

10. Freedom of Opinion, Expression and the Press

10.1. Background

When Gen Ne Win came to power in 1962, all private magazines and newspapers were eventually shut down and editors, journalists and writers were thrown into jail as they were considered to be enemies of the state. In July 1962, the Revolutionary Council led by General Ne Win announced its intention to centralize the dissemination of official information, a decision which was soon implemented by the closure of all departmental journals and the publication in their place of a state-run newspaper, the *Working People's Daily*. Later, the Revolutionary Council decided to nationalize all private newspapers and bring them under the control of the Ministry of Information. The Printers and Publishers Registration Act 1962 made it obligatory for all printers and publishers to register with the government and to supply the government with certain specific information about themselves.

After the military coup in September 1988, the SLORC tightened the screws on free speech and strict censorship was re-imposed through a strengthened Press Scrutiny Board (PSB) which brooked no opposition to the military regime. Many leading dissident writers and journalists were arrested and imprisoned and a blacklist of "subversive" authors was drawn up; no one on this blacklist was to be allowed to publish any works. The SLORC also drew up a list of topics that were "off-limits" for discussion: these included: democracy; human rights; politics; the event of 1988; senior government officials; the BSPP; the Nobel Prize or anything that might bring Daw Aung San Suu Kyi to mind; criticism of the SLORC or of military personnel; 'immorality', such as references to two unmarried people living together; prostitution in Burma; and any other topics determined unsuitable by the PSB. In a further attempt to snuff out dissident, the PSB required every prospective publisher to submit with their manuscripts a declaration stating whether they had engaged in political activities or served a sentence of imprisonment. Those answering in the affirmative naturally ran a high risk of rejection of their requests to publish.

Now, with more restrictions, newspapers, journals and magazines are tightly controlled by the SPDC. The state-run newspapers, television and radio stations remain propaganda instruments. All forms of domestic media are officially controlled. While the English language daily, *New Light of Myanmar*, continues to include many edited international wire service reports of foreign news, domestic news has strictly to reinforce SPDC policies. These official media normally do not report opposing views but only criticize the opposition. Particularly in 1998, state media, both newspapers and radio, attacked Daw Aung San Suu Kyi and her NLD party using indecent words.

Citizens are generally unable to subscribe directly to foreign publications, but a limited selection of foreign newspapers can be purchased in a few hotels and stores in Rangoon. People caught reading underground newspapers are severely punished.

The censorship law requires all publications, including movie scripts and song lyrics, to be reviewed by the authorities. Artists sometimes face a specific period of being

banned for their scripts and lyrics if they make the authorities feel uncomfortable. Editors and reporters remain answerable to the military authorities and are compelled to publish pro-SPDC articles in non-official media. A number of private publications on non-political issues are available to the public, but censors frequently ban issues or delete articles deemed unwelcome by the authorities.

In 1998, the authorities ordered publishers of weekly journals to include articles attacking Daw Aung San Suu Kyi. Each journal has to include at least one article.

For the first time after 1962, in November 1998, the *Myanmar Morning Post* began its publishing in Rangoon in the Chinese language. This is the first time in 30 years that Burmese authorities allowed a newspaper in the Chinese language to be published. It was initially published on a weekly basis with a circulation of 5,000 every Wednesday.

10.2. Words of warning to the editors

In August, 1998, military intelligence summoned the editors of three magazines, namely, *Theit Bawa* (Your Life), *A Tway A Myin* (Perspective) and *Ya Nant Thit* (New Fragrance), to warn them to tone down their critical comments about educational affairs and the suffering of workers. They were also told not to write about western concepts or to discuss peoples' movements in other countries. If they did not obey these warnings, their magazines would be shut down.

Many authors were also warned to tone down their comments relating to the current situation or face being prohibited from writing articles for one year. Min Khai Soe San has been prohibited from writing for publications for three months, and Taya Minwai's forthcoming novel has been barred by the censorship board because of the recently tightened restrictions on literary circles. (*Source: ABSDF*)

10.3. SPDC's media: Tools to attack NLD and foreign countries

The New Light of Myanmar and *Mirror*, both English and Burmese publications, in 1998 repeatedly ran many articles and comments attacking Daw Aung San Suu Kyi as being outside the law and working with foreign backers to stir up "anarchy and unrest" in the country, and also condemned foreign embassies for "lending support to opposition parties."

On August 28, 1998, the SPDC's state-run media lashed out at foreign diplomats in Burma, accusing them of inciting unrest and lending support to opposition parties. "The code of conduct does not state that diplomats should make contacts with or give support to organizations opposing, criticising and attacking the government," a commentary in the *New Light of Myanmar* said. "Some embassies are one-sidedly favouring the National League for Democracy," it added, referring to Daw Aung San Suu Kyi.

The commentary urged diplomats to cease meddling in the military state's internal affairs, saying the junta's own foreign envoys set a good example for them to follow.

10.4. SPDC: Enemy of the press

SPDC leaders have been repeatedly named “one of the ten enemies of the press” by the New York-based Committee to Protect Journalists. They have been condemned for their relentless hostility to the very concept of a free and independent press in their own country and around the world.

Burma has always been notorious among journalists as one of the most difficult countries in the world in which to work, especially when attempting to report on human rights issue. The country is basically closed to journalists, and as a result, lack of access to people and information is an overriding obstacle when reporting on events in Burma.

The country’s military authorities, known as the State Peace and Development Council (SPDC), rarely issue visas for journalists. Nowadays, these visas only seem to be available if the journalist is known to be pro-SPDC or if he or she is writing about business and/or military issues. Consequently, the only other way for journalists to enter Burma is under cover of a tourist visa. The military authorities describe this activity as “illegally gathering news”, and if discovered journalists are usually deported and banned from ever returning to Burma.

The political situation in Burma has been extremely tense since June 1998, and as a result the authorities have more closely monitored people entering the country, especially those with cameras and other related equipment that may identify them as a journalist. As a result, over the last few months Burma’s military authorities have deported at least five foreign journalists who entered the country on tourist visas and seized from them documents, cassette tapes, film and videotapes. In this same period, several other foreign journalists on tourist visas were detained and questioned by security forces.

■ On August 16, 1998, Belgium-based Italian journalist Maurizio Gioulano was refused entry to Burma after arriving in Rangoon airport. “He was found to have falsely stated his occupation as a student in his visa application. He was found to have failed to apply for the proper standard journalist visa,” said SPDC authorities.

■ On August 17, 1998, Philippe Grangereau, a French journalist working for the Paris-based *Liberation* newspaper was deported for allegedly trying to hide the fact that he was a journalist when he entered the country. The authorities searched him at the airport before his deportation; security officials found cassette tapes hidden in his underwear and political documents, according to the SPDC authorities.

■ On September 1, 1998, Douglas Earl, 41, a Canadian reporter of the Thaya Thai advertising company, Munesuke Yamamoto, 45, a Japanese working for the Pacific Press Service and Australian freelance journalist Sophie Louise Barry, 22, were deported from Rangoon for “gathering news in Rangoon and giving false statements about their true profession in their passports.”

10.5. SPDC’s laws restricting freedom of expression

The Printers and Publishers Registration Law 1962, has historically been the main instrument of official censorship, requiring all books, magazines, other periodicals, song lyrics, and motion picture scripts to be submitted for vetting by the government prior to

publication or, in some cases, prior to distribution. This law required printers and publishers to register with the government and to identify themselves in publications for which they were responsible.

The task of vetting publications under the 1962 Act was entrusted to the Press Scrutiny Board (PSB), a 30-member body answerable to the Ministry of Home and Religious Affairs. The PSB enjoys extensive powers, including the power to prohibit the publication of material submitted to it.

In 1975, the BSPP government, presumably in an attempt to lessen the uncertainties inherent in the system, issued a set of guidelines. These set out the broad parameters of censorship followed by the PSB. According to these guidelines, the following materials would not be tolerated:

- (a) anything detrimental to the Burmese socialist program;
- (b) anything detrimental to the ideology of the state;
- (c) anything detrimental to the socialist economy;
- (d) anything which might be harmful to national solidarity and unity;
- (e) anything which might be harmful to security, the rule of law, peace and public order;
- (f) any incorrect idea and opinions which do not accord with the times;
- (g) any descriptions which, though factually correct, are unsuitable because of the time or circumstances of their writing;
- (h) any obscene (pornographic) writing;
- (i) any writing which would encourage crimes and unnatural cruelty and violence;
- (j) any criticism of a non-constructive type of the work of government departments;
- (k) any libel or slander of any individuals.

The harshness of this law was enhanced by an amendment to the Printers and Publishers Registration Law, introduced in 1989, which increased the penalties that can be imposed on those convicted of breaching the law. Under this, anyone who failed to comply with any rules or regulations framed under the law could be imprisoned for up to seven years and fined up to 30,000 *kyat*.

Another law which has been frequently used by the military regime to stifle freedom of expression is the Official Secrets Act 1923, a pre-independence law which has been jettisoned even in its country of origin in favor of more liberal legislation. Under this Act, it is an offence, among other things, to possess, control, receive or communicate any document or information, the disclosure of which is likely to affect the sovereignty and integrity of the state or friendly relations with foreign states or otherwise be prejudicial to the safety of the state. It has been used against people who have passed on documents not so classified and which cannot reasonably be argued to be a threat to the national interest. The authorities enjoy an almost open-ended power to classify official information as “secret” under the Act, and no exception is made whatsoever for the disclosure of classified information on public interest grounds. Anyone convicted of an offence is liable to be punished with imprisonment for up to two years, or with a fine, or both.

The 1950 Emergency Provisions Act has been one of the most heavily used laws over the past half century. It allows up to seven years’ imprisonment for any person who “infringes upon the integrity, health, conduct, and respect of State military organizations and government employees, spreads false news about the government, or disrupts the

morality or the behavior of a group of people.” The law also makes it an offense, punishable with life in prison, to “intend to or to cause sabotage or hinder the successful functioning of the State military organizations and criminal investigative organizations.” This law is commonly used by the regime to carry out indiscriminate and arbitrary arrests and detain political opponents. Those currently or previously imprisoned under it include opposition politicians, monks and other clerics, students, writers and trade unionists. Despite not being a law exclusively aimed at suppressing freedom of expression, it has frequently been invoked towards that end, usually in conjunction with other media-directed laws such as the Printers and Publishers Registration Law and the Official Secrets Act.

1975 Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts (amended in 1991), allows the government to declare a state of emergency in a part or the whole of Burma “with a view to protect state sovereignty and security and public law and order from danger”, and to restrict any fundamental rights of the citizens in specified regions or all over the country. Although any state of emergency declared under this law has to be approved by the People’s Assembly within 60 days, it can be extended indefinitely by the Assembly.

Under the law, the Council of Ministers is authorized under section 7 of the Law to “pass an order, as may be necessary, restricting any fundamental right of a person if there are reasons to believe that any citizen has committed or is about to commit any act which infringes upon the sovereignty and security of the State or public peace and tranquility.” The law also stipulates, in Sections 13 and 14, the possibility to continue imposing restraint for “a period not exceeding one year at a time up to a total of five years.” This State protection law has been applied extensively to suppress peaceful political dissidents; it was used to detain Daw Aung San Suu Kyi under house arrest between July 1989 and July 1995.

A law issued on June 7, 1996, No. 5/96, allows prison sentences up to 20 years for anyone who expresses political views publicly. This law, entitled “Protection of the Stable, Peaceful, and Systematical Transfer of State Responsibility and the Successful Implementation of National Convention Tasks, Free from Disruption and Opposition,” prohibits, *inter alia*, the preparation or dissemination of speeches or statements that undermine the stability of the State or are critical of the SPDC, and prescribed up to 20 years’ imprisonment for persons violating the law; organizations taking part in such activities can be banned and have their funds and property confiscated. Harassment of NLD members and supporters was further stepped up under this law.

Under the 1980 Video Law, all videos must be submitted to the Video Censorship Board, controlled by the SPDC, for scrutiny. Any persons involved in the production, duplication, or distribution of videos are threatened with prison terms of up to three years under this law.

The new Television and Video Act, issued on July 31, 1996, required that: (a) foreign diplomat missions and United Nations Agencies obtain permission to show imported videos at “public exhibitions” and give government video censorship boards the right to ban, censor, or restrict the showing; (b) private videos operators obtain licenses from the Video Business Supervisory Committee which will be formed in all States and Divisions in the Union of Myanmar; and (c) all videos both imported and locally-produced, be approved by the Video Censorship Board. Violators of these provisions are subject up to three years

in prison and/or a fine of up to 100,000 *kyat*. The new law also forbids private transmitters that are not authorized by the government, prescribing up to five-year prison terms for offenders.

In 1998, the SPDC issued new rules requiring the licensing of all videocassette recorders and imposing new controls on the export and transport of video tapes. The regulations created a Video Censor Board and Video Business Central Supervisory Committee. The revisions to the Television and Video Law of July 1996 also required new licenses for all satellite receivers. Opposition leader Daw Aung San Suu Kyi has repeatedly sent video tape messages from Rangoon on such occasions as International Human Rights Day. It is not clear whether the revised law would criminalize such actions.

Another law entitled "The Computer Science Development Law", issued on September 27, 1996, makes the unauthorized import, possession, and use of certain types of computer equipment illegal. This law requires anyone who wishes to import, possess or use computer equipment, notably those with networking or communications facilities, to obtain a license from the Ministry of Communication, Posts and Telegraphs. It also requires those desirous of "setting a computer network or connection link inside the computer network" to apply for prior sanction to that Ministry. The Ministry is granted absolute power to grant or refuse licenses and sanctions and to impose such conditions as it may deem fit. The unauthorized use of computers with networking capabilities is punishable with sentence of between 7 and 15 years in prison and/or a fine. A "Myanmar Computer Science Council" will be established to decide which computer equipment should be restricted or banned. According to the government-controlled newspaper the *New Light of Myanmar*, the punishment will be meted out to anyone establishing links with a computer network without prior permission or who uses computer networks or information technology for undermining State security, law and order, national unity, the national economy, national culture, or who obtains or transmits State secrets. Members of unauthorized computer clubs may, according to reports, be sentenced to a minimum prison terms of three years. A punishment of between five and 10 years in prison is prescribed for anyone who imports or exports computer software or information banned by the Myanmar Computer Science Council.

10.6. Sentencing for conducting interview with BBC: the case of Daw San San



A leading member of the democracy movement in Burma, Daw San San, the NLD Seikkan township MP-elect and divisional vice-chairperson and NLD women's leader, was arrested at midnight on October 28, 1997. She was detained under Section 10(a) of the law to safeguard the country from people who intend to disrupt and destroy it, and was given a 25 year prison sentence after being accused of distributing false information domestically and internationally and has been held without charge ever since. She was sentenced for conducting radio interviews with the BBC (British Broadcasting Service) and RFA (Radio Free Asia).