

## Myanmar Coup and Internet Shutdowns

### Overview

On 1 February 2021, the Myanmar military junta, alleging widespread voter fraud staged a coup and took political control of the country. They did so after months-long refusal to accept the National League for Democracy’s (NLD) victory in the 2020 general election (Reuters, 2021). A one year public emergency was declared under section 417 of the 2008 Constitution.

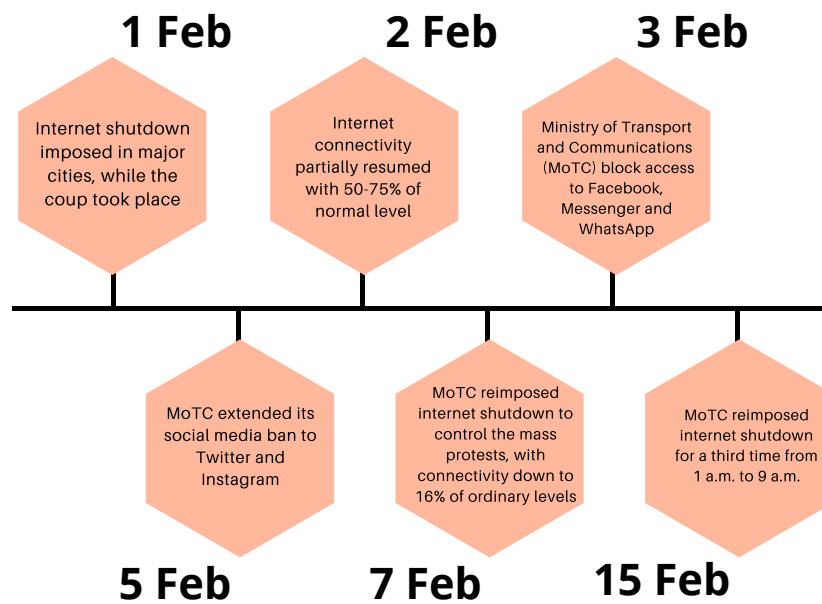
### Internet Shutdown

On the day of the coup, the Myanmar Times reported: “access to TV channels, phone lines and Internet service have been cut” (Kang, 2021). The Tatmadaw imposed internet shutdowns across major cities such as Naypyidaw, Yangon, and Mandalay. Using Section 77 of the country’s Telecommunication Law (2013), the military junta compelled Telcos and Internet Service Providers (ISPs) such as Telenor Myanmar, Ooredoo Myanmar, Myanmar Post and Telecommunication (MPT), Mytel, Welink, 5BB and Frontiir to adhere to their demands of service disruption. The Section gives the government the authority to direct ISPs to “suspend a telecommunication service or restrict specific forms of communication” on the occurrence of public emergency (Telecommunications Law, 2013).

Asia Centre’s Briefing Note, *Myanmar Coup and Internet Shutdowns*, pulls together key information related to the internet shutdowns following the military takeover of the country. Covering the period 1-15 February 2021, the Note provides a timeline of the shutdowns, citizen reactions, statements by technology companies, legal analysis of key laws and Myanmar’s international human rights obligations. Asia Centre will continue to track developments related to internet freedoms in Myanmar and Southeast Asia.

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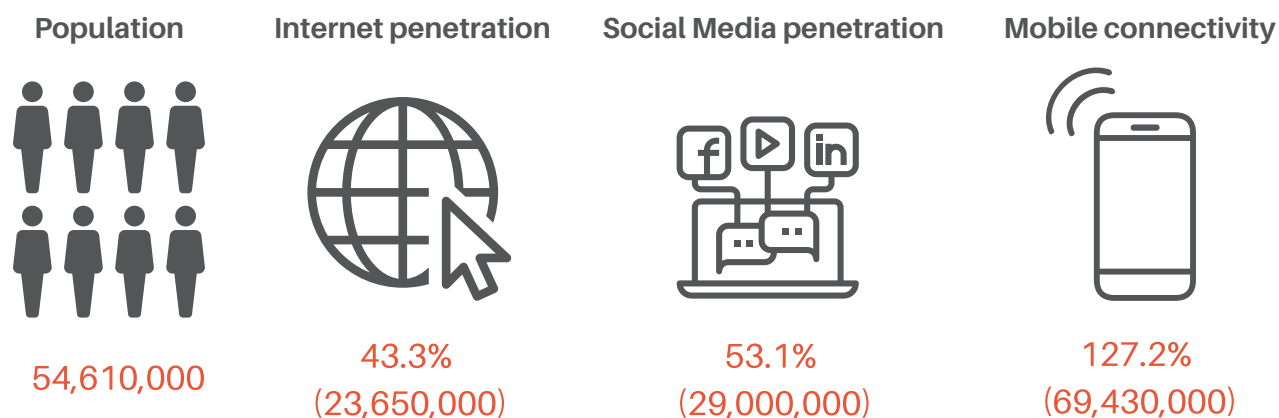


Source: Compiled from media reports

Globally, regionally and nationally individuals and groups condemned the internet shutdowns. Yet, the government sought to forestall online protests, manifestations and coordination.

From 3 to 5 February, the Ministry of Transport and Communication issued a ban asking telecommunication operators to block access to social media platforms including Facebook Telenor, Instagram, FB Messenger and WhatsApp until 7 February, citing the necessity to guarantee public security (Telenor, 2021). UK-based internet rights monitoring group NetBlocks revealed the internet disruptions during 1 February to 7 February showing the below-average connectivity, between 50% to 75% lower than ordinary levels (Netblocks, 2021). On 15 February, the military reinforced the internet shutdown with connectivity dropping to 14% of normal levels (Safi, 2021).

### Key Statistics



Source: We Are Social (2021)

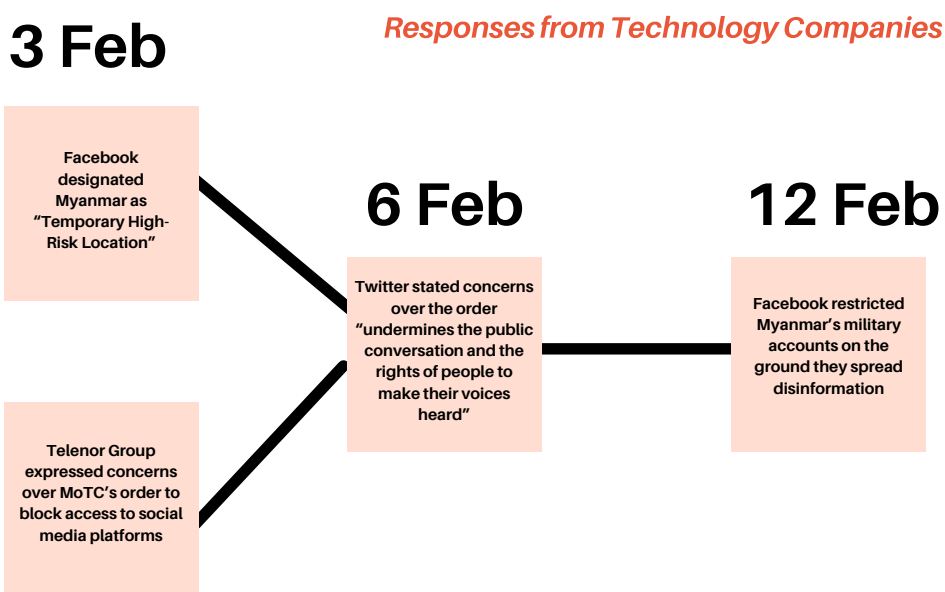
The February 2021 shutdowns are the latest in Myanmar. Earlier, in June 2019, internet shutdowns were imposed in Rakhine and Chin states. These states have experienced the longest suspension of internet service in the world.

### Responses to the Internet Shutdown

In the first few days of the military takeover, the general populace responded to the coup with symbolic, sporadic protests, while discontent and attempts to organize anti-coup assemblies were manifested on Facebook. Online protest-mobilising content shifted to Twitter after Facebook was blocked on 3 February. Hashtags such as #RespectOurVotes, #HearTheVoiceofMyanmar, and #SaveMyanmar became rallying points (Potkin, 2021). On 6 February, after all access to social media platforms were denied, people took to the streets en masse in Naypyidaw, Yangon, Mandalay, and Bago to protest against the military junta. People have used virtual private networks (VPN) that enable circumventing internet restrictions to gain access to Facebook and Twitter or they have migrated to other social media platforms such as WhatsApp and Signal. Some also created SMS groups or made landline calls to update each other (Chew, 2021). Ingeniously, Bridgefy, a bluetooth-based messaging application came to the rescue for the protesters, using Mesh Networks to communicate without internet connections (The Straits Times, 2021). Though limited in range to around 100 metres, it bypasses the cell tower and the necessity to connect to the mobile network by opting for a direct peer-to-peer channel.

While complying with the government’s directive to block the internet and access to social media platforms, technology companies also issued statements. Telenor group considered the order a human rights violation and contradictory to the principles of necessity and proportionality of international human rights standards. Twitter, in response to the military’s crackdown on social media, stated it was deeply concerned by the decision and that the order “undermines the public conversation and the rights of people to make their voices heard” (Reuters, 2021).

Earlier on 3 February, Facebook classified Myanmar as “Temporary High-Risk Location,” an action which allows a removal of content or events in the country that involve “any calls to bring armaments” and protect online discussion that criticizes the military coup (Nashrulla and Mac, 2021). Facebook, which owns Instagram and WhatsApp, acknowledged the disruptions to their services in Myanmar and urged the authorities to restore access to its platforms.



Source: Compiled from media reports

On 12 February 2021, Facebook restricted circulation of contents on Facebook accounts and profiles run by the military on the ground that these pages have spread disinformation (Disis, 2021). This action means that Facebook users will considerably see less content from those pages on their News Feed.

Soon technology companies came under pressure for their statements and actions. On 15 February, Telenor in a statement, citing staff security, said it is no longer able to disclose or comment on government directives it receives (CNA, 2021).

### Legal Analysis

The coup has severely affected freedom of expression as the rights in the Constitution have been suspended. Further, other laws, such as the Telecommunications Law that have been marshalled to deny access to the internet and social media go against international standards that guarantee freedom of expression. Finally, the proposed cybersecurity laws, when passed, will contain prohibitive sanctions for those transgressions in Myanmar.

*The Constitution of Myanmar, in Article 354, guarantees that “every citizen” shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, the prevalence of law and order, community peace and tranquility or public order and morality:*

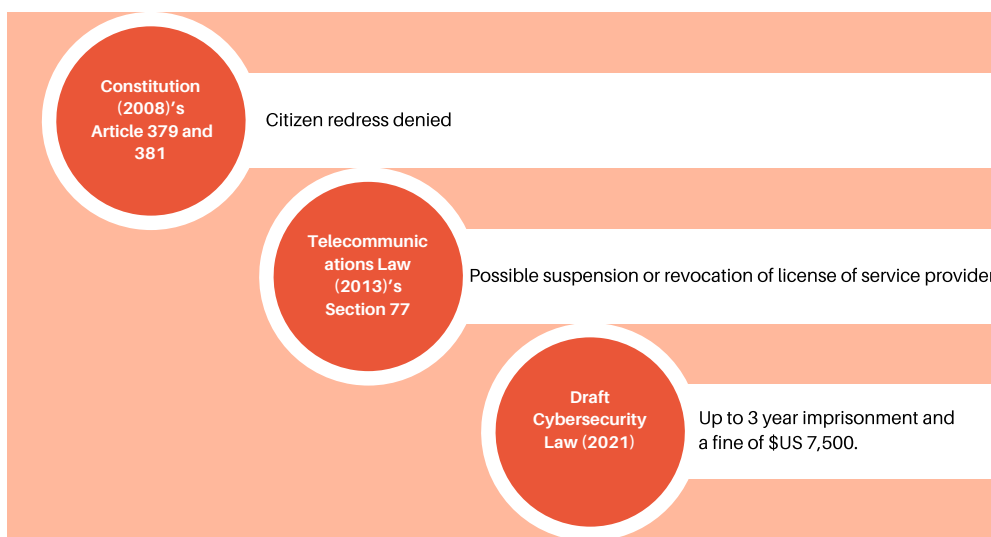
- (a) to express and publish freely their convictions and opinions;*
- (b) to assemble peacefully without arms and holding procession;*
- (c) to form associations and organizations;*

According to the Constitution, suspension of rights of citizens may take place, as per Article 379, only “in time of war,” “in time of foreign invasion” and “in time of insurrection” (Constitution of Myanmar 2008). In these situations, citizens may be denied redress as per Article 381. The constitution prescribes in Article 383 vaguely worded duties every citizen must uphold: “(a) non-disintegration of the Union; (b) non-disintegration of national solidarity; (c) perpetuation of sovereignty” (Constitution of Myanmar, 2008).

A State of Emergency can be imposed by “The President” under section 417, pursuant to Section 410. The latter stipulates that the Emergency is to be promulgated “If the President learns [of a situation warranting a public emergency] he may, after coordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency” (Constitution of Myanmar, 2008; emphasis added). In the 1 February 2021 declaration of emergency, the President did not perform this function. The military staged a coup under the guise of an alleged public emergency and the President was detained, along with other top civilian leaders.

The coup d’état came months after the November 2020 election, with no threat to sovereignty, or insurrection during the time prior to the coup that could pose an existential problem for the Union. Section 417 of the 2008 Constitution provides as justification for a state of emergency that there must be “sufficient reason” that may “disintegrate the Union, disintegrate national solidarity”, and “cause loss of sovereignty of the Union by insurgency, violence and wrongful forcible means” (Government of Myanmar, 2008).

### **Laws Impacting Internet Freedoms**



Source: Compile from media reports)

Typical of all coups, the entire communications infrastructure and all forms of media were brought under strict control of the military junta, in the already highly centralised political context of Myanmar. Section 77 of the country's Telecommunications Law stipulates that:

*The Ministry of Communications and Information Technology may, when an emergency situation arises to operate for public interest, direct the Licensee to suspend a telecommunications service, to intercept, not to operate any specific form of communication, to obtain necessary information and communications and to temporarily control the Telecommunications Service and Telecommunications Equipment (Government of Myanmar, 2013).*

The suspension of internet and social media services under Section 77, was in defiance of international human rights standards on freedom of expression and access to information.

Freedom of expression and peaceful protest were further threatened by the recent announcement of a new Cybersecurity Law that will effectively further stifle dissent and freedom of expression. Under Article 29 of the leaked draft, which was to be made public on 15 February 2021, the government had the right to impose "interception, removal, destruction or cessation" of one's account, when contents are deemed as (per a very vaguely worded clause) "causing hate or disrupting unity, stabilization and peace," any "disinformation, or any comment violating any existing law". Those found guilty of breaking the law will be punished with up to 3 years imprisonment and a fine of \$US 7,500. (RSF, 2021) Article 30 of the draft prescribed that online service providers must, when requested, hand over to the government "the user's name, IP address, phone number, ID card number and physical address" (RSF, 2021). Article 31 stipulates that an online service provider in Myanmar "may provide all or part of the information contained in Section 30 if the assigned person or authorized organization [is] requested under any existing law."

The above laws are not aligned to international human rights standards as we will see below.

## **International Obligations**

The United Nations has emphasised the need to guarantee internet freedoms through several declarations.

General Comment 34 (2011) of the Human Rights Committee stipulates that freedom of expression and opinion are guaranteed under the ICCPR both offline and online (OHCHR, 2011). In situations of conflict, a 2015 joint declaration on freedom of expression by special rapporteurs from African, American and European human rights mechanisms stated that "using communications 'kill switches' (i.e. shutting down entire parts of communications systems)... can never be justified under human rights law." (OHCHR, 2015). The United Nations Human Rights Council had made it clear in its resolution 32 of 27 June 2016, "that the same rights that people have offline must also be protected online, in particular, freedom of expression" in accordance with Article 19 of the ICCPR (UNHRC, 2016).

On 4 February 2021, the United Nations Security Council (UNSC) expressed “concern at the restrictions on civil society, journalists and media workers”. The Council called upon the military junta to “fully respect human rights, fundamental freedoms and the rule of law” (UNSC, 2021).

The UN Special Rapporteur on the Situation of Human Rights in Myanmar, in a special session of the UN Human Rights Council on 12 February 2021, noted:

*The junta is instituting regulations and laws to systematically abrogate the people’s rights of freedom of expression, access to information and privacy. ... It has blocked Facebook and other apps, cut off the Internet as it sees fits, and has put forward a new draconian Cyber Security Law to assure that Myanmar is truly a police state that uses modern technology to harass, intimidate and arrest anyone who stands in their way. The new law would allow the junta to ban content it dislikes, restrict Internet providers and intercept data. (OHCHR, 2021).*

In short, the legal instruments used by Myanmar to curb internet freedoms are in contradiction with international norms and standards.

## Conclusion

Freedom of expression and digital rights of nearly 24 million users (43% of the population) have been placed under threat in Myanmar following the coup (Kemp, 2021). In the meantime, the military junta is attempting to control public opinion and prevent counter-coup protests. In a statement to the Myanmar Press Council, the Ministry of Information instructed the media against using “incorrect words” such as coup and referring to the military as a “junta” or “regime” (Bangkok Post, 2021). The coup is allowing the military regime to fast-track legislation in violation of its own Constitution and international law.

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