing and Publishing Enterprise Law, 2014.

<sup>3</sup> Section 8 of the Printing and Publishing Enterprise Law, 2014.

<sup>4</sup> Assessment of Media Development in Myanmar, UNESCO and IMS, 2016, p-68.

<sup>5</sup> <http://www.mmtimes.com/index.php/national-news/10278-media-code-of-conduct-finalised.html>

censorship system as a soft regulation system. Section 9 of the Press law mentioned duties and ethnic for the Press Men and except Section 9 (h) the offences and Penalties shall be punished with a fine. But for Section 9(h), any press man shall be taken action under any existing law.

The Press law and the Printing and Publishing Enterprise Law are the laws that directly concern to the press media but other national laws are also covering press media.

The Penal Code 1861 provided that;

“Section 124 A Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, bring to attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards [the Government established by law for the Union or for the constituent units thereof,] shall be punished with transportation for life or an shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.”<sup>1</sup>

“Section 292 (a) Whoever sell, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purpose of sale, hire, distribution, pub-lie exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”<sup>2</sup>

“Section 295A Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [persons dent in the Union] by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”<sup>3</sup>

“Section 499 Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.”<sup>4</sup>

“Section 501 Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”<sup>5</sup>

“Section 505 Whoever makes, publishes or circulates any statement, rumour or report,—

- (a) with intent to -cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force [\* \* ]1 to mutiny or otherwise disregard or fail in his duty as such; or

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<sup>1</sup> Section 124 A of the Penal Code, 1861.

<sup>2</sup> Section 292 (a) of the Penal Code, 1861.

<sup>3</sup> Section 295A of the Penal Code, 1861.

<sup>4</sup> Section 499 of the Penal Code, 1861.

<sup>5</sup> Section 501 of the Penal Code, 1861.

(b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.”<sup>1</sup>

All above provisions of the Penal Code can control the publication as a censorship. And the Official Secret Act 1923 applies as the political censorship for media men.

Section 3 of the Official Secret Act 1923 provides that;

“(1) If any person for any purpose prejudicial to the safety or interests of the State—

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defense, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of the State or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or password is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.<sup>2</sup>

<sup>1</sup> Section 505 of the Penal Code, 1861.

<sup>2</sup> Section 3 of the Official Secret Act, 1923.

In September 2018, the journalists, *U Wa Lone and U Kyaw Soe Oo 2018*<sup>1</sup> were sentenced to 7 years in prison by Yangon's Northern District Court under the Myanmar Official Secrets Act, 1923. After a trial that lasted more than eight months, a judge in Yangon's Northern District Court found the two reporters of the Reuters News Agency guilty of possession of classified documents. Wa Lone and Kyaw Soe Oo were arrested in December 2017. The judge said most of the counter-arguments by the defendants' lawyers and the journalists were "irrelevant" or "illogical." "Instead of acting like ordinary reporters, they are found to have tried to intentionally damage the security of the country," Judge U Ye Lwin said. They did not follow media ethics endorsed by the Myanmar Press Council, the judge said, before sentencing the two journalists to 7 years in prison. The judge said that if the secret documents detailing the status of security forces in Rakhine had fallen into the hands of armed ethnic groups fighting the government, it would have put the "lives of security forces" in danger.

Under Section 11 (c) of the Control of Smoking and Consumption of Tobacco Product Law 2006, "Whoever commits any of the following acts to publicize for wide distribution and sale of cigar and tobacco product shall, on conviction, be punished with a fine from a minimum of kyats 20,000 to a maximum of kyats 50,000, for the first offence and be punished with imprisonment for a term which may extend to 2 years and shall also be liable to a fine from a minimum of kyats 50,000 to a maximum of kyats 200,000 for second and subsequent offences:

(c) describing by publishing in newspapers, journals, magazines and pamphlets or distributing the same."<sup>2</sup>

For News Media, there is no prior censorship system under the News Media law but there are many other existing laws that can regulate the news media men. Some provision can punish long terms imprisonment as serious crime and apply all people including media men.

### **Entertainment Media Regulation**

Radio service in Myanmar first came on air in 1936 and regular programming by Myanma Athan (voice of Myanma) began in February 1946. Until the launch of Yangon City FM, Myanma Radio was the only radio station in the country. Myanmar Radio (state-owned station) had stood as the only radio station for over 60 years. Myanmar radio broadcasting started in the early 20<sup>th</sup> century but use only state-owned radio broadcasting was used until the 21<sup>st</sup> century. Nowadays, private broadcasters have been allowed to operate on a joint-venture basis with government broadcasting.

In Myanmar, a television service was introduced in 1979 as a trial test in Yangon and the Myanmar Radio and Television (MRTV) service was first launched on 3 June 1980, with regular television service being formally launched in 1981. In 1990, this was followed by the TV Program Delivery to Remote Station via Satellite system.<sup>3</sup> After putting out a call to tender on private TV broadcasting licenses in 2016, 29 proposals were put forward. Five companies were awarded TV licenses in 2017, including former exile organizations DVB and Mizzima, as well as the privately-

<sup>1</sup> Lieutenant Colonel Yu Naing v U Wa Lone and U Kyaw Soe Oo 2018.

<sup>2</sup> Section 11 (c) of the Control of Smoking and Consumption of Tobacco Product Law, 2006.

<sup>3</sup> Dr. Cho Cho Thwin, Media and Communication Systems in Myanmar, pp-5 and 7.

held Fortune International, Kaung Myanmar Aung, and Young Investment Group. All five selected companies had to pledge to follow MRTV's rules and regulations, as well as editorial policy.<sup>1</sup>

In Myanmar, the Ministry of Information controls licensing for all broadcasting media. The Television and Video Law 1996 provides not only Licence for Possession but also Video Business Licence. Under Section 4 of the Television and Video Law 1996, "any person who holds and uses a television set or a video cassette recorder shall apply for licence for possession, in accordance with the stipulations to the relevant post office within 30 days from the date of receipt of the same."<sup>2</sup>

Section 9 of the Television and Video Law 1996 states that;

"A person desirous of operating any one of the following video business for a commercial purpose shall apply for the business licence for each type of the business to the relevant State or Divisional Video Business Supervisory Committee in the prescribed manner: -

- (a) production of video;
- (b) videotaping;
- (c) editing of video;
- (d) copying of video tape;
- (e) distribution of video tape;
- (f) hiring of video tape;
- (g) exhibiting by video."<sup>3</sup>

And the video censor board formed under Section 22 of the Television and Video Law and under Section 24, "when application is made for video censor certificate in respect of Myanmar Video tapes produced and submitted or video tapes which have been imported or brought from a foreign country, the Video Censor Board, after examining as to whether it is in conformity with the policies laid down: -

- (a) may permit exhibition to the public or for a family show;
- (b) may prohibit public exhibition of the video tape and may seize or destroy such video tape;
- (c) may permit public exhibition or family show of the video tape after making excision, amending or erasing the portion which is not suitable for public exhibition or family show;
- (d) shall issue the video censor certificate after causing payment of the prescribed fee to be made if the video tape is permitted for public exhibition and family show."<sup>4</sup>

The same as the Television and Video Law, the the Motion Picture Law 1996 provides for Motion Picture Business License and Motion Picture Censor Board.

Under the Motion Picture Law 1996 Section 13, when application is made for a Motion Picture Censor Certificate in respect of Myanmar motion picture films and motion picture films

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<sup>1</sup> Kayleigh Long, Myanmar-Media Landscape, 2018, p- 4.

<sup>2</sup> Section 4 of the Television and Video Law, 1996.

<sup>3</sup> Section 9 of the Television and Video Law, 1996.

<sup>4</sup> Section 24 of the Television and Video Law, 1996.



which have been imported, the Motion Picture Censor Board, after examining as to whether they are in accordance with the policy laid down or not-

- (a) may permit exhibition to the public or to a reserved audience;
- (b) may permit public exhibition of the Myanmar motion picture film, after causing excision and modification to be made of the portion which is not suitable for public exhibition and may retain or destroy such excised portion;
- (c) may permit public exhibition of the imported motion picture film, after making excision of the portion which is not suitable for public exhibition and may retain or destroy such excised portion;
- (d) may prohibit public exhibition of the Myanmar motion picture film and may retain or destroy such motion picture film;
- (e) may prohibit public exhibition of the imported motion picture film and may cause to be returned or retain such motion picture film;
- (f) shall issue the Motion Picture Censor Certificate, on payment of the prescribed fee, if the motion picture film is permitted for public exhibition.<sup>1</sup>

Therefore, the prior censorship has been using for television, video and motion picture and also licensing censor have for all media types. Both the Television and Video Law and the Motion Picture Law were enacted since 1996. The Television and Video Law was amended in 2018 but just amended for fine. Some provision from these laws need to amend in accordance with the current situation such as license for possession.

For broadcasting, Section 31 of the Broadcasting Law 2015 enacts that;

“(a) A person desirous to carry out broadcasting service:

- (i) may apply for licence to the Council before starting relevant industry.
- (ii) is an organization, representative of such organization may apply for licence.”<sup>2</sup>

As the program standards, Section 69 of the Broadcasting Law, 2015 states that

“(a) The broadcasting programmes broadcasted aiming for the children and youths, women, the aged and the disabled person shall be the programmes that protect and promote their rights. The programmes for the children and youths shall be broadcasted at specific time. When broadcasting such special programmes, the type of audience for those programmes shall be described.

(b) In some programmes, sign-language and caption may be used for hearing-impaired persons.”<sup>3</sup>

And under the Broadcasting Law, the Broadcasting Council shall draw up Code of Conduct for all broadcasting services and the Council is responsible for monitoring whether or not the broadcasting services comply with and implement fully the code of conduct. Under Section 77 (c), new rating system was provided as classification of programmes, including films, according to the

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<sup>1</sup> Section 13 of the Motion Picture Law, 1996.

<sup>2</sup> Section 31 of the Broadcasting Law, 2015.

<sup>3</sup> Section 69 of the Broadcasting Law, 2015.

recommended age of viewers. As the same as the News Media Men, the Code of Conduct serves as the self-censorship for all broadcasting services and the decisions of the Council regarding code of conduct abide on broadcasting service.

Under Section 11 (b) of the Control of Smoking and Consumption of Tobacco Product Law 2006<sup>1</sup>, “Whoever commits any of the following acts to publicize for wide distribution and sale of cigar and tobacco product shall, on conviction, be punished with a fine from a minimum of kyats 20,000 to a maximum of kyats 50,000, for the first offence and be punished with imprisonment for a term which may extend to 2 years and shall also be liable to a fine from a minimum of kyats 50,000 to a maximum of kyats 200,000 for second and subsequent offences:

(b) broadcasting or displaying by radio, film, television and video or by communication system using high technology from the mass media channel.”

The same as the news media, Section 124 A, Section 295 A, Section 499 and Section 505 also cover the entertainment media as a censorship. Every movie screened at a public cinema in Myanmar needs to be approved by a censorship board comprising ministry officials and members of the Myanmar Motion Picture Organization. The Goethe-Institute in Yangon cancelled the screening of an Austrian movie about the life of painter *Egon Schiele* one day before the event, after Myanmar’s censorship board banned scenes in the film containing nudity. Schiele was famous for his provocative display of female nudity and there are scenes in the film that portray this, though it does not include any sex scenes. Initially, the censorship board wanted to censor the scenes involving nudity on-site, during the screening of the film.<sup>2</sup>

The censor can allow, cut or ban absolutely the content of any work. Some countries make sole use of the suppression of work practice but others use it in combination with the classification or rating system. But in Myanmar, the prior examining censorship system is still using. And the censor board can cut, edit or ban the films or movies or songs or any programs. And else the exclusion system such as age ratings is also using in order to protect the children from inappropriate contents.

### **New Media Regulation**

“New media” are all the communications and data transfer made possible by the internet. “Social media” are the communications that occurs amongst and between people who belong to a self-selected community.<sup>3</sup> In Myanmar, the first Internet connection was available in 2000, but at that time the use of social media, Google and YouTube etc. was not allowed. However, internet censorship was reduced in September 2011.

The Myanmar Computer Science Development Law 1996 requires registration of all computers and computer networks. Failure to do so could result in imprisonment of up to 15 years. Although personal computers and Internet-enabled phones fall under the provisions of this law, the vast majority of these devices are unregistered and enforcing is lacking.<sup>4</sup> Under Section 5 of the Telecommunication Law 2013, any person, department or business organizations, inside the

<sup>1</sup> Section 11 (b) of the Control of Smoking and Consumption of Tobacco Product Law, 2006.

<sup>2</sup> <https://frontiermyanmar.net/en/goethe-institut-pulls-egon-schiele-movie-after-censorship-board-intervention>

<sup>3</sup> International Executive Media and Television Workshop, Special UN Myanmar, 2012, p-27.

<sup>4</sup> Assessment of Media Development in Myanmar, UNESCO and IMS, 2016, p-42.

Republic of the Union of Myanmar or from abroad, willing to provide the following facilities and/or telecommunication services shall apply to the Department for permission and license in accordance with the provisions-

- (a) Network facility services;
- (b) Network services;
- (c) Application services.<sup>1</sup>

Section 66 of the Telecommunications Law 2013 enacts that;

“Whoever commits any of the following acts shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine or to both.(a)Accessing and disturbing a Telecommunications Network, altering or destroying the determination of technical standards or the original form without the permission of the owner or a person who has the administrative right.(b)Releasing a virus or using any other means with an intention to cause damage to the Telecommunications Network.(c)Stealing, cheating, misappropriating or mischief of any money and property by using any Telecommunications Network.(d)Extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening to any person by using any Telecommunications Network.”<sup>2</sup>

In Myanmar, there is no specific internet censorship system or filter system. But it doesn't mean, there is no censorship for internet media. Many proceedings occur through using internet media. The Telecommunication Law knows as internet censorship law.

*Chaw Sandhi Tun 2015* is one of several people arrested for “insulting” public institutions or persons on Facebook. In response to media reports, the government explained on 20 October that the arrests were to “protect the honour of someone who has been insulted.” In *Lieutenant Colonel Kyaw Htin v Chaw Sandhi Tun 2015*,<sup>3</sup> Chaw Sandhi Tun posted an image montage on her Facebook page, showing that the Myanmar military's re-designed uniform matches the colour of Aung San Suu Kyi's dress. On the montage were the words “if you like her [dress] so much, why not put it on your head”.<sup>4</sup> Ma Chaw Sandi Htun was sentenced to 6 months in prison by the court of the Maubin Township of the Ayeyarwady Delta Region in Myanmar on December 28, 2015. She was found guilty of defamation under the broad Section 66(d) of Myanmar's Telecommunications Law stipulating that extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening any person by using media platforms.<sup>5</sup>

In 2017, as the result of many criticisms, this law was amended as follows:

Section 66 shall be replaced with the following:

“66. Whoever commits any of the following acts 66(a), (b) and (c) shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine or to both, and whoever commits act of 66(d) shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not more than one million or to both.”

<sup>1</sup> Section 5 of the Telecommunication Law 2013.

<sup>2</sup> Section 66 of the Telecommunication Law, 2013.

<sup>3</sup> *Lieutenant Colonel Kyaw Htin v Chaw Sandhi Tun 2015*

<sup>4</sup> <https://www.article19.org/resources.php/resource/38158/en/myanmar:-facebook-arrests-violate-international-law>

<sup>5</sup> <https://globalfreedomofexpression.columbia.edu/cases/case-chaw-sandi-htun-myanmar/>

Section 66(d) shall be replaced with the following:

“(d). extorting, defaming, disturbing or threatening to any person by using any telecommunications network.”<sup>1</sup>

In every State legal action against all forms of media is taken in accordance with statute laws. The penalties may be imprisonment or a fine or an injunction. Nowadays, as electronic media has gained in popularity, action taken by electronic law, cyber law or telecommunication law is also becoming more frequent and these laws determines as censorship for news media.

### **Findings**

In Myanmar, there are many specific laws for press media, broadcasting media and digital media. And else many other national laws are also covered the media. The media man can get legal proceedings not only under media laws but also under other enacted laws. Some provisions can punish as the serious crime for example under the Official Secret Act 1923. The media man can be punishable with imprisonment for a term which may extend to fourteen years. This law has the nature of military censorship type. And under Penal Code 1861, there are many provisions that can be moral censorship, religious censorship and so on. Although the Press Law 2014 canceled the censorship system but the Printing and Publishing Enterprise Law created the recognizing system the same as the licensing system. The licensing for broadcasting media is considered to ensure technical quality and allocation of spectrum. But the licensing for press media has different ideas. For press media, the licensing assumes as the censorship, especially when the government control the licensing power. In Myanmar, the Press Council was created under the Press Law 2014 as self-regulatory body. But the Press Council has the status as the representative of the media men. There is no power for licensing or for taking legal action. If the Press Council will get the power for licensing system, it will be more comply with the democracy standard. In the media sector, censorship is the essential tool. Censorship may be through prior censorship system or licensing or creating code of conduct. The main function of censorship is to protect people from the harmful contents of the media. For entertainment media, the censor board organized under the Motion Picture Law 1996 and the Television and Video Law 1996. The censor board examines the film or movie before exhibition to the public and they can edit, cut or totally ban the film. That censorship system is the strictest one. But The rating system was also introduced under the Broadcasting Law 2015. So the Motion Picture Law 1996 and the Television and Video Law 1996 need to change the censorship system as the same as the new Broadcasting Law. New media or digital media is the popular one and these are very difficult to regulate. Most of country use cyber law to regulate and in Myanmar the Telecommunication Law 2013 was enacted. Myanmar has no sufficient filter system and registration system. People can make fake account and create fake news very easily. Therefore, there are many proceedings under the Telecommunication Law. Practically, in order to change media regulation systems, respecting code of conduct and media liabilities are also vital. On the other hand, effective technical system, fair policies and laws are essential. Some provisions that do not relevant the modern time need to amend and to create fair and effective media regulation.

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<sup>1</sup> Amendment of the Telecommunications Law, 2017.

## **Conclusion**

While changing the world, the kinds of media are also transforming and improving. Creation of new media styles brings the different media regulation systems. From print media to currently internet media can influence the public. The media can report the news to the public and also can be entertainment for public. The media can support for education, economic and political affairs and social. And it can easily affect the public. In order to refrain the negative effects, the media need to regulate under national laws and policies. In Myanmar, the media regulation bases on hard laws and also uses soft law. Under the related laws, Myanmar media regulation systems are various ways. The first one is taking legal actions, especially concerned with defamation, sedition, insulting religious beliefs and official secret. The second one is applying license for business or license for possession of a television set, a video cassette recorder and computer. The third one is video censor board for examination the contents. This is the old system and is using until now. The last one is creating code of conduct. The respective council had already created code of conduct for press media and broadcasting media. Both media and media regulation are important for the society. The media can control the government and the government can control the media regulation system. Therefore, if the government uses the unfair media regulation system, the media is impossible to control the government. The fair media regulation is the image of the democracy country. To create the democracy society, the government needs to support the fair, unbiased media regulation systems.

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