



June
23,
2019

FREEDOM OF EXPRESSION
ACTIVIST ORGANIZATION

No Time to Dawdle Anymore: Short Analysis on 200 Cases

Athan – Freedom of Expression Activist Organization

Background

The quantity of cases under the Telecommunications Law, one of the most abusive laws against freedom of expression in Myanmar, reaches 200 while 246 people are affected under the law.

Telecommunications Law was enacted in October 2013 with an aim to control businesses of local and international companies investing in telecommunications industry and to oversee telecommunications systems.

Despite of the aim, the law itself became a curtailment of people's intrinsic right to freedom of expression in election campaign period in 2015. Now, freedom of expression is extremely violated by government, members of parliament, military and even some celebrities misemploying that law.

Telecommunications

Law Cases

Hits

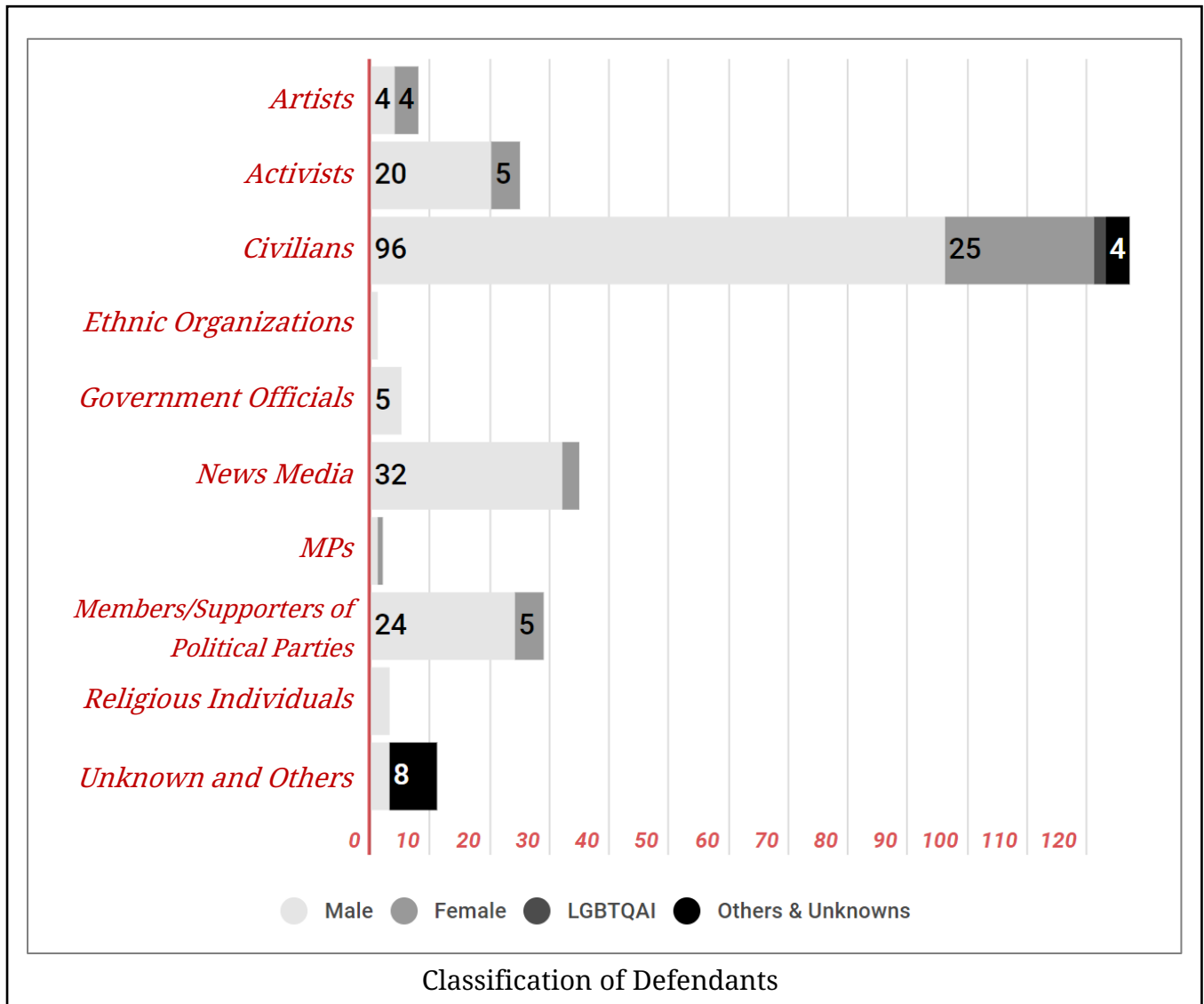
200

Research Methodology:

Athan monitors, documents and amasses violations of freedom of expression including lawsuits under Telecommunications Law. Athan analyzed and reviewed the findings – findings of continuous court monitoring and infrequent court monitoring, and data collected from interviews with pertinent individuals, pundits and consultations with legal experts – to compile this research paper.

Lawsuits under Telecommunications Law

It has recently met 200th case under Telecommunications Law since the time the law was passed. Now, there are totally 246 people affected under Telecommunications Law, leading some people to face trail staying in jail and some have been already incarcerated. The plaintiffs are the government, the military (Tatmadaw), members of parliament, businesspersons while the defendants include civilians, news media agencies, activists and human rights defenders.



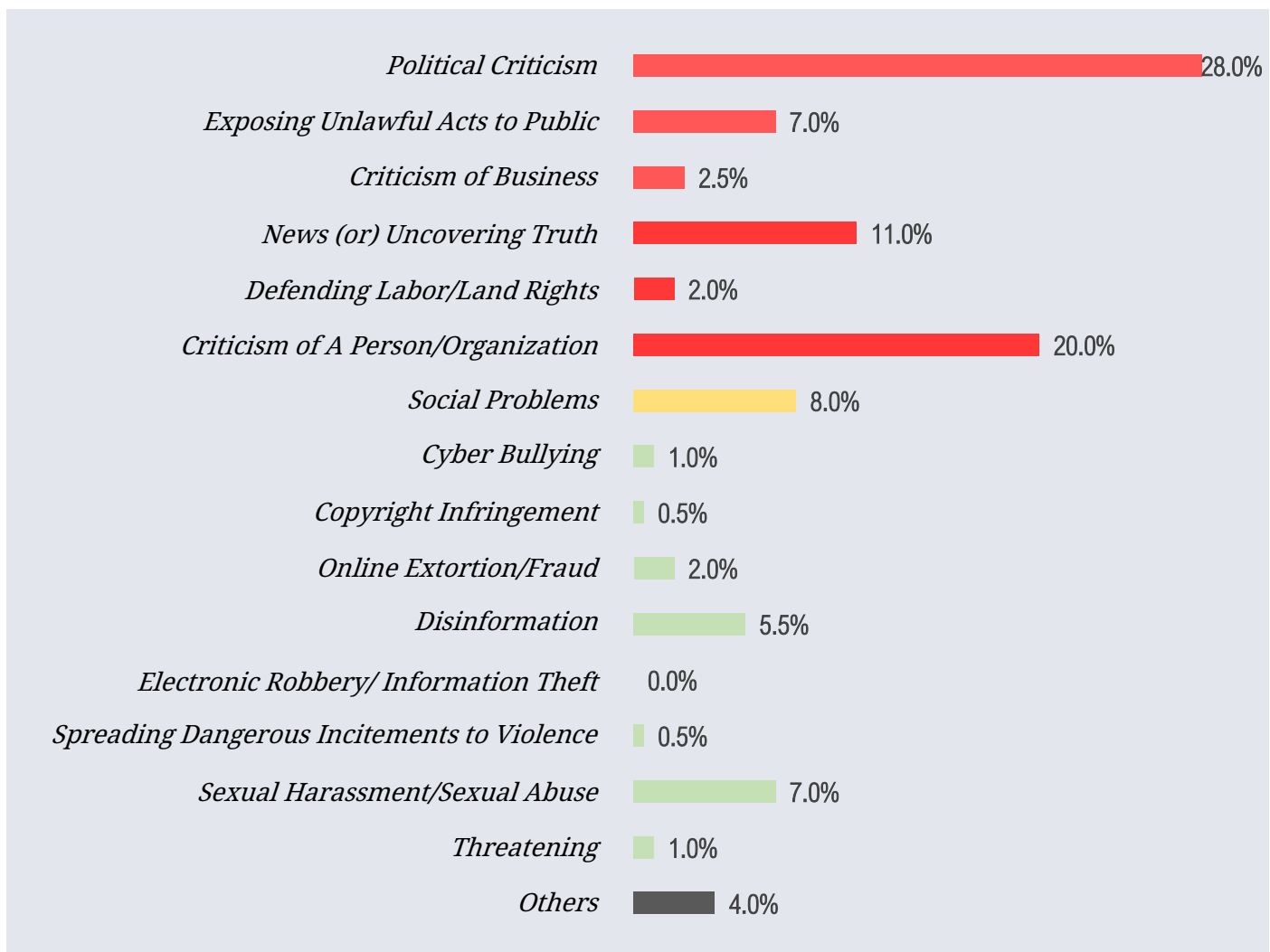
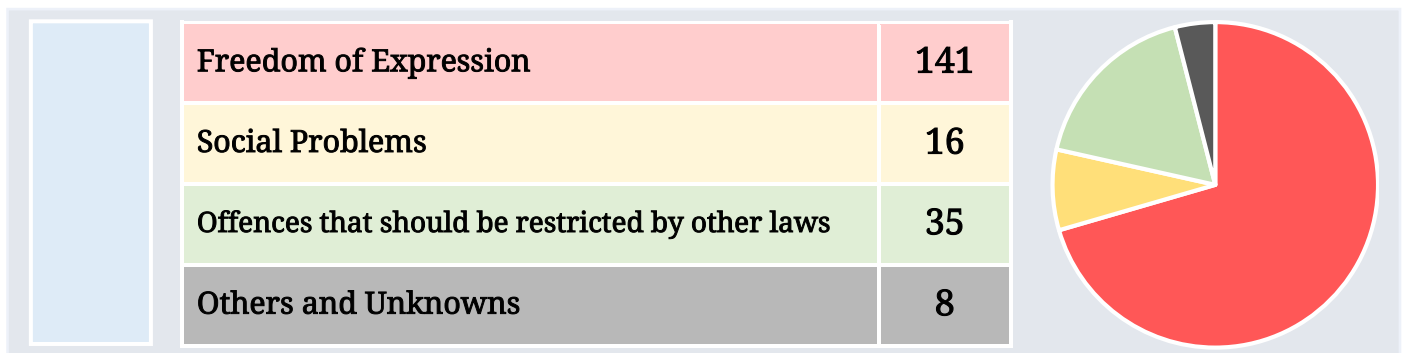
U Min Htin Ko Ko Gyi who is a poet, film director and the founder of Human Rights and Human Dignity Film Festival (Myanmar) is one of the victims currently facing trials under Telecommunications Law. Despite of his critical health condition to stay in prison, the court rejected his application for bail. U Min Htin Ko Ko Gyi was sued by the Yangon Command of the Myanmar military under both Section 66(d) of Telecommunication Law and Section 505(a) of Penal Code for criticizing them.



Photo - MPA

For the simple comprehension of impacts of Telecommunications Law, each complaint was categorized and analyzed. Complaints were classified into free speech like political blamings, complaints based on infuriation or social arguments and criminal offences that should be restricted under relevant laws with analysis on each complaint. A range of the categories is shown both in general and detail as below.

70.5% of the all complaints are complaints violating and restricting freedom of expression.



Complaints and Prosecutions Over Criticisms of Government

Among the total 200 cases under Telecommunications Law,

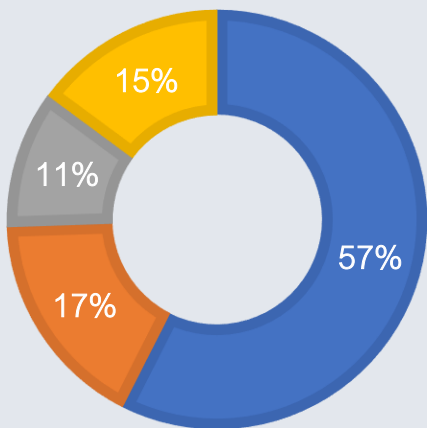
47 cases are government's prosecutions and complaints over criticism of government.

Among the 246 defendants,

60 were brought to trails for criticizing government.

This amount is one fourth of all defendants.

Information Gathered by June 20, 2019.



- 27 cases – direct prosecutions by governmental officials/ public servants
- 8 cases – lawsuits opened by police
- 5 cases – third-party complaints filed by pro-government individuals
- 7 cases – complaints filed by ruling party over criticism of government



10 people were sued for criticizing The State Counsellor.



23 people were sued for exposing news and uncovering truth and unlawful acts.

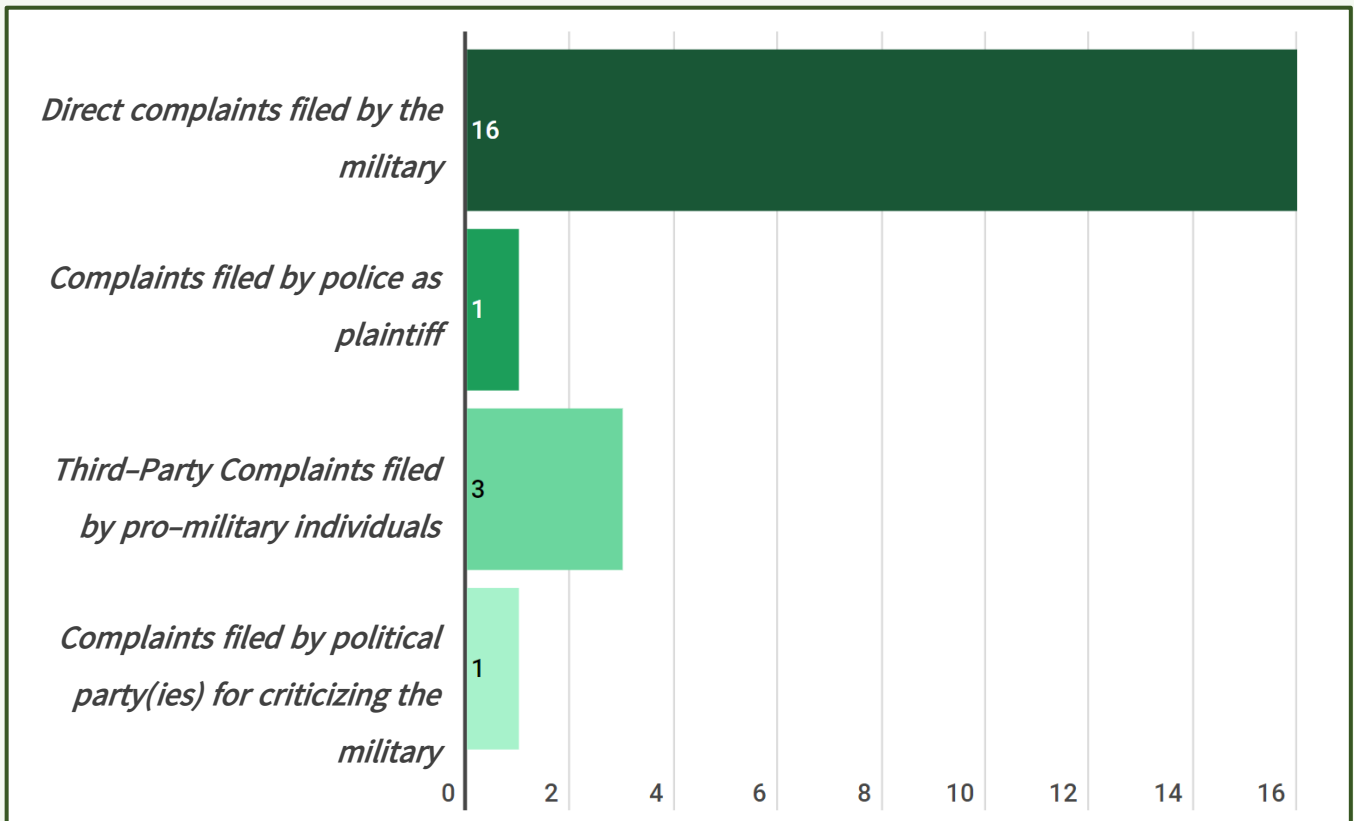


19 people were sued for political criticism.

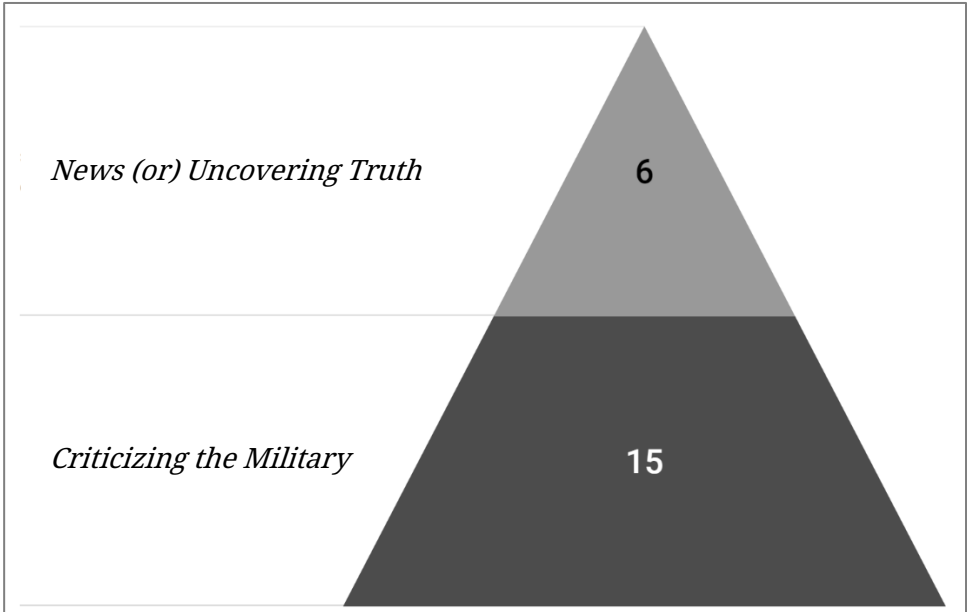
Complaints over Criticism of Military

There are **21 complaints** under Telecommunications Law against **37 people** over criticism of the military.

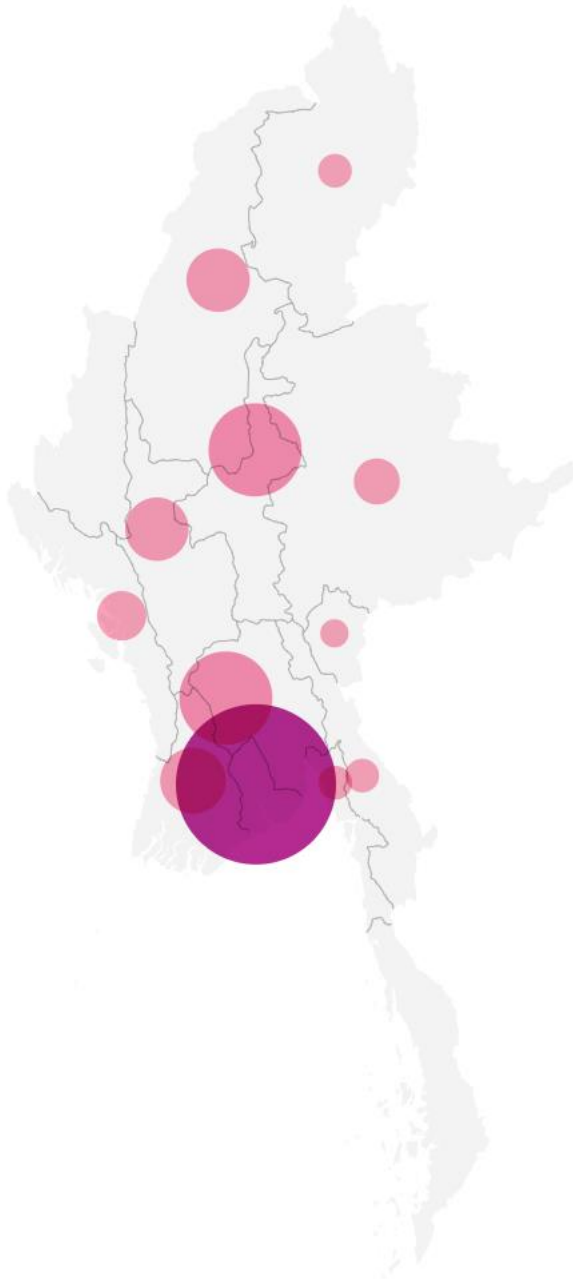
8 journalists and 12 activists were sued under Telecommunications Law for media coverage about the military or criticizing the military.



Most of the complaints related to the military are because of criticism of Senior General Min Aung Hlaing, Commander-in-chief of the military. Although no third-party complaint was found, military officers opened lawsuits (on behalf of the Commander-in-chief).



Complaints in States and Regions



Yangon	83
Bago	27
Mandalay	27
Ayeyarwady	13
Magway	12
Sagaing	12
Rakhine	7
Shan	6
Kachin	3
Kayin	3
Mon	3
Kayah	2
Chin	0
Tanintharyi	0

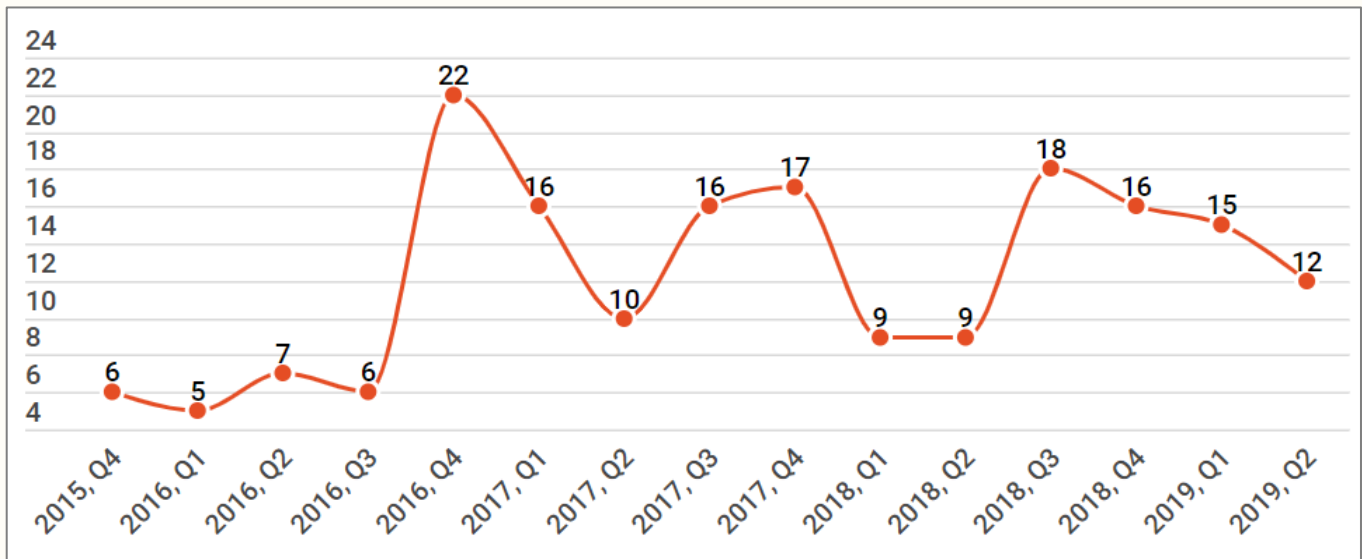
Yangon Region has the highest number of cases under Telecommunications Law while no case was found in Chin State and Tanintharyi Region.

Township with Highest Number of Cases

Bago township is the township where most cases under Telecommunications Law are found while Tarmwe township follows at second ranking.

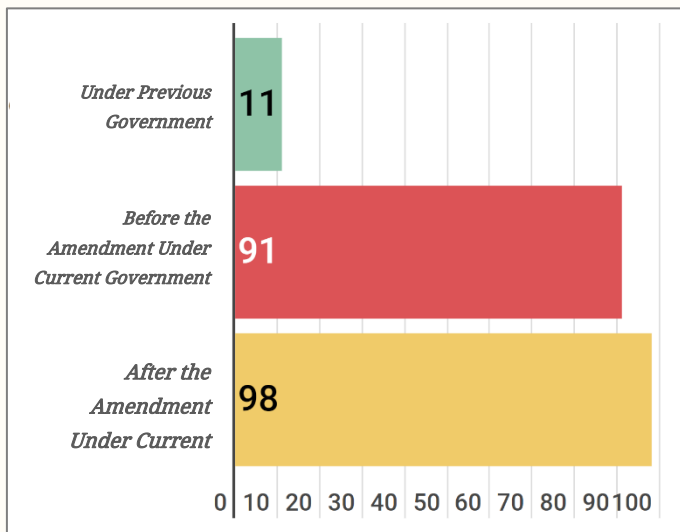
11 cases were filed under Telecommunications Law, including four complaints against news media outlets and complaints over criticism of The State Counsellor in Bago township.

10 cases were filed under Telecommunications Law, including 5 complaints over criticism of a person or an organization in Tarmwe township.



Timeline of Cases under Telecommunications Law

(16 complaints with unknown time of issue were not included in this chart)



Amendment in Parliament

Telecommunications Law was amended in Union of Assembly (Pyidaungsu Hluttaw) on August 29, 2017 as activists, civil society organizations and legal experts' advocacy and push, but with gigantic frailty of continued existence of Section 66(d). The parliament also disappointed people with failure to implement other suggestions.

Recommendations

1. Section 66(d), 68(a), 77 and 78 of Telecommunications Law should be abolished.
2. Section 75 and 76 of Telecommunications Law should be reviewed.
3. The parliament should implement plans to enact a cyber law in line with the standards of freedom of expression and international standards as soon as possible with the suggestions of experts and civil society organizations.
4. Political leaders, government, members of parliament and governmental officials should withdraw the complaints against critical people and dissenters as soon as possible.