

July 2, 2019

Athan – Freedom of Expression Activist Organization



The Military's Complaints Violating Freedom of Expression Under Current Government

This research paper is based on analysis of lawsuits filed by the military within 39 months from April 2016 – when the new government came to power – to June 2019. Particularly, lawsuits hindering the right to freedom of expression were analyzed in details. Athan analyzed and reviewed the findings – findings of continuous case monitoring and infrequent court monitoring, and from interviews and focal group discussion with pertinent individuals, pundits and consultations with legal experts – to compile this research paper.



No one was allowed to enter the precinct of the closed-door court that was set to hear case of Ko Nay Myo Zin who was sued by the military under Section 505(a), (b) of Penal Code, on June 7, 2019 right before the prisoner transport vehicle carrying him arrived (from the opening time of court to 14:00), in a manner of violation of right to free trial of accused persons. *Photo - Athan*

Complaints Against Freedom of Expression

The military has directly filed 24 complaints against 77 people while there are six complaints filed by third-party including police against nine people for criticizing the military as well.

Totally, there are 30 complaints against 86 people over the criticism of the military.

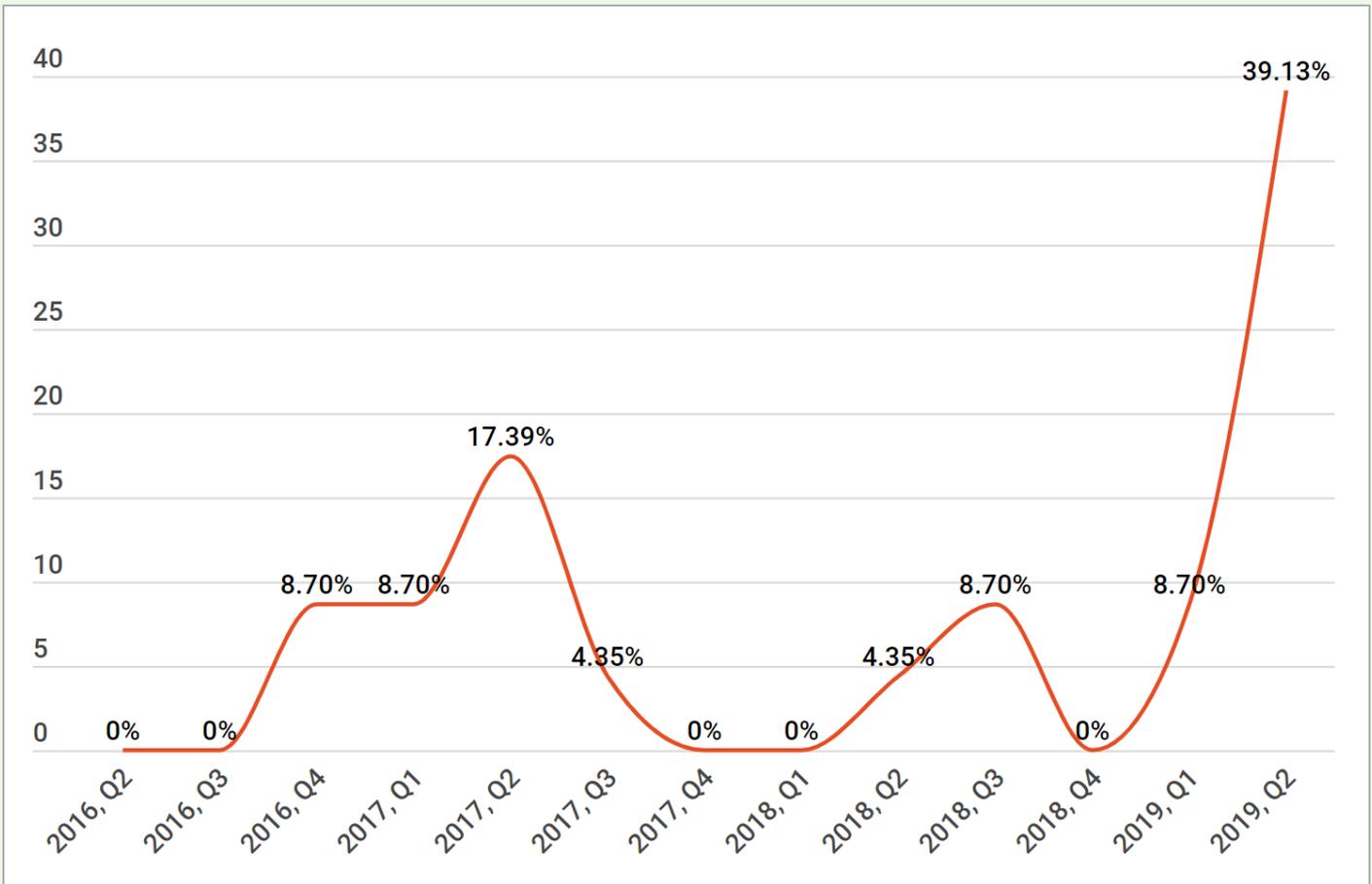
Articles/Sections	Number of Complaints	Number of Accused Persons
<i>Complaints directly filed by the military</i>		
Telecommunications Law	8	14
Telecommunications Law + Section 505(a) of Penal Code	1	1
Telecommunications Law + News Media Law	1	2
Section 500 of Penal Code	2	12
Section 500 of Penal Code + News Media Law	1	1
Section 505(a) of Penal Code	4	26
Section 505(b) of Penal Code	3	4
Section 505(a) + 505(b) of Penal Code	1	1
Unlawful Associations Act	2	4
Law Protecting the Privacy and Security of Citizens	1	12
<i>Third-party Complaints</i>		
Telecommunications Law	5	8
Section 505(b) of Penal Code	1	1
Total	30	86

** This chart only shows the complaints filed to violate and restrict right to freedom of expression (for criticism of the military). All of complaints filed by the military violating other fundamental human rights are not shown in this table.*

Ongoing Cases/ Decided Cases/ Withdrawn Cases

Sections	Ongoing	Decided	Withdrawn
<i>Complaints directly filed by the military</i>			
Telecommunications Law	6	2	
Telecommunications Law + Section 505(a) of Penal Code	1		
Telecommunications Law + News Media Law			1
Section 500 of Penal Code		2	
Section 500 of Penal Code + News Media Law	1		
Section 505(a) of Penal Code	3		1
Section 505(b) of Penal Code		2	1
Section 505(a) + 505(b) of Penal Code	1		
Unlawful Associations Act		1	1
Law Protecting the Privacy and Security of Citizens	1		
<i>Third-party Complaints</i>			
Telecommunications Law		5	
Section 505(b) of Penal Code		1	
Total			
	13	13	4

This table shows the number of ongoing cases, decided cases and the military's withdrawn cases under the current government. The military withdrew five complaints on September 1, 2017. Among the five complaints, one complaint that had been opened under previous government, is not counted under the current government. Therefore, the military actually withdrew only four complaints under the current government.

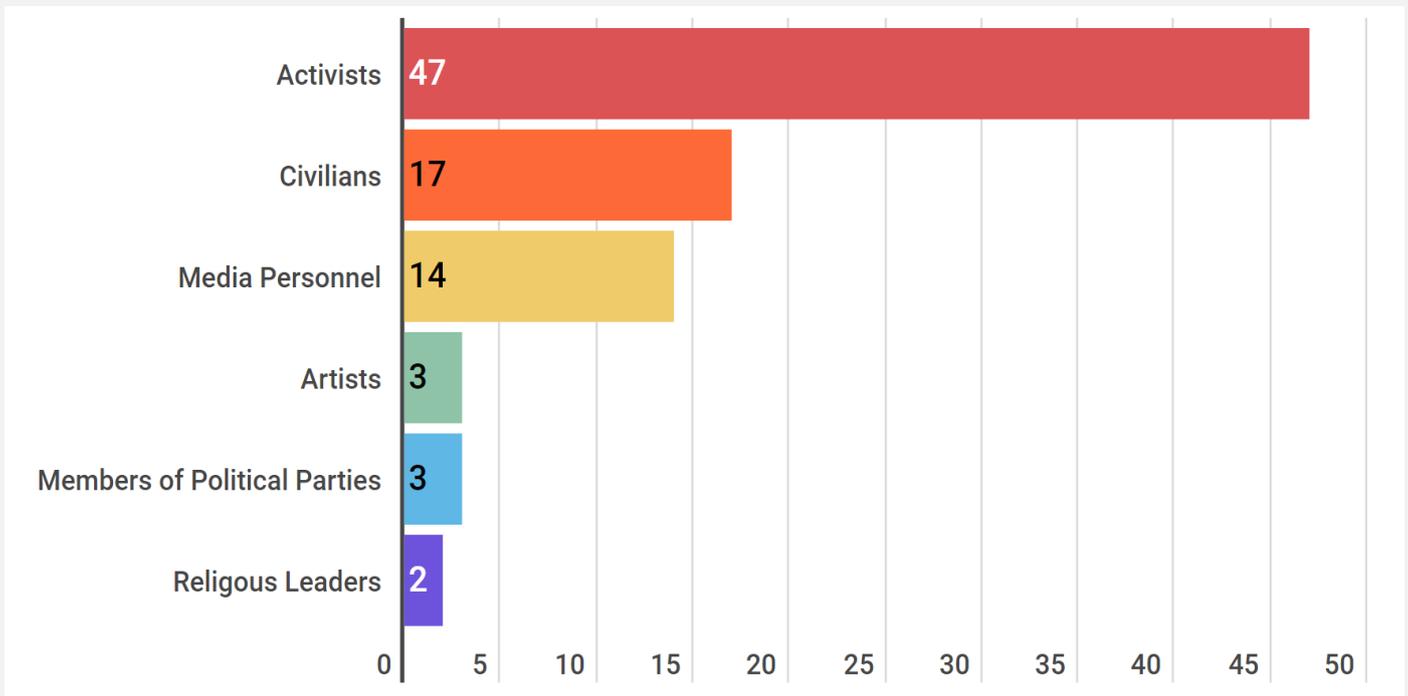


The Military’s Complaints Violating Freedom of Expression

Description: Complaints filed by the military were found in late 2016 rather than second quarter and third quarter of 2016 – the time when the new government came in power. Nearly 40 percent of all complaints filed by the military were found during second quarter of 2019 from April to June.

Case Study: *Peacock Generation Thangyat performance group is one of the defendants sued by the military in April 2019. Peacock Generation performed in many places in Yangon and other cities during Thingyan Festival. They performed ironically satirical Thangyat songs that criticized the Senior General Min Aung Hlaing and involvement of the military in politics besides called for the amendment of 2008 Constitution. The military opened complaints against the troupe under Telecommunications Law at Mayangon Township police station even during the Thingyan festival. But the police station accepted the complaint under Section 505(a) of Penal Code and the trail is ongoing. The military also opened complaints against seven members of Peacock Generation again at Botahtaung township court and opened complaints against 25 members of Peacock Generation in Patheingyi township, Ayeyarwady Region.*

Defendants



Complaints in Regions/States

Yangon Region has the highest number of complaints including those directly filed by the military, violating freedom of expression for criticizing the military.

15 complaints were filed in 10 different townships of Yangon Region against 30 individuals.

Patheingyi township of Ayeyarwady Region met three complaints. But the number of defendants is 35.



Other concerns for freedom of expression

Records of Athan were compiled and constructed after making various step by step verifications of data, which were scrupulously amassed from the reports of media, from networks, from the people whose right to freedom of expression was violated and ground data collectors.

Athan believes that there are still many more lawsuits which violate the freedom of expression in conflict areas, what we cannot make necessary verifications yet. For researchers and journalists, to look into and record the incidents of violations of human rights including freedom of expression in conflict zones particularly in the area where the civil war is waging, is still a predicament to conduct. It is one form of violating freedom of expression; such as barring the journalists from entering the conflict areas to investigate and cutting internet connection off at the meantime, and the consequences are that the evidence of human rights violations will fade away in thin air.

Athan is extremely concerned that situation of violating human rights and freedom of expression against the people who habitant in conflicts zones, is getting more intense day by day.

Conclusion and Recommendations

- 1. The military should respect the right to freedom of expression of the people and the right to information.**
- 2. The military should make all possible affords to cease opening lawsuits against people and should drop all of the lawsuits violating the right to freedom of expression immediately.**
- 3. The military representatives of parliament should stop discussing any menace which deters and impedes freedom of expression in parliamentary meetings.**

To contact,

- Phone - +95(9)427563165
- Email - athan.info@gmail.com
- Facebook - <https://www.facebook.com/athan.foe.myanmar>
- Twitter - @ahan_info