

# The right to truth



Free expression, access to information and media freedom are one of the first casualties in every conflict, including in Myanmar.<sup>1</sup> However, it is during conflicts that these rights are so important to defend. Without them, it is difficult to establish the truth about what is or has happened. Without establishing the truth about why a conflict is happening, it is very hard to end it.

The importance given to these rights during or after a conflict is known as “the right to truth”. According to the UN, the right to truth is not only the right of victims and their relatives, but also a collective right for all people to address oppression, prevent conflict, and stop perversions of history.<sup>2</sup> The right to truth is important for three reasons:

“Right to truth” does not mean that there is only one “truth” but rather that people have a right to freely find out what the truth is, through investigation, sharing and debate.

## 3 reasons for the right to truth

<p><b>Victims of Myanmar’s conflicts are entitled to an explanation of what happened and why</b></p> <p>Victims of a conflict or their relatives deserve an independent and unbiased explanation of what happened to them and why.</p>	<p><b>Myanmar’s government has an obligation to bring justice to victims of crimes</b></p> <p>Finding out the truth is a precondition for punishing those who commit crimes, and giving victims some form of redress.</p>	<p><b>Myanmar society is entitled to know about a conflict to prevent it reoccurring</b></p> <p>The best way to prevent conflict reoccurring is to have an open and informed discussion about what started it.</p>
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The right to truth is under threat in Myanmar from three main directions:

## 3 threats to the right to truth in Myanmar

<p><b>Denial of access to information</b></p> <p>Journalists, human rights defenders (HRDs) and others are denied physical access to conflict areas – sometimes described as for their “protection” – and therefore have limited opportunity to collect or verify information. As a result, they are often highly reliant on identifying the “truth” based on information given to them by inherently biased sources (the state and insurgent groups).</p>	<p><b>Misinformation, propaganda, and disinformation</b></p> <p>Those with a stake in the conflict disseminate biased or manipulated information which they label “truth” with the intention of building public support for their aims. Unfortunately, journalists, HRDs and others can voluntarily disseminate such distorted “truth” either because of a lack of sources, lack of media or digital literacy, or due to patriotic motivations.</p>	<p><b>Lack of media diversity</b></p> <p>The biggest source of information on Myanmar’s conflict is state TV, radio and Facebook.<sup>3</sup> Alternative and minority voices cannot speak through the state media because it is controlled by the government. Private media are also reliant on these sources and are themselves concentrated in ownership. As a result, the media is not diverse and often polarised in favour of the state’s version of “truth”.</p>
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<sup>1</sup> Report of the UN Special Rapporteur on freedom of expression, Abid Hussain, UN Doc. E/CN.4/2000/63, 18 January 2000.

<sup>2</sup> UN ECOSOC, Commission on Human Rights, Sub-Commission decision 1996/119, E/CN.4/Sub.2/1997/20/Rev.

<sup>3</sup> Studies of rural populations show most people receive current affairs information from TV, radio and state Facebook pages

The right to truth comes from international law. It is derived from the right to “seek, receive and impart information” as guaranteed by Art. 19 of the UDHR, Art. 19 of the ICCPR, and Art. 23 of the ASEAN Human Rights Declaration. The right to truth includes three parts:

3 parts of the right to truth		
<b>1. The right to seek information</b>	<b>2. The right to receive information</b>	<b>3. The right to impart information</b>
Journalists, human rights defenders, victims and their relatives have a right to access information and ideas about the conflict or individuals involved.	All people in Myanmar and abroad have a right to get information and ideas about the conflict, including via the media and international media.	Those who have information or ideas about the conflict – including state officials – have a right to talk, including publishing in newspapers or online.

With every right comes an obligation. The right to truth places obligations on the state, including government:

State obligations for each part of the right to truth		
<b>... seek information</b>	<b>... receive information</b>	<b>... impart information</b>
The state has an obligation to provide access to accurate, timely and unbiased information to the public, without discriminating against who is asking. This includes an obligation not to prevent access to conflict areas.	The state has an obligation to enable the media and others to publish information and ideas freely. This includes an obligation to ensure diverse information and ideas are accessible to everybody across Myanmar and beyond.	The state has an obligation to protect peoples’ right to freedom of expression. This includes an obligation to refrain from censorship or punishing people when they are critical of the state and its actions.

The right to truth is not absolute and restrictions are allowed. However, most restrictions to the right to truth in Myanmar are illegitimate because they fail the three-part test in international law.

3-part test in international law		
<b>1. Provided by law</b>	<b>2. Towards a legitimate aim</b>	<b>3. Necessary and proportionate</b>
Restrictions must be written in law. They must be accessible and clearly understandable by the people. Most restrictions in Myanmar fail this part of the test because although they are written in law, they are so vague as to make them meaningless and arbitrary.	Restrictions must target an aim listed in international law. Most restrictions in Myanmar fail because they have an illegitimate aim. For example, restrictions based on national security are legitimate but should protect against imminent threats to the integrity of the country. In Myanmar, claims are used to stop criticism of the state or their actions.	Restrictions must be necessary to protect the legitimate aim. They must also be proportionate so as not to undermine the right more broadly. Most restrictions in Myanmar fail because they are unnecessary in a democracy and their results are grossly disproportionate. For example, by providing prison sentences.

The rights and obligations are as broad as possible to ensure that everyone can exercise them. These are some recommendations of how these rights and obligations apply to Myanmar:

Recommendations for Myanmar		
1. The right to seek information	2. The right to receive information	3. The right to impart information
<ol style="list-style-type: none"> <li>1. Journalists and human rights defenders (HRDs) have the right to full and unfettered access to Myanmar's conflict areas (Kachin, Rakhine, Shan, etc.). Criminal or administrative measures should not be used to restrict the movement of journalists - including international journalists - or HRDs.</li> <li>2. Journalists and HRDs should never be prosecuted simply for doing their jobs and investigating.</li> <li>3. Journalists and HRDs have the right to protect the identity of their confidential sources of information.</li> <li>4. Myanmar government and insurgent groups must facilitate – not thwart – the uncovering of information about conflict and human rights abuses.</li> <li>5. Allegations of human rights abuses in conflict areas should be investigated by an independent and unbiased judicial institution, in cooperation with civil society.</li> <li>6. Conflict should not be used to justify surveillance. Untargeted or mass surveillance are inherently disproportionate and ineffective.</li> </ol>	<ol style="list-style-type: none"> <li>1. Myanmar's state broadcasters should be turned into public service media and include a specific aim to reduce conflict by promoting diversity and tolerance. Community media should be given radio licences.</li> <li>2. Until then, Myanmar's state broadcasters have a duty to challenge discrimination and ensure that all groups have their voices heard in the media, both locally and nationwide.</li> <li>3. Myanmar government must include digital and media literacy in the state education curriculum. Literacy includes the aim of enabling people to access and effectively use the internet and media to express their opinions.</li> <li>4. Myanmar government must encourage the roll out of affordable 3G services nationwide, including in conflict areas wherever possible.</li> <li>5. Internet filtering or “kill switches” are disproportionate and never justifiable.</li> </ol>	<ol style="list-style-type: none"> <li>1. Criminalisation is only legitimate if it is necessary, proportionate, and in relation to content that actually a) incites discrimination, hostility, or violence, or b) harms national security or public order, including via acts of terrorism.</li> <li>2. People who expose wrongdoing, corruption, human rights abuses, violations of humanitarian law, or threats to the overall public interest must be protected from any punishment.</li> <li>3. Such people should be protected even if what they expose is untrue or unlawful, if they had reasonable grounds to believe the information was true at the time.</li> <li>4. People who call for openness, expose injustice, or wish to discuss alternative opinions, including those held by insurgent groups, should never be labelled as “assisting an enemy”, “traitors”, or “enemy sympathisers”.</li> <li>5. The Myanmar state must take effective steps to prevent attacks against journalists, HRDs, or victims and their relatives, and punish perpetrators.</li> </ol>