

FREEDOM ON THE NET 2018

Cambodia

45
/100

PARTLY FREE

A. <u>Obstacles to Access</u>	12 /25
B. <u>Limits on Content</u>	19 /35
C. <u>Violations of User Rights</u>	14 /40

LAST YEAR'S SCORE & STATUS

48 /100 ● Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free). See the [research methodology](#) and [report acknowledgements](#).



Key Developments, June 1, 2017 - May 31, 2018

- In May 2018, the government issued an interministerial “prakas” (or proclamation) on website and social media control that lays the groundwork for future blocking and filtering of online content and provides excessive surveillance powers to the government (see Blocking and Filtering; and Surveillance, Privacy, and Anonymity).
- The growing number of criminal prosecutions for online activity in the context of a widespread crackdown on dissenting voices has led to increasing self-censorship (see Media, Diversity, and Content Manipulation).
- The criminal code was amended in February 2018 to include a vaguely defined lèse-majesté offense that provides for severe penalties (see Legal Environment).
- Prosecutions for online speech increased sharply, as the government cracked down on dissenting voices in both the political opposition and the general public in the lead up to the 2018 elections (see Prosecutions and Arrests for Online Activities).
- In early May 2018, the government ordered that all domestic and international network traffic in Cambodia be transmitted through a Data Management Center to be established by state-owned Telecom Cambodia, raising concerns about potential surveillance (see Surveillance, Privacy, and Anonymity).

Introduction

Internet freedom in Cambodia deteriorated during the coverage period due to a widespread crackdown on civil society and critical voices. New legal restrictions on freedom of expression resulted in a growing number of individuals arrested for their online activities, while government surveillance led to heightened self-censorship.

Internet freedom restrictions and violations have grown exponentially in recent years under the increasingly authoritarian tendencies of Prime Minister Hun Sen. The general election in July 2018, which saw Hun Sen's reelection in a rigged vote, served as the impetus behind more restrictions imposed in the past year. For one, authorities effectively crippled the press, shuttering numerous broadcast, radio, print, and online outlets. One casualty included the *Cambodia Daily*, an award-winning, English-language newspaper renowned for uncovering a number of corruption scandals and human rights abuses in Cambodia, whose print publication was shut down and website was blocked in September 2017.

New legislative initiatives and directives aimed to restrict fundamental rights and internet freedom in the past year. In February 2018, the government introduced a new *lèse-majesté* offense as an amendment to the criminal code (article 437), which makes it illegal to defame, insult, or threaten the king, and carries a sentence of between one and five years in jail. Further amendments to the constitution in February 2018 obligates every Khmer citizen to “uphold the national interest” and prohibits citizens from “conduct[ing] any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia,” which can be applied to online activities.

New censorship and surveillance controls were introduced an interministerial “prakas” (or proclamation) issued in May 2018, which ordered all ISPs to install the software necessary to monitor, filter, and block “illegal” content, including social media accounts. The prakas also ordered the Ministry of Posts and Telecommunications of Cambodia to “block or close” websites and social media pages containing content deemed discriminatory or posing a threat to national security or unity. Regarding surveillance, the prakas ordered the three ministries to form a special unit to effectively “police” social media.

Meanwhile, criminal charges for online activities, relatively uncommon a few years ago, steadily increased in advance of the July 2018 elections, particularly targeting dissenting voices and members of the political opposition. According to local research, the authorities penalized 40 cases of online freedom of expression

violations between April 2017 and March 2018. The scale of arrests alongside growing surveillance concerns, have led to a heightened degree of self-censorship.

Though under pressure, the internet has become the preferred source of news and information for many Cambodians. In the face of a heavy-handed government crackdown on civil society, political opposition, and dissenting voices, social media remains an important platform for advocacy and activism to pushback against growing authoritarianism.

A. Obstacles to Access

Increasing smartphone penetration has enabled a greater number of Cambodians to access the internet regularly. As in past years, the impact remains concentrated in urban areas.

Availability and Ease of Access

Internet usage in Cambodia has soared in the past five years, and continued to improve during the reporting period (see Key Access Indicators). Some obstacles to access remain, particularly outside cities. **1**

Nearly half of the Cambodian population—or more than 8 million people—used the internet in 2017, including 6.3 million Facebook users. **2** Many people use mobile phones to go online. In December 2016, the Open Institute reported that 96 percent of Cambodians owned a mobile phone, though those living in urban areas were considerably more likely to have internet access on their phone than those in rural areas. **3** Smartphone penetration amongst Cambodians aged 15 to 65 was at 48 percent, a 21 percent increase from the previous year, according to the report. Men were more likely to own a smartphone than women (54 percent vs 41 percent); however, this gap is narrowing, the report found. Devices capable of Khmer language communication are making it easier for Cambodians to connect. The number of Cambodians who own phones that support Khmer script climbed to 76 percent in 2016, up from 63 percent in 2015. **4**

Internet service remains relatively expensive, though access has become more affordable over time. In 2018, a sample 4 GB mobile data connection cost US\$5 a month, and fixed-line connections cost at least US\$12 a month, **5** compared to an average monthly income of just under US\$300. **6** Some data packages were heavily discounted (see ICT Market). The government has also set up high-speed public Wi-Fi in several locations in the capital, Phnom Penh. **7**

Smartphone applications (apps) have become a popular means for entrepreneurs and others to reach out to customers in Cambodia. The second half of 2017 saw, for instance, the flourishing of tuk-tuk hailing apps, **8** as well as the launch of education-related apps, such as an app on Khmer Rouge history. **9**

Insufficient electricity, often resulting in nationwide blackouts, imposes additional constraints on computer and internet use. Despite recent improvements, connections can also be extremely slow, especially in remote areas.

Restrictions on Connectivity

No government shutdowns of internet or mobile access have been documented in Cambodia.

Internet usage has been constrained by poor infrastructure. The absence of an extensive landline network inhibits greater internet penetration, since the fixed landlines that broadband internet services depend on are often unavailable in rural areas. ISPs develop their own infrastructure. By 2016, three had announced plans to construct submarine fiber-optic internet cables to connect to high-speed international connections; one of the projects was commissioned by the government. **10** One of these projects, the Malaysia-Cambodia-Thailand (MCT) submarine cable, was launched in March 2017 to provide high-speed internet access to provinces with slow connections and improve 4G services nationwide. **11** The 1,300 km long fiber-optic cable system has a capacity of 30 Tbps.

Three operators provide a backbone network: Telecom Cambodia, Viettel Cambodia, and Cambodia Fiber Optic Cable Network. **12** These operators interconnect with smaller networks, allowing exchanges of information through Wi-Fi, LAN lines, or

other means. Telecom Cambodia operates under the Ministry of Posts and Telecommunications of Cambodia (MPTC) and the Ministry of Finance. ¹³

There is also a risk that poorly defined provisions of a telecommunications law passed in 2015 can be unduly invoked to interrupt service. Under Article 7, the MPTC or other relevant ministries have the authority to order telecommunications providers to “take necessary measures” in undefined circumstances of *force majeure*. The law separately established an enforcement body of “telecommunications inspection officials” to police offenses under the telecommunications law, with the authority to call in support from the armed forces. ¹⁴ These officials “hold power to temporarily suspend telecoms firms’ services and suspend or fire their staff,” according to the Cambodian League for the Promotion and Defense of Human Rights (LICADHO). ¹⁵

ICT Market

The telecommunications market has become increasingly competitive since it opened to private investment in 2006. ¹⁶ In April 2018, the Telecommunications Regulator of Cambodia (TRC) reported 38 ISPs and 7 mobile service providers operating in Cambodia, a small increase since 2017. ¹⁷

In February 2017, the TRC warned mobile operators not to engage in a price war. ¹⁸ The rivalry between the six prominent mobile operators—Smart, CamGSM, Viettel, Seatel, Xinwei, and Cadcomms—had developed into a race to satisfy the growing market for internet consumption at the lowest possible cost, potentially creating a challenge for new operators seeking to enter the market. In January 2017, CamGSM, the operator of Cellcard, promoted a discount to its customers offering \$1 for \$100 worth of mobile services; in response Smart launched a promotional package of \$1 in exchange for \$125 worth of mobile service including data, calls, and messaging. ¹⁹ TRC spokesperson Im Vutha noted that while low costs appeal to consumers, it was important to balance profit and long-term sustainability. ²⁰ In December 2017, the TRC spokesperson announced that the regulator would no longer intervene in the “epic price war” between mobile operators. ²¹

Regulatory Bodies

The Telecommunications Regulator of Cambodia (TRC) is the main regulatory body in Cambodia. Its objective is to regulate the operations of telecommunications networks and services in order to “promote fair, efficient, and transparent competition” in Cambodia. ²² Although the TRC proclaims itself to be an autonomous public entity, the 2015 telecommunications law significantly undermined its independence by granting the Ministry of Posts and Telecommunications of Cambodia (MPTC) ultimate authority over the regulator, without transparency. ²³ The TRC’s lack of independence was demonstrated in September 2017 when it followed the MPTC’s order to block access to the *Cambodia Daily* (see Blocking and Filtering).

B. Limits on Content

In May 2018, the government issued an interministerial “prakas” (or proclamation) on website and social media control that lays the groundwork for future blocking and filtering of online content. Amid declining press freedom, social media is increasingly trusted as an alternative to state and state affiliated-run news outlets. It is also used for campaigns challenging human rights abuses and online activism. However, the growing number of criminal prosecutions for online activity and a general crackdown on civil society has led to increasing self-censorship.

Blocking and Filtering

News and other websites are periodically blocked in Cambodia, particularly those that disseminate information that could threaten the ruling Cambodian People’s Party (CPP). Social media platforms, such as YouTube, Facebook, and Twitter, were freely available during the coverage period and were an important source of news for many consumers.

In September 2017, the Ministry of Posts and Telecommunications, following a request by the General Department of Taxation, ordered ISPs to block access to *the Cambodia Daily* IP’s address, as well as its Facebook page and Twitter account. ²⁴ The *Cambodia Daily*, an award-winning, English-language newspaper renowned for having uncovered a number of corruption scandals and human rights abuses in Cambodia, shut down in September 2017 after being served with a tax bill of over

US\$6 million, ²⁵ though the outlet’s website remained active. In February 2018, the TRC warned that it would investigate ISPs that had not blocked the *Cambodia Daily* website, Facebook page, and Twitter account, and revoke the licenses of those that did not comply. ²⁶ No information is publicly available as to whether or not the TRC followed through on its threats; however, the website of the *Cambodia Daily* is still blocked in Cambodia while being accessible in other countries.

Later, in July 2018 (after this report’s coverage period), ISPs and mobile services blocked a number of independent news websites, including Radio Free Asia (RFA) and Voice of America (VOA). The blocks were implemented two days before general elections, which saw little meaningful opposition activity and the overwhelming victory of Prime Minister Hun Sen and the CPP. ²⁷

Websites hosting pornography or sexually explicit images are subject to blocking in Cambodia. The prohibition is governed by Articles 38 and 39 of the Law on Suppression of Human Trafficking and Sexual Exploitation. ²⁸ Implementation of censorship is nontransparent, apparently based on informal communications between government officials and service providers, which provide no avenue for appeal.

In May 2018, the government issued an interministerial “prakas” (or proclamation) on website and social media control that lays the groundwork for future blocking and filtering of online content. ²⁹ The prakas orders, *inter alia*, all ISPs to “install software programs and equip internet surveillance tools to easily filter and block any social media accounts or pages” deemed “illegal,” and the MPTC to “block or close” websites and social media pages containing content deemed discriminatory or posing a threat to national security or unity (see more details in Surveillance, Privacy, and Anonymity). ³⁰

Content Removal

The extent of content removal remains difficult to assess, as the process is unofficial and nontransparent. No significant acts of state content removal were recorded during the coverage period, though some content may have been removed following government warnings or user complaints.

In December 2017, the Minister of Information issued a letter to all television and radio station owners, including online broadcasters, ordering them to stop broadcasting a song by singer Jane Saijai that allegedly insulted Cambodia's teachers.

31 In another example, in March 2018, the Ministry of Information ordered all television outlets, including "online television," to stop broadcasting a music video which reportedly used the logo of Phnom Penh's Calmette hospital without permission. **32**

The interministerial prakas on website and social media control issued in May 2018 (see Blocking and Filtering) refers to the blocking and deletion of social media accounts, but does not contain language that could allow the government to force other parties to do so. **33**

Media, Diversity, and Content Manipulation

The internet has quickly become one of the main sources of news and information for Cambodians, and social media has liberated many from an environment in which available information was dominated by government influence. **34** Yet that liberation appeared increasingly fragile during the reporting period. The government's repeated assaults on dissenting voices, which intensified in the second half of 2017 and in the run-up to the July 2018 elections, was accompanied by a drastic increase in online surveillance, as well as a rise in prosecutions linked to online speech. All of this has contributed to heightened online self-censorship in the past year.

A clampdown on civil society bodes ill for freedom of expression on the internet, notably under the controversial Law on Associations and Non-Governmental Organizations (LANGO). A number of prominent civil society organizations (CSOs), including the international NGO National Democratic Institute **35** and the grassroots NGO Mother Nature Cambodia, were closed or deregistered during the reporting period; the latter was deregistered at the request of its own leaders, who said they had experienced constant harassment. **36**

This crackdown on civil society has created a context in which CSOs, political analysts, and members of the public have increasingly self-censored, restricted, or at times, completely ceased their activity online, and their decreasing presence has

deprived many of access to key information. A survey of CSOs and trade union leaders carried out in late 2017 revealed that 20 percent of respondents said that during the past year, they “always” felt “worried when expressing themselves publicly to the point that they did not say what they wanted to.” Another 20 percent stated they “regularly” felt that way, while 41 percent stated they “sometimes” did. ³⁷ The number of respondents who were “always” worried when expressing themselves online almost tripled compared to a 2016 survey. ³⁸

An ongoing campaign against the political opposition in advance of 2018 elections also resulted in increased self-censorship online. In November 2017, the main opposition Cambodian National Rescue Party (CNRP) was dissolved by the Supreme Court. The move, which prompted an international outcry, was prompted by the arrest of CNRP leader Kem Sokha on charges of treason for collaborating with a foreign power, in connection with excerpts of a 2013 speech published on YouTube. A total of 118 CNRP officials and parliamentarians, including imprisoned party leader Kem Sokha, were subsequently banned from engaging in political activities for the next five years. ³⁹ Police have indicated that they are monitoring CNRP officials, including, presumably, their activity online. ⁴⁰ A number of CNRP members have been arrested for online speech in the past year (see Prosecutions and Detentions for Online Activities). The crackdown on the opposition contributed to concerns among politicians and nonpoliticians alike that engaging in online speech viewed as supportive of the CNRP could result in prosecution.

In May 2018, the NEC issued a code of conduct for the media ahead of the July elections, which prohibited the publication of news “leading to confusion and confidence loss in the election,” “informing people not to register to vote and to vote,” and “expressing personal opinion or prejudice.” ⁴¹ UN experts warned that the code of conduct uses “broad and imprecise terminology that could lead to sweeping restrictions on the media.” ⁴²

Press freedom collapsed in 2017, as authorities cracked down on Cambodia’s remaining independent media outlets. ⁴³ In late August 2017, 32 radio frequencies were reportedly shut down. Among them were many that relayed critical Khmer-language news, including those hosting Radio Free Asia (RFA), Voice of America

(VOA) and Voice of Democracy (VOD). ⁴⁴ *The Cambodia Daily* newspaper, a publication renowned internationally for its critical investigative reporting, shut down on September 2017, being unable to pay a US\$6 million tax bill. ⁴⁵ RFA decided to close its Phnom Penh bureau the same month, saying the ongoing crackdown against critical media had made operations there impossible. ⁴⁶ In May 2018, Cambodia's last remaining critical English-Khmer language daily, the *Phnom Penh Post*, changed ownership in an opaque sale, after being issued a tax bill of \$3.9 million that was settled as part of the sale. The new owner has reportedly interfered with the paper's editorial independence by demanding that the paper remove a published article detailing their alleged links with the Cambodian government. The incident compelled 13 journalists and editors to resign, and led to the firing of the paper's editor-in-chief. ⁴⁷

The internet has become an increasingly important platform for news consumption. Many Cambodians now turn to the online versions of VOD, RFA, and VOA as key sources of news. *VOD Hot News* has more than 950,000 followers on Facebook, and 20,000 daily visits to its website. RFA Khmer's Facebook page is followed by 5.7 million people, and VOA's by 6.7 million, making them Cambodia's most visited Facebook pages. ⁴⁸ In contrast, *Fresh News*, a news outlet closely associated with the RGC, has 2.6 million followers. In a significant development, the internet, and especially Facebook, overtook radio, television, and newspapers as the most popular place to seek news in 2016, according to one Open Institute survey. ⁴⁹ The survey found that 30 percent of respondents accessed information through the internet and Facebook, compared to 29 percent who watched television, and 15 percent who listened to the radio.

Facebook has become one of the most prominent places to find news for Cambodian people. However, the introduction in October 2017 of the "Explore Feed" feature—an experiment launched in Cambodia and five other countries—appeared to reduce the visibility of independent news sites and other sources of independent information. With this new feature, official pages were relegated to a separate section of the newsfeed called "Explore," unless they paid a fee. The change reportedly resulted in loss of traffic for RFA, VOA, and local NGOs, ⁵⁰ and free expression advocates expressed concern that the feature was further reducing the availability of

independent news in light of the ongoing crackdown on critical media and voices by domestic authorities. ⁵¹ This feature was abandoned in March 2018. ⁵²

Prime Minister Hun Sen has embraced social media as a tool for connecting with the population. ⁵³ The prime minister has his own mobile application, encourages social media use amongst civil servants, and livestreams events and speeches on both official government websites and on Facebook, where he has more than 10 million followers. ⁵⁴ The apparent popularity of Hun Sen on Facebook has prompted questions about government manipulation of online content, potentially facilitated by public funds. The *Phnom Penh Post* alleged that only 20 percent of Hun Sen’s new “likes” in February and March 2016 came from within the country, with the rest reportedly coming from paid “click farms” abroad. ⁵⁵ In February 2018, former opposition leader Sam Rainsy’s lawyers filed a complaint against Facebook in California, asking the tech giant for information including the amount of “state money” spent to advertise on the platform. ⁵⁶ As of May 2018, the case remained under examination by a US judge. ⁵⁷ Rainsy was previously found guilty of defamation in November 2016 for claiming that the prime minister’s “likes” were not genuine.

Recent years have seen a number of leaks in which private digital communications were published online in order to discredit public figures. While some members of the ruling party were targeted, the CNRP was most affected, and the attacks further undermined the already-vulnerable party by providing new grounds for investigation or criminal prosecution. ⁵⁸ By contrast, the ACU has declined to investigate leak scandals implicating the ruling party in misconduct.

Anonymously operated accounts were the source of many such compromising leaks. For example, in October 2017, the progovernment online media outlet *Fresh News* published leaks obtained from the “Seiha” Facebook page, an anonymous page often accused of being created to disseminate government propaganda. ⁵⁹

While social media permits access to many diverse information sources, the information distributed is not always well-informed. For instance, in August 2017, rumors of death of Prime Minister Hun Sen circulated on Facebook, ⁶⁰ while other Facebook users also circulated false rumors of child kidnapping. ⁶¹

Digital Activism

Social media and the internet provide a crucial platform for CSOs and activists to carry out advocacy and outreach activities. Amidst heightened restrictions on freedom of assembly, local communities have turned to social media, and especially Facebook, as a platform for advocacy, including as part of efforts to ask for the release of imprisoned land rights activists. ⁶² In a separate effort, Cambodian journalists in early 2018 launched an online petition to ask for the release of imprisoned former RFA reporters. ⁶³ WhatsApp is also extensively used by journalists, CSOs, and activists alike for the purpose of organizing. The environmental protection group Mother Nature Cambodia uses social media extensively. ⁶⁴ While its leaders chose to deregister the group in September 2017, citing harassment, ⁶⁵ it has continued to advocate for environmental causes on its Facebook page. ⁶⁶

Social media and online petitions have also been used to draw attention to gender issues. For instance, after television hosts made inappropriate remarks while discussing a rape case in August 2017, an online petition was launched to ask them to apologize. ⁶⁷ It received more than 1,500 signatures in a few days; the backlash to the remarks prompted a statement from the hosts acknowledging that the statement had been controversial. ⁶⁸

In recent years, online campaigns have called for the release of human rights activists, and have increased these activists' visibility. The #FREETHETHE5KH (Free the Khmer Five) online campaign was launched in August 2016 in support of the five people detained for supposedly bribing a witness in a trial involving opposition leader Kem Sokha's alleged extramarital affair; it was designed to remind the detainees, who had been jailed since April 2016, that they were not forgotten, and to call for their release. #FREETHETHE5KH attracted several thousand supporters on Facebook and ran an active Twitter campaign. In April 2017, marking the one-year anniversary of their detention, the associated "I am the Five" photo campaign encouraged people all over the world to take photographs with the faces of the five and post them on social media. The five were released on bail in June 2017, but charges against them are still pending. ⁶⁹

Another online campaign, #FreeTepVanny, was launched following her arrest and placement in detention in August 2016, and has attracted the support of international

NGOs such as Amnesty International. However, she remained in detention as of May 2018, with two of her sentences having been upheld by the Supreme Court in December 2017 ⁷⁰ and February 2018. ⁷¹

Amid the government crackdown against civil society organizations (see Media, Diversity, and Content Manipulation), NGOs have increasingly resorted to joint actions, including the online release of joint statements, in order to mitigate the risk of retaliation. Joint statements were released by Cambodian CSOs *inter alia* to ask for the release and dropping of charges against two Mother Nature Activists arrested in September 2017, ⁷² and, in January 2018, to ask for the abandonment of the charges against civil society leaders accused of “fund embezzlement” in relation to the funeral committee of political analyst Kem Ley. ⁷³ CSOs also frequently disseminate infographics, leaflets, videos, reports, and factsheets online. ⁷⁴

In April 2018, Global Witness and Open Corporates launched an online database that reveals who owns and controls companies in Cambodia—a resource that can help journalists and activists in their investigative activities on corruption and corporate abuses. ⁷⁵

C. Violations of User Rights

The criminal code was amended in February 2018 to include a vaguely defined lèse-majesté offense that provides for severe penalties. Prosecutions for online speech increased sharply, as the government cracked down on dissenting voices in both the political opposition and the general public during the run-up to the 2018 elections. The interministerial prakas on website and social media control issued in May 2018 provides excessive surveillance powers to the government.

Legal Environment

Article 31 of the Constitution of the Kingdom of Cambodia incorporates international human rights standards into national law, including the Universal Declaration on Human Rights (UDHR) ⁷⁶ and the International Covenant on Civil and Political Rights (ICCPR). ⁷⁷ The right to freedom of expression and opinion is embodied in those treaties. Article 41 of the Constitution of Cambodia provides that “Khmer citizens

shall have freedom of expression” as long as it does not “infringe upon the honor of others” or disrupt “society, public order, and national security.” ⁷⁸ Media outlets that report on human rights have been accused of threatening national security. ⁷⁹

However, provisions of Cambodian law, notably parts of the Criminal Code of the Kingdom of Cambodia, ⁸⁰ threaten the right to freedom of expression. Individuals can be arrested for disturbing public order or affecting the dignity of individuals and public officials. ⁸¹ Articles 305 and 307 of the criminal code, ⁸² which govern defamation and public insult, respectively, are frequently implemented; and were frequently invoked following politicized leaks involving private digital conversations that emerged in 2016 and 2017. The law also covers insults which are “released or displayed to the public,” which allows for the prosecution of individuals in connection with written documents or pictures, even if they did not consent or intend to publish them. ⁸³ Both Articles 305 and 307 carry fines of up to KHR 10,000,000 (US\$2,500). ⁸⁴ Article 306 states that defamation through media is governed by the 1995 Law on the Press. Article 10 of the Press Law governs defamation, which carries a fine of KHR 1,000,000 to 5,000,000 (US\$250-1,200), and requires publication of a retraction. ⁸⁵

While these charges do not carry prison sentences, people can face prison time in connection with online expression under a variety of charges including forgery, which carries penalties up to 10 years in prison under Article 629 of the criminal code, and incitement to disturb social security or discriminate against a person or group, under Articles 495 and 496, which carry maximum two and three years prison penalties, respectively. A number of people were convicted on criminal charges in relation to political Facebook posts during the coverage period (see Prosecutions and Detentions for Online Activities).

In February 2018, the National Assembly ⁸⁶ and Senate ⁸⁷ approved amendments to the Constitution and to the Criminal Code, ⁸⁸ and these came into effect soon after. ⁸⁹ CSOs and several UN special rapporteurs have express grave concern over these amendments and their impact on fundamental freedoms, including freedom of expression online. ⁹⁰ In particular, observers have expressed concern about the amendments to articles 42 and 49 of the Constitution, which state that individuals and political parties “shall primarily uphold the national interest” and “shall not

conduct any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia and of Khmer citizens.”⁹¹ The broad, vague wording of the amendments leaves them open to abuse, as any legitimate exercise of freedom of expression online could be deemed unconstitutional if qualified as affecting “national interest.”

A 2018 amendment to the criminal code also introduced a new *lèse-majesté* offense (article 437) that makes it illegal to defame, insult, or threaten the king, and carries a sentence of between one and five years in jail, and a fine 2 to 10 million riel (about USD\$500 to USD\$2,500). The Minister of Justice reportedly told the *Phnom Penh Post* that the *lèse-majesté* law would also apply to media outlets carrying purportedly insulting content, although it remains unclear whether it will only apply to outlets that insult the king themselves, or whether it will extend to quoted individuals deemed to have insulted the king.⁹² In May 2018, the Ministry of Information warned media outlets of the law, saying that distributing or reposting material that is insulting of the king, in print, online, or otherwise, constitutes a *lèse-majesté* offense.⁹³

The 2015 Law on Telecommunications further increased government control over the ICT sector and threatened the rights to privacy and freedom of expression (see Restrictions on Connectivity and Surveillance, Privacy, and Anonymity). Using telecommunications to plan criminal activity or damage property carries a possible prison sentence of up to six months and fines of up to KHR40 million (US\$8,800) under Articles 93–96. Article 80 punishes the “establishment, installation and utilization of equipment in the telecommunications sector” leading to “national insecurity” with 7 to 15 years in prison. Critics have expressed concern that the heavy penalties attached to this vaguely defined clause could be abused to prosecute legitimate activity. However, other parts of the law have been commended as an important step towards increasing connectivity in Cambodia and encouraging digital education.⁹⁴

The 2015 Law on Associations and Non-Governmental Organizations (LANGO) contains provisions—including Article 24, which require NGOs to be neutral towards political parties—that have the potential to restrict freedom of expression, including online. In 2017, the Federation of Cambodian Intellectuals and Students was

suspended under Article 24 after its head called on Facebook for peaceful protests against the dissolution of the main opposition party, the CNRP. ⁹⁵

In April 2018, a ruling party spokesman announced that the Cambodian government was looking into drafting a “fake news” law, raising concerns that such laws could be used to silence online criticism of authorities. ⁹⁶

In November 2017, following false online posts alleging the prime minister’s death, the Council of Ministers spokesman called for the review and implementation of a draft cybercrimes law. Such a law has been proposed a number of times since 2012, ⁹⁷ and several leaked drafts have been published in the meantime, including a 2014 version that drew sharp criticism over a number of restrictive provisions. ⁹⁸ However, no such law had been passed at the end of the reporting period. ⁹⁹

A draft Law on Access to Information released in January 2018 ¹⁰⁰ contains protections for whistleblowers, and could positively impact free expression online if approved and enforced.

Prosecutions and Detentions for Online Activities

Prosecutions for online speech increased sharply in 2017 and 2018, as the government cracked down on dissenting voices in both the political opposition and the general public during the run-up to the 2018 elections. Several charges of defamation, incitement to commit a felony or disturb social society, incitement to discriminate, insult of a public official, and the newly enacted *lèse-majesté* law were brought in relation to content posted online, principally on Facebook and often about posts dating back several years ago. According to the “Cambodia Fundamental Freedoms Monitor” published in September 2018, the authorities penalized 40 cases of online freedom of expression violations between April 2017 and March 2018. ¹⁰¹

During the coverage period, several opposition politicians were arrested or saw their prison sentence upheld based on Facebook posts or other online content:

- In October 2017, a CNRP commune councilor, Chhun Sithy, was arrested, questioned, and detained at Pailin Provincial Court after he posted a live Facebook video in which he rejected Prime Minister Hun Sen’s offer to CNRP

officials to defect from the CNRP and join the CPP before the party's dissolution. ¹⁰² He was accused of incitement to discriminate.

- In November 2017, Leng Seng Hong, the head of the Federation of Cambodian Intellectuals and Students, was summoned for interrogation for alleged “incitement to commit a crime” for a Facebook post calling for peaceful demonstrations to protest attempts at dissolving the CNRP. ¹⁰³ He subsequently fled the country. ¹⁰⁴
- In November 2017, then head of the CNRP Kem Sokha was arrested for treason on the basis of a 2013 speech captured on video that had been edited to make Sokha appear to be working with the United States to overthrow President Hun Sen. ¹⁰⁵ The video was first released by the government-aligned *Fresh News* outlet and subsequently reposted and shared on social media.
- Sam Rainsy, the former opposition leader who lives overseas in exile, saw several convictions for defamation for Facebook posts upheld in absentia during the coverage period, and he was charged with additional offences involving online speech. He fled abroad after the Phnom Penh Municipal Court issued a warrant for his arrest in November 2015, in relation to charges of defamation and incitement that date back to 2008. In November 2017, the Supreme Court upheld his defamation conviction for a video posted on Facebook in 2015, in which he allegedly defamed National Assembly President Heng Samrin. ¹⁰⁶ In January 2018, he was charged with inciting and demoralizing the military after he urged soldiers not to “obey orders from any dictators if they order you to shoot and kill innocent people” in a Facebook post the previous month. ¹⁰⁷ In December 2017, he was also found guilty of defamation following a complaint by Prime Minister Hun Sen and social media personality Thy Sovantha for publishing comments alleging the leader was paying Sovantha to support him online. ¹⁰⁸
- In February 2018, former CNRP lawmaker Um Sam An saw his two-and-a-half-year prison sentence for “incitement to commit felony and incitement to discrimination” upheld by the Supreme Court. ¹⁰⁹ He had been imprisoned in October 2016 for comments he made on Facebook about the border with Vietnam, in which he suggested that the government had ceded territory to Vietnam. While senators and members of the National Assembly are immune to

prosecution under the constitution, the prosecution successfully argued that because the post remained available online, he was caught committing the crime *in flagrante delicto*, which nullified his immunity as a National Assembly member. **110**

Convictions for defamation were also upheld in cases involving private conversations being leaked online. In one example, a former official with the royalist party Funcinpec and former Deputy Prime Minister Lu Lay Sreng were convicted of defamation following the release of a private conversation leaked on the anonymous Facebook page “Seiha,” in which Lu Lay Sreng reportedly alleged that the prime minister had paid Funcinpec to take vacant National Assembly seats following the dissolution of the CNRP. **111**

Ordinary citizens who expressed mere discontent toward, or criticisms of the government in Facebook posts were also arrested and convicted.

- Sam Sokha, who posted a video on Facebook in April 2017 of her throwing her shoe at a CPP billboard, and who had fled to Thailand in the aftermath, was convicted in absentia and sentenced to two years in prison for insulting a public official and for incitement to discriminate in January 2018. **112** She was subsequently extradited from Thailand, despite having been recognized by the UN refugee agency as an asylum seeker, and placed in detention upon her return to Cambodia in February 2018. **113**
- In February 2018, a man was arrested and accused of “public insult of the leader and public defamation” for posting a video on Facebook in which he called the Cambodian government “authoritarian.” **114**
- Since the murder of the political commentator and activist Kem Ley, several people have been arrested and convicted of incitement for accusing the Cambodian government of being responsible for the murder. For instance, in January 2018, a woman who uses the name “Heng Leakhena” on Facebook was sentenced to a year in prison for “incitement to commit a felony” for a live video posted in July 2017 in which she accused Prime Minister Hun Sen of killing Kem Ley. **115**

- In May 2018, a former CNRP activist was summoned for questioning by her local commune chief for allegedly insulting Prime Minister Hun Sen in a Facebook post, which contained a poem making an oblique reference to a “brutal” thief with one eye spoiling fruit. **116**

A number of individuals have been charged for Facebook posts dating several years back, reflecting apparently targeted investigations of private citizens’ social media use. In one example, a man was arrested and charged with “incitement” in September 2017 for a video of a song criticizing the prime minister’s policies posted on his Facebook in 2013. **117**

In another example, in April 2018, a man from Banteay Meanchey, returning to Cambodia from work in Thailand, has been arrested and ordered to be detained in pretrial detention for allegedly insulting Prime Minister Hun Sen in a video clip he posted to Facebook in February 2016, see Niem Chheng, ‘Migrant Arrested for Insulting PM on Facebook’, The Phnom Penh Post, 4 April 2018, <http://bit.ly/2uux6ye>.

Less than three months after the promulgation of *lèse-majesté* measure, two individuals were arrested and detained under it for allegedly insulting the king on social media. Both have been held in pretrial detention:

- In May 2018, a 50-year-old primary school principal, Kheang Navy, was arrested in Kampong Thom Province for allegedly making comments on Facebook about the purported role of the King in CNRP’s dissolution. **118**
- Also in May 2018, a 70-year-old barber and former CNRP government director for Siem Reap Province, Ban Samphy, was reportedly arrested in Siem Reap for allegedly sharing a picture and text on Facebook deemed insulting to the King. **119**

As in previous years, some of the comments that were subject to prosecution during the coverage period involved violent threats. However, while individuals making violent threats against the prime minister faced prosecution, **120** violent rhetoric used by government official against political opponents and critics—including threats to beat protesters with bamboo sticks, **121** or asking them to prepare their coffins **122** — have not been prosecuted.

Surveillance, Privacy, and Anonymity

Government monitoring of citizens' publicly visible activity online, as well as extralegal surveillance of private communications, increased during the coverage period, despite the existence of some legal safeguards.

The 2015 telecommunications law includes several provisions that undermine security and privacy. ¹²³ Article 6 of the law mandates that “all telecommunications operators and persons involved with the telecommunications sector shall provide to the Ministry of Post and Telecommunications the telecommunications information and communication technology service data.” There is no requirement for a judicial warrant or other safeguard, and the law places no limits on how long data can be stored. ¹²⁴ Article 97 criminalizes eavesdropping by private individuals, but permits secret surveillance with approval from an undefined “legitimate authority.” The law includes no legal or procedural safeguards, and as such, appears to authorize undeclared monitoring of “any private speech via telecommunications,” according to an analysis by the Cambodian League for the Promotion and Defense of Human Rights (LICADHO). ¹²⁵

For instance, in the case of the progovernment Facebook page “Seiha” that published recordings of a private conversation between former Funcinpec officials, which led to the conviction Lu Lay Sreng discussed above (see Prosecutions and Arrests for Online Activities), no investigation into the nature of the recording has been carried out. In January 2018, in the context of claims of illicit affairs allegedly involving high-ranking government officials, the prime minister implied that the government could access private phone records. ¹²⁶ Finally, a survey of CSOs and trade union leaders also revealed a rise in the level of perceived communication surveillance by civil society leaders in late 2017. ¹²⁷

During the second half of 2017, authorities made numerous announcements that they were monitoring online content, especially Facebook. In July 2017, the National Police announced they were monitoring Facebook to detect and prevent “rebel movements against the government,” ¹²⁸ while the Interior Ministry said it was monitoring Sam Rainsy's Facebook page. ¹²⁹ In February 2018, the Defense Minister said that it was monitoring Facebook for feedback on issues linked to the military. ¹³⁰ The ruling

political party's five-year strategic plan, adopted in January 2018, strongly emphasizes the need for increased surveillance, and a CPP spokesman also remarked that "if we do not strengthen the control [on surveillance technology], it will become anarchy that impacts and influences the implementation of the democratic rule of law." ¹³¹ In practice, the arrests of people for online activities further reflect close monitoring of social media by authorities.

The interministerial prakas on website and social media control issued in May 2018 provides excessive surveillance powers to the government. In addition to new censorship controls (see Blocking and Filtering), the prakas orders the three ministries to form a special unit to effectively "police" social media. ¹³² The prakas also obliges all ISPs to "install software programs and equip internet surveillance tools to easily filter and block any social media accounts or pages" deemed illegal. The prakas does not provide for any right to challenge a decision taken pursuant to its mandates, nor does it provide for judicial recourse for users whose rights are negatively affected by its implementation. ¹³³

In May 2018, the government also ordered that all domestic and international network traffic in Cambodia be transmitted through a Data Management Center (DMC) to be established by state-owned Telecom Cambodia, ¹³⁴ raising further concerns about potential surveillance. The DMC was expected to be in place in September 2018; there were no updates as of October.

In April 2018, following a closed-door meeting, Russian and Cambodian officials announced that the Russian government would train Cambodia's National Police in combating terrorism and cybercrime. ¹³⁵ And, in May 2018, Cambodia's Interior Minister and China's Minister of Public Security signed a Memorandum of Understanding in a joint effort to cooperate in combatting terrorism and fighting cybercrime. Both events raised fears that the mass surveillance infrastructure and pervasive atmosphere of intimidation in both China and Russia could be transposed in Cambodia. ¹³⁶

Partially linked to a distrust in traditional modes of communication in the context of heightened surveillance, Cambodians have increasingly turned to encrypted applications to communicate, the most important being WhatsApp. Government

officials are also increasingly turning towards secured encrypted applications for their communications. ¹³⁷

There are some limits on anonymous communication. The authorities initiated a crackdown on retailers who failed to register SIM card owners in 2017. ¹³⁸ A 2015 Regulation on Cell Phone Data threatens suspensions and fines for mobile operators who do not register the identities of consumers. ¹³⁹ The regulation obliges companies to supply police with identification details of SIM card holders on request. ¹⁴⁰ TRC spokesman Im Vutha said that SIM card registration would enable the government to monitor telecom operators' databases. ¹⁴¹ In August 2017, the TRC called on seven mobile network operators to give an assurance that they had registered all their subscribers in accordance with the directive, warning that after the deadline the Ministry of Posts and Telecommunications and the TRC would take "strict" action to ensure compliance with the directive. ¹⁴² It appears that the new regulations are being implemented, as the number of mobile subscribers declined from 19.91 million in 2016, to 18.57 million in 2017, and to 18.27 million by April 2018. ¹⁴³ According to the TRC, the drop in the number of mobile connections in 2017 was due to the saturation in the market and stricter implementation of the laws regarding SIM card registration. ¹⁴⁴

In March 2017, the Ministry of the Interior announced a new citizen identification initiative, set to start in 2019. ¹⁴⁵ The system, which will assign every Cambodian a 10-digit ID number, will be used to support financial transactions, but critics said databases containing the numbers and related information would be vulnerable to hacking.

Intimidation and Violence

Journalists and activists face periodic violence and threats in Cambodia. A report from the Cambodian Center for Independent Media (CCIM) assessing threats in 2017 found that 38 percent of journalists surveyed reported being verbally attacked or physically assaulted carrying out their duties, while 47 percent said they had been threatened in the past. ¹⁴⁶ In February 2018, government members directly and personally attacked a *Phnom Penh Post's* journalist in relation to an article stating that the German government had suspended preferential visa treatment for private

travel of Cambodian government members, referring to the article as “fake news,” individually naming the journalists in private messenger groups, using threatening language and issuing warning to the newspaper to “be cautious” when reporting on sensitive issues. ¹⁴⁷ The government later issued a letter responding to the matter, after the German government confirmed the veracity of the article. ¹⁴⁸

Violent threats were also issued online during the coverage period, and mainly involved threats against the prime minister which resulted in prosecution, though threats by government officials against critics were also reported, and did not result in prosecution (see Prosecutions and Detentions for Online Activities).

Technical Attacks

There were numerous reports of Facebook pages being hacked in late 2017 and early 2018, and targets included government officials, civil society leaders, and media outlets. There were also reports of ministries’ official websites being hacked.

In November 2017, a report by a cybersecurity company concluded that the websites of several ministries as well as that of the National Police had been hacked earlier in the year by a hacking group previously linked to the Vietnamese government. ¹⁴⁹ The Facebook page of the National Election Committee spokesman was hacked in September 2017 and controlled for several weeks, ¹⁵⁰ while the Facebook page of Hun Many, a CPP lawmaker and son of prime minister, was hacked in February 2018. ¹⁵¹ The Facebook page of National Assembly President Heng Samrin was hacked in March. ¹⁵²

At the same time, the Facebook pages of several media outlets, including the *Khmer Times*, Bayon Television and BTV were reportedly hacked, and posts of an alleged love affair involving Hun Many were released on the pages. ¹⁵³ In November 2017, the government-affiliated news outlet *Fresh News* was also reportedly hacked, resulting in fake posts about the Prime Minister’s death. ¹⁵⁴ In March 2018, MPTC officials confirmed a recent surge in hacking of government websites and Facebook pages of “leaders” since September 2017. Officials attributed the hacks to the so-called SS7 vulnerability, which involves taking over a person’s mobile phone number. ¹⁵⁵

There were also reports of hacking attempts by actors abroad during the reporting period. In May 2018, Australian media reported that hackers based in Vietnam had routed a hacking attack on the rights group LICADHO through the website of the *Phnom Penh Post*. ¹⁵⁶ A July 2018 report by the US cybersecurity firm FireEye described apparent efforts by a China-based espionage group to compromise Cambodian online infrastructure related to election administration. ¹⁵⁷

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Footnotes

- 1** Erin Handley, 'Facebook trumps TV', *The Phnom Penh Post*, 16 December 2016, <https://bit.ly/2GdaQxz>; Kimchhoy Phong, Lihol Srou, and Javier Solá, 'Mobile Phones and Internet Use in Cambodia 2016', Open Institute, USAID Development Innovations, Asia Foundation, December 2016, <https://bit.ly/2G7QgOL>.
- 2** Internet World Stats, 'Usage and Population Statistics', <https://bit.ly/2jJxQcS>; see also 'Cambodia's 2018 Social Media and Digital Statistics', Samantha Fuentes, February 2018, <https://bit.ly/2Hf4DBh>.
- 3** Kimchhoy Phong, Lihol Srou and Javier Solá, 'Mobile Phones and Internet Use in Cambodia 2016', Asia Foundation, 14 December 2016, <https://bit.ly/2Dd39nE>.
- 4** Kimchhoy Phong and Javier Sola, 'Mobile Phones and Internet in Cambodia 2015', Asia Foundation, 30 November 2015, <http://bit.ly/1NlsZ9T>.
- 5** Opennet Data Plan, <https://bit.ly/2NpizLL>.

More footnotes 



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