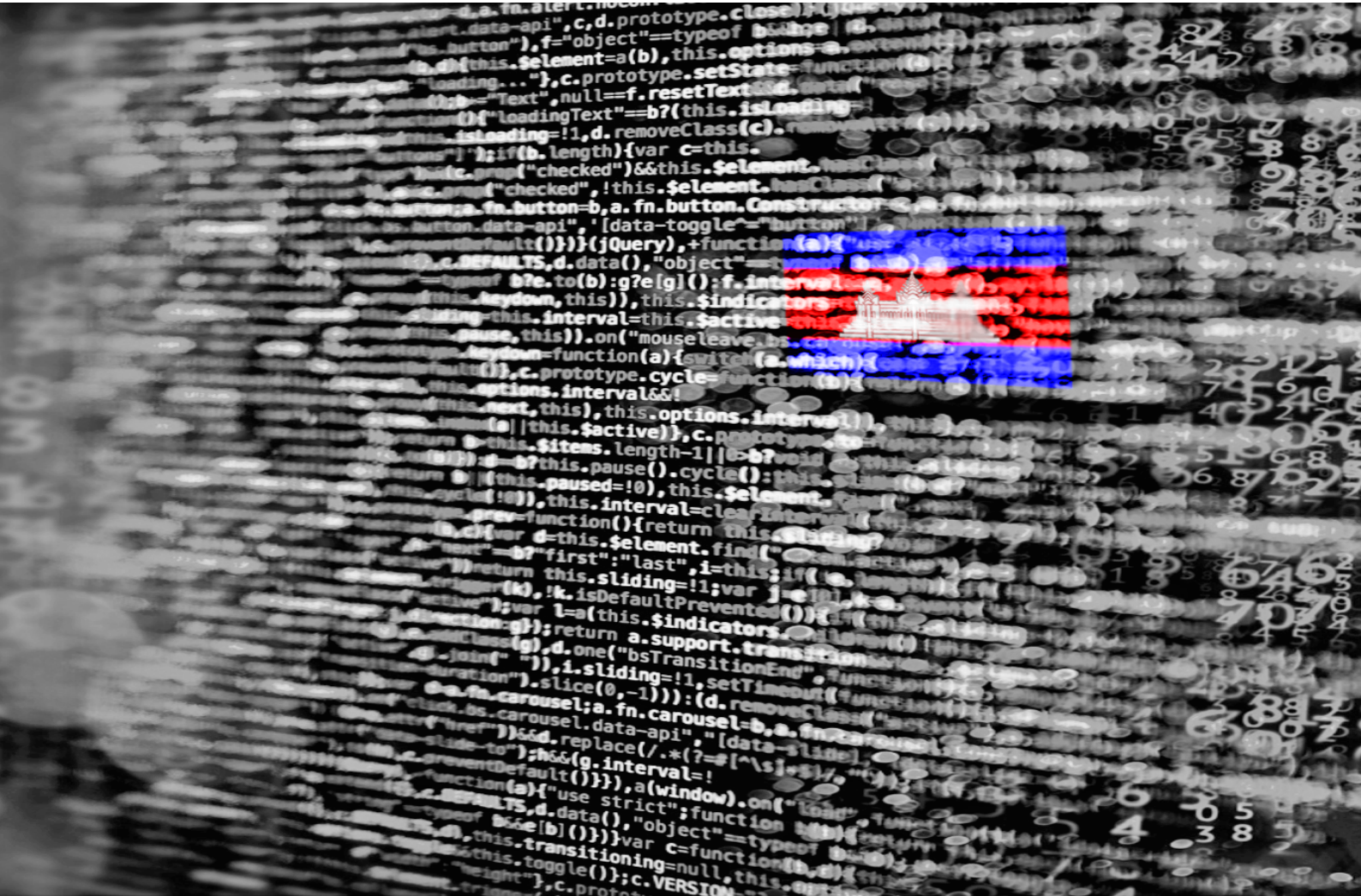


# INTERNET FREEDOMS IN CAMBODIA

## A GATEWAY TO CONTROL



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# Internet Freedoms in Cambodia

## A Gateway to Control

2021  
Asia Centre

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# Acknowledgements

The implementation of the 2021 National Internet Gateway (NIG) is the latest in a string of control mechanisms cast over freedom of expression in Cambodia. The move towards an all-encompassing centralised structure for internet traffic builds on past encroachments upon online freedoms. Coupled with a clampdown on political competition, dissenting voices and spaces of resistance, these actions are positioned to reduce the political impact of the Internet.

The ever-present fear of imprisonment arising from persecution has led to a rise in acute self-censorship. It has stirred anxiety among the population who are instead choosing to withdraw from political engagement due to safety concerns.

In publishing this baseline study, Asia Centre would like to extend a sincere thank you to the following organisations: the Cambodia Center for Independent Media, Cambodian Journalists Alliance Association, Child Rights Coalition Cambodia, the Cambodian Human Rights and Development Association, and the Office Of the High Commissioner for Human Rights (OHCHR) in Cambodia for providing their valuable local expertise and additional inputs for this report. Other organisations and individuals consulted have requested that they remain anonymous in the report precisely because of the potential repercussions we have detailed herein.

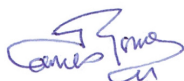
We are thankful and grateful to our partners, the International Center for Not-for-Profit Law (ICNL) and the ASEAN Parliamentarians for Human Rights (APHR) for reviewing the draft of this report and providing constructive feedback.

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*Internet Freedoms in Cambodia: A Gateway to Control* is dedicated to journalists, civil society organisations, political party leaders and online activists who continue the fight for internet freedoms and freedom of expression in Cambodia despite the obstacles they face.

Your Sincerely



Dr. James Gomez  
Regional Director  
Asia Centre

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# Abbreviations

ADHOC	The Cambodian Human Rights and Development Association
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
CamboJA	Cambodian Journalists Alliance Association
CCHR	Cambodian Center for Human Rights
CEO	Chief Executive Officer
CHRC	Cambodian Human Rights Committee
CKV	Community for Khmer Villages
CNRP	Cambodia National Rescue Party
COVID-19	Coronavirus Disease 2019
CPP	Cambodian People's Party
CSO	Civil Society Organisation
CHR	Committee on Human Rights
HRD	Human Rights Defender
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ISP	Internet Service Provider
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MPTC	Ministry of Posts and Telecommunications
NGO	Non-Governmental Organisation
NHRI	National Human Rights Institution
NIG	National Internet Gateway
OHCHR	Office of the High Commissioner for Human Rights
PQRU	Press Quick and Reaction Unit
RGC	Royal Government of Cambodia
SDG	Sustainable Development Goals
SIM	Subscriber Identity Module
SR	Special Rapporteur
SRSG	Special Representative of the Secretary-General for human rights in Cambodia
TRC	Telecommunication Regulator of Cambodia
UN	United Nations
UDHR	Universal Declaration of Human Rights
UNTAC	United Nations Transitional Authority in Cambodia
UPR	Universal Periodic Review
VNR	Voluntary National Report

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# Executive Summary

Internet freedoms in Cambodia have experienced a drastic regression. Tactics such as harassment of dissidents, censorship and media blackouts have become customary. Online platforms are increasingly used by people to exercise their right to freedom of expression, engage in critical discussions of the Royal Government of Cambodia (RGC) and its policies, and voice political opposition.

The government's response has been to enact a slew of vaguely-worded laws and propose draft legislation to silence these online users and curb the advent of cyberspace as an important site to mobilise and launch political opposition to its continued rule.

This report reviews legislation utilised by the Cambodian government to tackle online dissent such as the Constitution, Penal Code, Law on Telecommunications, Inter-Ministerial Prakas No.170, the Sub-Decree No. 23 on the National Internet Gateway, and draft Cybercrime Law. Many of the provisions within these laws are in violation of international human rights standards and treaties ratified by Cambodia and heavily impact internet freedoms.

These legislative tools have been used to justify censorship via strict controls, increased surveillance of personal communications and the arrests and persecution of critics, leading to increased self-censorship amongst activists. The government also tries to shape the online narrative by imposing controls over independent online media and engaging in social media manipulation.

While freedom of expression is enshrined in Cambodia's Constitution and supported by its ratification of the International Covenant on Civil and Political Rights (ICCPR), international human rights mechanisms have continually called out the RGC on its restrictions to free speech. These violations of freedoms have been captured in submissions to the Universal Periodic Review (UPR), as well as by the Special Rapporteur (SR) on the situation of human rights in Cambodia.

Recommendations on protecting internet freedoms in Cambodia provided in this report include: repeal or amend Article 49 of the Constitution and Articles 305, 425, 437, 453, 494 and 495 of the Penal Code that can be used to curtail the exercise of freedom of expression; Repeal Articles 6 and 97 of the Law on Telecommunications to safeguard the right to privacy; amend clauses 7 and 8 of the Inter-Ministerial Prakas to ensure their alignment with international standards; repeal Sub-Decree No. 23 on the NIG; and revise and align the draft Cybercrime Law with the international standards.

Overall, Cambodia's slew of legal measures has created a highly surveilled digital landscape that is causing anxiety among those who want to express dissent. Faced with threats and social media manipulation, critics and human rights defenders have retreated into self-censorship and withdrawal from political engagement to ensure their survival.

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# 1. Introduction

Cambodia has ratified major international human rights treaties and the RGC has continually claimed that it adheres to international human rights standards in its legislation throughout its engagement with the UN human rights mechanisms (OHCHR, 2009, 2013, 2018). However, international assessments of freedom of expression undertaken by UN special mandate holders, civil society organisations and UN member states point to a worsening situation of rights in Cambodia. Internet freedoms in Cambodia have been curtailed by provisions in national laws and the arbitrary manner in which critics are penalised for their online content or expression. Amendments to laws and new legislation have led to a deterioration of human rights over the years and have increasingly affected civic space online. The announcement of the NIG in 2020 escalated further both local and international concerns over the status of internet freedoms, as the NIG threatens to increase the government's ability to block access to certain content and monitor online activity.

Prior to the announcement of the NIG, the government was widely known to eavesdrop on individuals' personal communications and to turn to Internet Service Providers (ISPs) to control internet access for journalists and activists (RFA, 2021a). Selected neighbourhoods had their electricity cut-off and their internet speeds throttled to hamper internet access. During periods of elections, the authorities also ordered the shutting down of independent pro-democracy news sites. When the 2020 Coronavirus Disease (COVID-19) pandemic caused activities and engagements to shift online, civil society organisations (CSOs) recounted during Asia Centre's consultations that there were instances where unknown "participants" disrupted online meetings. Collectively, these developments have led to self-censorship in Cambodia, as journalists, civil society activists and social media users moderate or withhold for expressing their political opinions for fear of harassment and persecution.

This baseline study examines the relevant laws and draft legislation that have impacted internet freedoms in Cambodia. These instruments are analysed in relation to their alignment with international and regional norms, to assess the current state of internet freedoms and propose a set of recommendations to protect freedom of expression and access to information online.

## Dashboard of Internet Attacks

Bandwidth Throttled	Website Blocked	Electricity Cut-offs	Communications Eavesdropped	Online Events Disrupted
				
Internet connections slowed to deter access	Websites critical of the government are blocked	Electricity shutoffs bar internet access	Eavesdropping on private communications and leaking them to the public	Unknown participants disrupt civil society events

## 1a. Methodology

Desk research for the baseline study was undertaken between January 2021 and July 2021, during which time Asia Centre undertook consultation calls with local stakeholders, such as the OHCHR Office in Cambodia, local human rights organisations and journalist associations. Following feedback and input from these sessions, the report was further revised and a second internal review was initiated in mid-July before the report was finalised at the end of August 2021.



The report reviews key UN documents from 2009 to 2020, such as documents submitted for Cambodia's three UPR cycles, three reports submitted to the ICCPR's monitoring body, the Human Rights Committee, and the Special Rapporteur's annual reports on Situation of Human Rights in Cambodia. Relevant reports by international organisations, think-tanks and governments were also reviewed to identify human rights gaps and challenges to the realisation of internet freedoms. The report cross-references national legislation with international human rights treaties and international standards on the scope and exercise of fundamental freedoms. The impact of national laws, policies and practices on internet freedoms are identified and investigated. These are best understood in the context of the wider background of Cambodia's recent history and politics.

## 1b. Background

A reading of Cambodia's troubled recent history over the past half century reveals scant evidence of democratic practice, especially during the periods of the Khmer Rouge regime and the subsequent Cambodia-Vietnamese War. A peace conference from 1989 onwards led to the 1991 Paris Peace Agreement, which marked the end of the Vietnamese occupation of Cambodia and the start of peacebuilding operations led by Japanese diplomat, Yasushi Akashi. The agreement prescribed the necessary inclusion of human rights principles and fundamental freedoms in the Constitution. In line with the agreement, the peacebuilding process was delegated to the United Nations Transitional Authority in Cambodia (UNTAC), which supervised the drafting of the Constitution as well as the implementation of free and fair elections in 1993. Since 1993, the state has been governed as a multiparty democracy under a constitutional monarchy, with the King serving as the Head of State. However, in reality, any semblance of democratic practice ultimately paid lip-service to international standards on democracy, human rights and the rule of law, as the government of Prime Minister Hun Sen has engaged in underhanded crackdowns of any political or critical opposition in order to remain in power.

Opposition parties, journalists, civil society activists, human rights defenders and social media users have faced tight controls over their freedom of expression and speech both online and offline, as incumbent politicians fear losing their tight grip on power (Techseng and Surrusco, 2020). Threatened by the CPP's significant losses in the 2013 elections when it only won 68 out of 123 seats, the Supreme Court dissolved the opposition Cambodia National Rescue Party (CNRP) in 2017, accusing them of plotting to take over the country with help from the United States (Thul and Lefevre, 2017). This move essentially eliminated the major threat to Hun Sen's reign over the country, resulting in the CPP winning all 125 seats in the 2018 elections. Prime Minister Hun Sen has since continued to target opposition leaders such as CNRP's President Sam Rainsy, leaders Tioulong Saumura, Men Sothavrin, Ou Chanrith, Ho Vann, Long Ry, and Nuth Romduol, and key human rights defenders (HRD) such as Chhoeun Daravy, Hun Vannak, Koet Saray, Tha Lavy and Eng Malai from the youth advocacy from Khmer Thavark (Human Rights Watch, 2021; Front Line Defenders, 2021). The disproportionate and relentless targeting of opposition figures and HRDs has been part of the CPP's tactic to create fear, eliminate critical dissent in the country.

## 1c. Internet Landscape

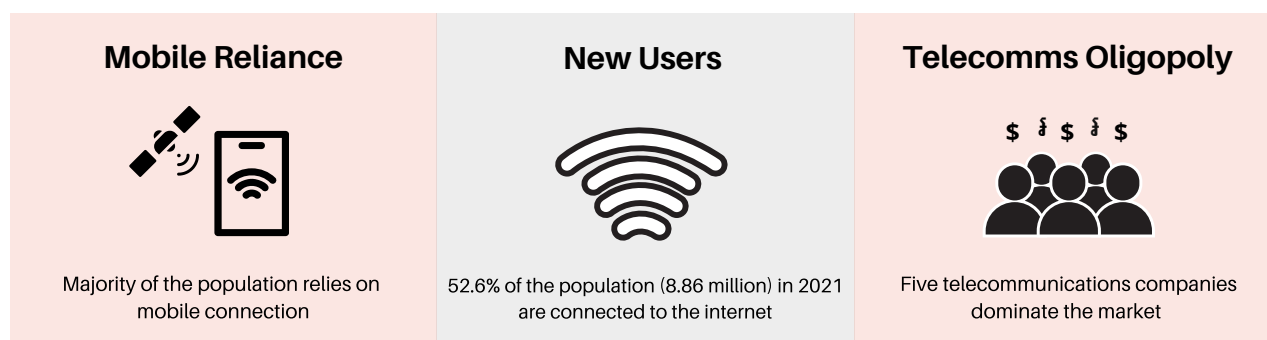
Cambodia's telecommunications and internet sector only started to take off in 2010, despite the sector existing since the 1990s. The number of internet users has increased significantly over time, from 0.53% of the population in 2009 to 52.6% of the population (8.86 million) in 2021 (Kemp, 2021).

The development of the requisite infrastructure has allowed for increased internet penetration over time as the country became better connected through a large network of fiber optic cables and submarine cable networks. Since 2017, two submarine cable networks have connected Cambodia to the Internet. Most recently, in 2019, plans were announced for Huawei to build an undersea cable connecting Cambodia to Hong Kong, and to lead the development of 5G infrastructure in the country (Xinhua, 2019).

Despite the increased link with the international fibre optics network, the majority of the population access the internet through mobile data connections.<sup>1</sup> As of 2021, individuals with access to the internet still face issues of poor connectivity, experiencing an average 19.22 Mbps download speed for mobile devices, and 25.29 Mbps for fixed Internet connections (Kemp, 2021). This is well below the global median of 55.34 Mbps for mobile broadband and 106.61 Mbps on average for fixed Internet connections respectively.

As of 2021, there are five major telecommunication firms, providing both land-based and mobile internet services in Cambodia—Viettel, Smart Axiata, CamGSM, Xinwei Telecom and Southeast Asia Telecom, all originating from countries with authoritarian leanings. Viettel, a Vietnamese company run by Vietnam's Ministry of Defence, operates in Cambodia under the name Metfone. CamGSM was originally known as Mobitel before rebranding itself to Cellcard in 2005. Viettel, Smart Axiata and local CamGSM account for around 90% of market share of mobile subscriptions. Smart Axiata enjoyed a market share of almost 60% while Viettel and CamGSM enjoyed 26% and 11% of the market share respectively (UN-OHRLLS, 2018). Xinwei Telecom from China, which operates under the name CooTel, and Southeast Asia Telecom from Singapore account for 2.67% and 0.65% of the market share, respectively.

## Internet Landscape



The management of these telecommunications firms is closely affiliated with the RGC and its officials, and they are likely to provide cover for each other when public scrutiny arises (Telecompaper, 2013). Hun Sen's daughter, Hun Mana, is particularly vested in the telecommunications sector, holding 6% of the shares of Viettel Cambodia. The military is also connected to the company, as the wife of the Minister of National Defence, Tea Bahn, owns its shares as well. Hun Mana also holds the position of chairwoman of Dragon Royal Telecom, an Internet provider (Global Witness, 2016), and directs Bayon Radio and Television, a commercial broadcast network (Turton and Seangly, 2016). This enables easy collaboration between ISPs and government officials, when necessary, to monitor internet use, block websites and online content, or slow down internet speeds.

## 1d. Implementation of Recommendations under Human Rights Mechanisms

In this section, the degree to which internet freedoms are upheld in Cambodia is evaluated through its adherence to international human rights standards reported in documents from various UN human rights mechanisms. These include Cambodia's UPR processes in 2009, 2013 and 2018, the reports of the UN Special Rapporteur on the situation of human rights in Cambodia (2011, 2014, 2015, 2017 and 2019) and the country's submissions to the ICCPR treaty body, the Human Rights Committee (HRC). At the regional and national level, the significance of the Association of Southeast Asian Nations (ASEAN) Human Rights Declaration, ASEAN Intergovernmental Commission on Human Rights, and the Cambodian Human Rights Committee (CHRC) are also briefly considered.

<sup>1</sup> This has been partly attributed to aggressive competition among telecommunication companies starting from 2017, which led to data pricing becoming so low as to be irrational. While, in the short term, this is beneficial to local customers in a low-income country such as Cambodia, in the long term it raises questions about the firms' sustainability as well as their ability to invest in critical technologies, infrastructure and maintenance if a balance is not reached (Spiess, 2018).

As early as the 1st UPR cycle (2009), submissions from stakeholders raised concerns that infringement upon freedom of expression had shifted to content online. Specifically, they pointed to the Ministry of Information's plans to extend the scope of the Press Law to ensure its applicability to online content (Cambodian Center for Human Rights, 2009). During Cambodia's 2nd UPR cycle (2013), stakeholders pointed out that, despite low internet penetration, human rights defenders and CSOs had begun using the internet and social media to disseminate and advocate for their activism. In the summary of other stakeholders information, it was noted that the government responded with increased restrictions that impacted access to and use of the internet. This was confirmed during the 3rd UPR cycle (2019) by the UN Secretary-General. The Compilation of UN information (para.19) in this cycle noted his reflection on legal actions taken against members of the opposition and CSOs based on their social media use. He said: *"a growing number of Facebook cases were being tracked in which postings on social media were being used as evidence of the commission of crimes."* Meanwhile, stakeholders pointed to a series of new legislation and ministerial directive such as the Law on Telecommunications (2016) and the Inter-Ministerial Prakas No. 170, which allowed the government to block or close websites and social media accounts and criminalise internet usage.

The major issues related to internet freedoms raised across Cambodia's three UPR cycles (OHCHR, 2009, 2013, 2018) were:

- The use of disinformation provisions (Article 62) under the 1992 UNTAC Criminal Code and 'incitement to a felony' provisions (Articles 494 and 495) under the 2007 Penal Code and Press Law (Articles 12 and 13) to silence criticism of the government, or prevent critical reporting by journalists.
- Blocking of online content that is critical of the government and other related restrictions on internet usage.
- Amendment of existing laws—such as the Constitution (2018) and the lèse-majesté provision under the Penal Code (2018)—and new legislation that could be used to control and criminalise the exercise of internet freedoms.
- Lack of transparency and meaningful public participation when drafting new laws such as the draft Cybercrime Law (2021), and Inter-Ministerial Prakas No. 170 (2018) that may affect freedom of expression online.

From 2009 to 2019, the Special Rapporteur on the situation of human rights in Cambodia issued eight reports, all of which raised concerns related to the freedom of expression online, especially the non-alignment with international standards of Cambodia's existing and emerging legislation. Throughout the eight reports, mandate holders raised concerns over the disproportionate use of Articles 305, 425, 437, 453, 494 and 495 under the Criminal Code to prosecute HRDs, journalists, non-governmental organisation (NGO) workers and opposition politicians. Criticisms of the ruling party and its political incumbents and government officials were deemed to be crimes of defamation and disinformation (Subedi, 2011).

Through the reporting period of 2009 to 2019, several key issues related to internet freedoms have been noted by the UN Special Rapporteurs:

- The persecutions of CNRP members based on their political expression online, which eventually led to the dissolution of the CNRP in 2017.
- The suspension or revocation of the licenses of at least 19 independent news outlets that were critical of the RGC during the period leading to general elections in 2018. The arbitrary issuance of tax bills against Radio Free Asia, Cambodia Daily and Phnom Penh Post were highlighted.
- Repression of online activities of government critics through the use of defamation, disinformation, incitement provisions and the lèse-majesté offences under the Penal Code.

Cambodia ratified the ICCPR in 1992. Article 19 of the ICCPR guarantees freedom of opinion and expression across all mediums, which is elaborated upon in the HRC's General Comment 34. Cambodia submitted reports to the HRC in 1998, 2012 and 2019 on the measures taken to uphold its obligations in the treaty.

The first two reports were met with recommendations from committee experts that were summarised in two Concluding Observations in 1999 and 2014. Cambodia responded to these observations in its 2019 submission. It is noteworthy that the substance in the state's reports submitted to the treaty body focused on positive developments or progress the country had achieved, while a more critical discussion was reflected in the list of issues compiled by the HRC in relation to the report and the subsequent Cambodian government replies. Throughout the three reports and its replies, Cambodia reiterated that freedom of expression and opinion are enshrined in Article 41 of its Constitution. They insisted that actions taken against news outlets, journalists and human rights defenders were carried out because they either disseminated fake news and incitements causing fear and unrest by misleading the public, or used their individual profession or personal expression as a means to commit offenses. In this view, the actions are *"simply legal measures against those who use their profession as a means of crime commitment,"* and there is no violation of internet freedoms in Cambodia since the news websites were blocked *"because they violated the law, not the exercise of freedom of expression."*

Several key issues related to internet freedoms that have been raised include:

- Shutdown of national and international news outlets that are critical of the government, and the blocking of access to 17 news websites 48 hours before the 2018 elections. Civil actions against Radio Free Asia and Cambodia Daily were particularly noted.
- Threats and use of criminal charges such as defamation, disinformation and incitement for online content against human rights defenders and journalists, especially in the period preceding the 2018 elections and during the COVID-19 pandemic
- The vaguely-worded nature of the lèse-majesté offence under the Penal Code, the Law on Telecommunications (2015) and the Inter-Ministerial Prakas No. 170 (2018), all of which do not align with international human rights standards.

Reflecting its international rights commitments under the ICCPR is Cambodia's commitments to freedom of expression as a member of the International Telecommunications UNION (ITU). Article 3.4 of the ITU regulations states that "subject to national law, any user, by having access to the international network established by an administration (or recognized private operating agency), has the right to send traffic. A satisfactory quality of service should be maintained to the greatest extent practicable." In addition, the ITU Constitution recognises the right of the public to access international telecommunication services. Stoppage of access is allowable under very specific conditions "such as danger to the security of the state. (ITU, 2012).

In the regional setting, Cambodia joined ASEAN in 1999. The ASEAN Human Rights Declaration (AHRD) committed Cambodia to promote and protect universal standards on freedom of opinion. However, in the years leading up to the adoption of the AHRD Cambodia displayed strong reticence towards human rights generally as was seen in the process of creating the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009. According to Tommy Koh, the then ambassador-at-large of the Ministry of Foreign Affairs of Singapore, from the very beginning Cambodia joined ranks with Laos, Myanmar and Vietnam—collectively known as CLMV countries—and opposed the creation of an ASEAN human rights commission (Koh, 2009). The CLMV group continues to perceive human rights to be an issue serving foreign interests. Since its inauguration in 2009, its delegations to the AICHR have been ceremonial in nature, and do not meaningfully contribute to the promotion and protection of human rights.

Despite accepting the recommendations to ensure that the Cambodian Human Rights Committee is independent and in line with the Paris Principles adopted in 1993, little progress has been made by the RGC in this regard. Throughout Cambodia's UPR cycles, stakeholders pointed out that the Human Rights and Complaints Reception Committees in the National Assembly and Senate and the Government's own Human Rights Committee, are ultimately being controlled by the government (OHCHR, 2013).

This explains why Cambodian representatives to the AICHR have not been pro-active, as most of them are from the government-controlled Human Rights Committee and are tasked with protecting the Government's reputation.

Having outlined Cambodia's political background, internet landscape and international and regional human rights obligations, the next chapter reviews legislation and policies that pose concerns over the promotion and protection of internet freedoms. Specific sections of the Constitution, Penal Code, Law on Telecommunication, Inter-Ministerial Prakas No. 170, draft Cybercrime Law, and the National Internet Gateway sub-decree, as well as instances of social media manipulation will be analysed to observe how they have been used to restrict internet freedoms, which undermine the country's human rights obligations.

## 2. National Laws and Policies

While guarantees of fundamental freedoms, particularly freedom of expression, are provided for under the Constitution, the RGC has used various regulations to criminalise dissenting voices and opinions; branding criticisms as disinformation and incitement to commit crimes. Legal charges such as these were not uncommon before the proliferation of the Internet in Cambodia. Starting from 2012 onwards, journalists, CSOs and Human Rights Defenders (HRD) embraced the internet as a means to advocate and disseminate their work. This section will look at provisions under the Constitution, the Penal Code, the Inter-Ministerial Prakas No. 170, the Law on Telecommunication, the National Internet Gateway Sub-Decree and the draft Cybercrime Law to identify lapses that enable the criminalisation of internet freedoms.

### 2a. Constitution

Cambodia's Constitution was promulgated in 1993, with the aim of facilitating Cambodia's democratic transition and ensuring a peaceful reconstruction of the nation. Due to the democratising influence of the UNTAC, international human rights standards were acknowledged under Article 38, which states that *"the Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights and the covenants and conventions related to human rights."* Cambodia had previously ratified the ICCPR in 1992 and thus committed to protecting human rights norms and standards, including freedom of expression and the right to privacy.

Article 41 of the Constitution, guarantees freedom of expression. However, Article 41 stipulates that, in exercising freedom of expression, *"no one shall exercise these rights to infringe upon the honor of others, or to affect the good customs of society, public order and national security"*. As evidenced in later national legislation and non-legal measures, the state has actively promulgated measures to roll back guarantees of internet freedom based on such concerns regarding honour, public order and national security. Article 41 also provides for regulation of the media: the *"regime of the media shall be determined by law"*.

The latest amendment to the Constitution in 2018 further diminished compliance with international standards. An amendment to Article 49 —concerning respect for the constitution and laws and defending the nation—was the most damaging to fundamental freedoms. The amendment now obligates *"Every Khmer citizen to uphold national interest"* and to refrain from *"conduct[ing] any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia and of Khmer citizens."* When justifying the necessity of the amendment, Minister of Interior Sar Kheng singled out activists, HRDs and opposition members for their appeals to the international community to impose sanctions on Cambodia over its crackdown on opposition and civil society (Nachemson & Dara, 2018). In such context, it is evident that Article 49 as amended can be easily used to curtail freedom of expression online, especially when the statement criticises the state or emphasises a call to action against the State. Any dissent against the government can prompt disproportionate legal actions penalising the exercise of freedom of expression

## Cambodia's Legislation Affecting Freedom of Expression

Regulation	Penalty
<p><u>Penal Code</u></p> <ol style="list-style-type: none"> <li>1. Article 305 (Defamation)</li> <li>2. Article 425 (Disinformation)</li> <li>3. Article 453 (Conspiracy)</li> <li>4. Article 494 and 495 (Incitement to commit a felony)</li> <li>5. Article 437 bis (Lèse-majesté provision)</li> </ol>	<ol style="list-style-type: none"> <li>1. Defamation shall be punishable by a fine up to US\$2,460 if it is committed by any of the following means: (1) any words whatsoever uttered in a public place or in a public meeting; (2) written documents or pictures of any type released or displayed to the public; (3) any audio-visual communication intended for the public.</li> <li>2. The communication or disclosure of any false information with a view to inducing a belief that a destruction, defacement or damage dangerous to other persons will be carried out shall be punishable by imprisonment from 1 to 2 years and a fine up to US\$900.</li> <li>3. Plotting consists of a resolution agreed upon by two or more persons to commit an attack where the resolution was put into effect by one or more material actions. Plotting shall be punishable by imprisonment from 5 to 10 years. The imprisonment penalty is increased from 10 to 20 years where the offence was committed by a person holding public authority.</li> <li>4. The incitement is punishable when it is committed: (1) by speech of any kind, made in a public place or meeting; (2) by writing or picture of any kind, either displayed or distributed to the public; (3) by any audio-visual communication to the public.</li> </ol> <p>The direct incitement to commit a felony or to disturb social security by employing one of the means defined above shall be punishable by imprisonment up to two years and a fine up to US\$1,500 where the incitement was ineffective.</p> <ol style="list-style-type: none"> <li>5. An insult addressed to the King shall be punishable by imprisonment from 1 to 5 years and/or a fine from US\$500 to US\$2,500. The term "insult" is defined as any speeches, gestures, scripts/writings, paintings or items that affect the dignity of individual persons.</li> </ol>
<p><u>Law on Telecommunications</u></p>	<p>Establishment, installation, or modification of telecommunication infrastructure and network or establishment, installation and utilization of equipment in telecommunication sector, if these acts lead to national insecurity, shall be sentenced in prison up to 15 years.</p> <p>Any legal person who commits offenses as stated above shall also be fined up to US\$ 73,600.</p>

<p><u>Inter-ministerial Prakas No. 170</u></p>	<p>Institutions and specialized units have to fulfill their own obligations and cooperate with each other, and/or cooperate with ministries and relevant institutions, in order to take actions against and prevent all news publication contents or written messages, audios, photos, videos, and/or other means willing to create turmoil leading to undermine national defence, national security, relation with other countries, national economy, public order, discrimination and national culture and tradition.</p>
<p><u>National Internet Gateway (Sub-Decree on NIG)</u></p>	<p>ISPs are required to reroute their service to the NIG within 12 months. Punishments for lack of compliance are not clearly stipulated, but include administrative penalty, suspension of or restriction on licenses, freezing of accounts, and taking necessary actions pursuant to related laws and regulations.</p>
<p><u>Cyber Crime Law (Draft)</u></p>	<p>Article 45 of the draft would allow authorities to fine or imprison people who, using information technology, “knowingly or intentionally” make false statements that could be detrimental to “public safety,” “national security” and “friendly relations of Cambodia and other countries.” If convicted, a person could face a maximum of 3 years in prison and up to \$2,500 in fines, according to the draft law.</p>

Source: UNODC

## 2b. Penal Code

In post-conflict Cambodia, the first Penal Code the country used was the 1992 UNTAC Penal Code.<sup>2</sup> Under the UNTAC Penal Code, Article 62 criminalised disinformation in the context of a fragile post-conflict information environment that did not yet include the Internet. As reflected during the 1st UPR cycle (2009), Special Representatives and stakeholders pointed to the use of the criminal defamation and disinformation provisions to silence journalists and media professionals. Even when the country promulgated the 2009 Penal Code, provisions that criminalised freedom of expression remained. The 2009 Penal Code contains vaguely-worded provisions on “plotting”, sharing “false information” and “incitement to commit a felony,” which have been used to charge internet users for posting and sharing critical content on social media (Department of State, 2017).

Criminal defamation is provided for under Article 305 of the 2009 Penal Code. Furthermore, spreading disinformation and conspiracy are criminalised under Article 425 and 453; while laws related to the incitement and provocation to commit crimes are stipulated under Articles 494 and 495. The latest amendment in 2018 introduced Article 437 bis, or the lèse-majesté provision, to the Code.

Article 305 on public defamation stipulates that “*any allegation or slanderous charge that undermines the honour or the reputation of a person or an institution*” is a criminal offense. The crime can be committed through the following means:

1. by speeches by any means whatsoever, announced in a public place or in public meeting;
2. in writing or sketches by any means whatsoever, circulated in public or exposed to the sight of the public;
3. by any means of audio-visual communications intended for the public.



These categories of assessment apply to all provisions mentioned in this section and cover the common activities of most users online, such as the writing and sharing of posts on online platforms or social media. If these online actions are deemed defamatory, the act is punishable by fines between US\$ 24.60 to US\$ 2,460.

Article 305, in tandem with other provisions in the Penal Code, have been disproportionately used to silence criticisms by opposition politicians and critics. Sam Rainsy, leader of the CNRP, has faced multiple charges under Article 305 by the CPP. One of these was in 2016 when the Phnom Penh Municipal Court found Rainsy guilty of defamation over his Facebook's video allegedly defaming the National Assembly President Heng Samrin. The video depicted the late King Father Norodom Sihanouk with a message criticising the then Samrin-led Khmer Rouge government for sentencing Sihanouk in absentia for treason (Phnom Penh Post, 2017). In 2018, following a warrant accusing him of public insult of the leader, San Rotha was arrested on his wedding day for criticising the government in a short video posted to Facebook. In the video, he called the government an authoritarian regime and urged people to stand up against corruption (Dara and Amaro, 2018).

Article 425 (false information) criminalises the *"communication or disclosure of any false information with a view to inducing a belief that a destruction, defacement or damage dangerous to other persons will be carried out"*. This has been utilised by local authorities as criminalising dissemination of information they perceive as fake news, including critical comments directed at the government that they believe may potentially cause political instability, or damage to their reputation. The use of this Article to penalise an individual can result in imprisonment from one to two years, or a fine ranging from \$490USD to \$981USD.

In April 2021, the publisher of the *Khmer 7 January* newspaper was placed in pre-trial detention awaiting charges under Article 425 for spreading disinformation about the death of a well-known businessman (Sivutha, 2021). An individual, Phut Thona Lorn, was arrested in 2020 to be charged under Article 425 for posting alleged fake news on Facebook. The police shared that they had been tracking Phut's Facebook account for five days to gather sufficient evidence for his arrest, though they did not specify why he was monitored, or which were the specific posts that were considered as disinformation (Reaksmey, 2020).

Similarly, Article 453 on conspiracy and plotting against the government criminalises *"any scheme set up between several persons to commit a criminal attempt, and this scheme was materialized by one or several concrete actions, constitutes a conspiracy"*. Individuals charged can face a minimum of five and up to ten years of imprisonment. The article has been misused to criminalise dissent against the state, even in instances where there is no evidence of plotting. In November 2020, 7 CNRP members were charged under Article 453 for posting comments online that indicated their support for Sam Rainsy's return to Cambodia after self-imposed exile, though there was no evidence of 'plotting' against the government (Narin, 2020b). This built on previous arrests of CNRP affiliates in the first half of 2020, where 11 out of 17 charged individuals were charged under Article 453, along with other articles, mostly Article 494 and 495.

The provisions most frequently used to persecute members of the opposition, government critics, activists and media professionals are Articles 494 and 495 (incitement to commit a felony). Under Article 495, incitement to *"commit a felony or to disturb social security"* by means identified in Article 494, the same as those under Article 305, is *"punishable by imprisonment from six months to two years and a fine from one million to four million Riels, where the incitement was ineffective"*. In 2020, Human Rights Watch (HRW) reported that 30 people had been arrested for discussing the COVID-19 pandemic, 12 of whom were affiliated with the dissolved CNRP (Human Rights Watch, 2020b).

In addition, Article 494 and Article 495 criminalise the act of convincing others to commit a crime. The production and public distribution of material aimed at the incitement of others to commit a felony is punishable by imprisonment from six months to two years and a fine of US\$246 to US\$1,000.

During the COVID-19 pandemic, those who commented or shared content critical of the government's response to the crisis over social media, were criminally prosecuted under articles 494 and 495 as their actions were interpreted as spreading fake news (Sokhean, 2021). On 7 April 2020, Sovann Rithy, editor of the TVFB online news site, was arrested and charged under Article 495 over his Facebook post where he quoted an excerpt from Prime Minister Hun Sen's statement on the same day: "If motorbike-taxi drivers go bankrupt, sell your motorbikes for spending money [because] the government does not have the ability to help". Even though the quoted text was accurate, the police claimed it was a joke and thus claimed that the reporting was an exaggeration (Radio Free Asia, 2020).

It seemed that the authorities used the pandemic as an opportunity to further persecute CNRP members and activists, charging some of them for spreading COVID-19 related disinformation over their social media accounts, while rounding up others in one sweep. As mentioned above, former members and activists affiliated with the now defunct CNRP were specifically targeted. Deputy prosecutor of Phnom Penh Municipal Court Seng Heang accused them of providing support to Sam Rainsy by sharing and distributing his Facebook posts to others in November 2019 (Kongkea, 2021).

Article 437 bis (*lèse-majesté*) prohibits criticism of the King and outlines penalties of between one to five years imprisonment and monetary fines ranging from US\$500 to US\$2,460. Following Thailand's lead in prosecuting political critics for *lèse-majesté*, this provision encroaches on social media users' online freedoms (Boyle and Chhengpor, 2018). Internet users can be charged with this crime through any "word, gesture, writing, picture or other media which affects the dignity of the individual". Within a year after the law became effective, 4 individuals were charged, including Sam Rainsy, and 2 persons convicted over their comments on Facebook deemed to be insulting the King (CCHR, 2019).

These vaguely-worded provisions under the penal code have allowed authorities to infringe on citizens' freedom of expression, specifically media and internet freedom. As they were mostly invoked to criminalise online content and expression critical of government and public officials, the application of these provisions did not align with Article 19 of the ICCPR as the General Comment No. 34—in defining the scope of Article 19—authoritatively states that "*all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition*". Assessments of online content and activities judged criminal offences, appear obfuscated and politically motivated. Past cases show an excessive use of these laws against journalists, political opposition and internet users. These laws disproportionately penalise activists and opposition leaders, promoting an environment of fear and self-censorship.

## 2c. Law on Telecommunication

The 2015 Law on Telecommunication imposes generic obligations on telecommunications service providers, which authorities claim will enhance service access in the countryside and rural areas. Within the broad range of regulations, however, the law also functions as a legal tool to monitor internet activity (Rollet, 2015). Freedom of expression is threatened through the imposition of monitoring actors (Article 70 and 71), decreased data protection (Article 97 and 6) and the criminalisation of free speech on radio, television, online and in private messages (Article 80).

Chapter 3 of the law (Article 8-13) provides for the establishment of the Telecommunication Regulator of Cambodia (TRC) and its assigned duties and functions. Article 10 provides the TRC with "*autonomy to perform its administrative, regulatory and financial duties and functions*". Article 12(a) empowers the TRC to "*perform regulatory function pursuant to the policy and legal framework of telecommunications sector and other applicable legal regulations,*" while the authority to "*grant, alter, suspend, transfer and withdraw permits, certificates or licenses*" is stipulated under Article 12(f).

Articles 70 and 71 establish the role of telecommunication inspection officers, who monitor online offences, penalise online content and “perform(s) other tasks assigned by the Ministry of Post and Telecommunication”. The officers thereby act as judicial police and are guided by existing laws such as the criminal code. In light of the legal loopholes offered through vague wording in the criminal code, this law also poses the risk of politically-motivated persecution of legitimate exercises of freedom of expression.

In addition to enhanced surveillance authority, Article 6 requires “all telecommunications operators and persons involved with the telecommunications sector” to provide the Ministry of Posts and Telecommunications (MPTC) with “the telecommunications, information and communication technology service data”. Extending the Ministry’s undeclared monitoring authority, Article 97 stipulates that “secretly listening to or recording the dialogue by using a personal telecommunication system which is not the dialogue partner” shall be punished with up to 1 year imprisonment and up to US\$500 fines. “This shall not be implemented in case of listening or recording that dialogue is made with approval from persons involved or with approval from legitimate authority.” The lack of definition of who this legitimate authority is highly problematic and could potentially lead to arbitrary surveillance. Hence the law—by allowing surveillance of electronic devices—enables Cambodian authorities to actively phone-tap and monitor online discourses in order to selectively persecute targeted individuals.

Article 80 states that the “establishment, installation and utilization of equipment in [the] telecommunication sector, if these acts lead to national insecurity, shall be punished by sentences from 7 to 15 years imprisonment.” One could also face a fine between US\$34,400 to US\$73,600 if charged under this Article. As no further clarification on the nature of telecommunication activity is provided for, any form of expression—whether public or private, if conducted by any electronic means of communication—could be criminalized if it is deemed to cause national insecurity. According to LICADHO, the lack of clarity over types of telecommunication activity could heavily punish legitimate expression via radio shows, television, online and even through private messages and phone conversations between individuals, should the authorities determine it to be a threat (LICADHO, 2016).

As the law allows ministries to investigate and observe individuals, the Cambodian government has not shied away from arresting opposition members based on opinions voiced in private phone calls. The case of CNRP member Long Phary illustrates how statements in private phone calls offered grounds for his arrest. Phary had been discussing critically the spread of the coronavirus and the government handling of the pandemic (Human Rights Watch, 2020a).

Despite its proclaimed status as an independent regulatory body, the Telecommunication Law in fact undermines the TRC’s autonomy by granting the MPTC the ultimate authority over the TRC. The lack of the TRC’s autonomy and impartiality was evident in 2017 and 2018, when it blocked access to the Cambodia Daily along with its social media accounts, and terminated access to 17 independent news outlets two days before the general election.

## 2d. Inter-Ministerial Prakas (Proclamation) No. 170

In May 2018 the Cambodian government adopted the Inter-Ministerial Prakas No. 170 on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia. This Prakas<sup>3</sup> was implemented amidst an environment of stricter controls on online platforms during the elections, such as blocking of pro-democracy websites. The Prakas’ initial proclamation enables the close collaboration between the Ministry of Information, Ministry of Interior and MPTC to monitor social media usage.

<sup>3</sup> A Prakas (proclamation) is a ministerial or inter-ministerial decision signed by the relevant ministers. It is secondary to the law, but considered primary sources of law for the purpose of decision making.

The objective of this inter-ministerial regulation is to *“manage publication of all news contents or written messages, audios, photos, videos, and/or other means on website and social media”*. This is done by *“obstructing and preventing”* the publication of the above-mentioned forms of content online that are *“intended to create turmoil leading to undermine national defence, national security, relation with other countries, national economy, public order, discrimination and national culture and tradition”*.

Under this Prakas, the three ministries will collaborate to *“cooperatively monitor, study, research, find out illegal business activities and publications on websites and social media in order to take legal action against them following the procedure”*. Essentially, they are provided sweeping powers to surveil online media platforms and prevent the spread of information seen as detrimental to the state. Given the broad and subjective nature behind what content may ‘create turmoil’ or ‘undermine national security’, the state is able to curtail critical opinions shared online that would undermine the honour of state officials or the government, by declaring that it has the ability to result in instability. Freedom of expression will be highly monitored and controlled through this renewed and closer cooperation between the ministries.

The regulation directly targets website publications and social media networks within the Cambodian Internet space. Under Clause 6, the Ministry of Information is authorised to manage published online information through electronic systems and *“take action”* against illegal publications.

Clause 7 of the regulation on the role of the MPTC requires ISPs to *“install software programs and equip internet surveillance tools to easily filter and block any social media accounts or pages that run their business activities and/or publicize illegally”*. This ministry is also able to work with the others to *“block or close the websites and/or social media page who ... publicize illegally which considered as incitement, breaking solidarity, discrimination, create turmoil by will, leading to undermine national security, and public interests and social order”*. Such strict surveillance of social media and the internet has caused online users from posting and sharing content, as the government can be easily made aware of content that runs counter to state narratives. Websites that share critical dissent also face the possibility of being shut down, limiting freedom of expression and access to information.

The Ministry of Interior conducts research to identify illegal publications on websites and social media. Clause 8 enables the ministry to cooperate with the other institutions in shutting down illegal publishers on social media. As its goal is to identify “illegal” activity, the prakas directly refers to other Cambodian legal documents including the criminalisation of online activity. The reference to legal frameworks exemplifies the interrelation between the vague and often harming legal definitions of fake news, illegal publishing and institutional systems set up to capture and silence dissent.

While the Inter-Ministerial Prakas was often called Cambodia’s ‘fake news’ law, it has rarely been used to criminalise the act of disseminating disinformation. Rather, it has been used as a justification for governmental digital surveillance. In February 2020, the Ministry of Information confirmed that the government had commissioned a social media task force to monitor all Cambodia media, including social media platforms, with legal authorisation from the Inter-Ministerial Prakas (Freedom House, 2020). If the task force believes that certain online content is not appropriate, or contains false information, the publisher will be notified to remove the post or face legal action. As mentioned above, it is also important to note that a higher degree of online surveillance is always possible, since the Inter-Ministerial Prakas provides for installation of applications or internet surveillance tools to filter or block social media accounts or pages, with which the ISPs are obliged to comply.

## 2e. National Internet Gateway

On 16 February 2021, Prime Minister Hun Sen signed the Sub-Decree on the National Internet Gateway. The nine-page regulation will purportedly facilitate and manage domestic and international internet connections through one government-controlled point, as all licensed internet providers must route their connections through the NIG. The NIG is intended for the *“facilitating and managing [of] Internet connections in order to strengthen the effectiveness and efficiency of the national revenue collection, protection of national security and preservation of social order, culture, and national tradition”*. NIG operators will be appointed by the government. The Sub-Decree significantly enhances monitoring capacities over user activity, as gateway operators will report their observations on internet usage to the Ministry of Telecommunications. Similar to the Inter-Ministerial Prakas, this law is geared towards online state surveillance rather than criminalising online activities. Therefore, this new policy is a highly potent tool against online expression and the right to privacy.

A joint letter to the Cambodian Government submitted by several SRs<sup>4</sup> on 7 April 2021, stated that the NIG may violate freedom of expression and limit access to information. Citing Articles 17 and 19 of the ICCPR, they stated that the NIG will “pose serious risks to the right to freedom of expression, including the right to seek, receive and impart information and ideas, as well as the right to privacy” due to broad and ambiguous wording. They shared concerns that the NIG would allow the state to “carry out arbitrary mass surveillance of private communications” and “censorship of online content” (OHCHR, 2021a). In response, the government questioned the credibility of the information shared by the SRs and justified their implementation of the NIG as aligning with ratified human rights norms (OHCHR, 2021b).

Article 6 of the document describes the functions and duties of the NIG operator. These include the management of access to connection and internet services. As informed by local stakeholders during the consultation calls that the Cambodian government already uses notorious tactics of internet control through ISPs by throttling internet speeds or blocking of certain sites. The concern is the implementation of the NIG will likely result in such tactics targeted at civil society and NGOs being more commonplace. This is especially so, since NIG operators are required to “collaborate with ... relevant authorities to take action in blocking and disconnecting all network connections that adversely affect national revenue, safety, social order, dignity, culture, traditions, and customs”. This Article, due to vague and overly-broad provisions, allows for the government to block access to sites that propagate critical views against the state, by branding it as information that threatens social order or safety. Though the government has highlighted in its response to the SRs that the NIG will not enable such blocking, the government’s track record of shutting down certain anti-government sites warrants the existing concerns communicated by the SRs.

Article 12 (revenue collection, safety, and public order protection) also requires NIG operators to “[assure] safety, public order, dignity, culture, tradition and custom of the society, as well as preventing and cracking down on crimes”. Vague definitions and unclear assessments of what constitutes a crime, or what actions threaten “social order, dignity, culture, traditions, and customs” potentially allows for continued politically-motivated prosecution of online activists and internet users.

Under Article 14, gateway operators are required to store data and provide routine status reports to the authorities. The storage of technical records, IP addresses, and identification of the route of traffic through the NIG for 12 months, allows operators to monitor user activities. Under Article 12, service providers must also urge users to complete online forms and verify their identities - the collection of such data, with no existing safeguards on data privacy, may result in its use to surveil and monitor internet activity. As such monitoring is already commonplace in Cambodia, the NIG only serves to worsen the situation of internet freedoms and self-censorship.

<sup>4</sup> The SR on the Situation of Human Rights in Cambodia, Rhona Smith, SR on the Promotion and Protection of the Rights to Freedom of Opinion and Expression, Irene Khan, and SR on the Right to Privacy, Joseph Cannataci.

The new regulations for service providers to store user data for prolonged periods of time and steer their internet activity through one regulated point, allows for stronger state oversight on online activities. The wording of the Sub-Decree highlights a pattern of using vague language as a tool to infringe on online freedom of expression. The style and implementation of the NIG in Cambodia is similar to China's Great Firewall, which strictly controls its internet traffic, implements filters and effectuates strict censorship (Parameswaran, 2021). It has not been confirmed if Cambodia has sought China's assistance in drafting NIG regulations. Increased Chinese influence in Cambodia emerges simultaneously with Cambodia's decreased commitment to upholding human rights, and poses threats to the already-regressing freedom of expression online.

## 2f. Cybercrime Law (Draft)

The Cybercrime Law was first proposed in 2012 *"to ensure the integrity of the use and the management of computer systems and computer data, to maintain security and public order, and to protect rights and freedom of any person by specifying measures to prevent and combat cybercrime"*, according to its first Article (Cambodianess, 2020). Under consideration since then, restrictions concerning false information encapsulate a core part of the leaked 2020 version of the draft. The law is subject to further changes in response to critical backlash, and as of August 2021, there was no specific date for the completion of the drafting nor for the implementation of the Law.

Articles 8 and 12 state that service providers must *"preserve traffic data for at least 180 days"*, to be shared with *"competent authorities"* upon their request. However, the draft does not provide clear information on the service providers that come under the jurisdiction of this law. This provision, due to its broad wording, may even allow organisations that provide internet access to their staff to store data for 180 days, potentially resulting in its misuse and a breach of privacy (Narin, 2020a). If true, the RGC would then be able to easily request for the data of rights organisations, and potentially curb their work by abusing such data or using it as evidence for persecution. Data storage, along with the lack of a data protection law, exposes stored user data to arbitrary and politically motivated data *"fishing expeditions"* by authorities (Human Rights Watch, 2020). Given the Inter-Ministerial Prakas and the NIG, the government has a track record of monitoring citizens' private conversations and using such communications as evidence for charging them in court. Articles 8 and 12 of this draft law, if implemented, would provide the government an additional legal basis for continue doing so.

Articles 32 and 33 criminalise the *"unauthorized access"* to a computer system or the transferring of data from one system to another without permission. Those charged face up to 10 years imprisonment. These Articles also pose concerns to whistleblowers and HRDs who access such information to expose rights violations by the state, as they are not provided adequate safeguards.

Article 40 criminalises the use of computers to initiate *"interruptions, fear, threats, abuses, [and] intimidation"*. Individuals charged under this Article face a maximum of six months imprisonment. Article 45 of the draft law criminalises *"any person who knowingly and intentionally makes a false statement or material misrepresentation through information technology"* that could be detrimental to *"public safety"* and *"national security"*. The state also penalises those who share content that may reduce the public's confidence in the government through this law. Actors charged under this law face imprisonment from three months up to a year and a monetary fine amounting to US\$ 2,460. As evidenced by the abovementioned laws, the RGC has continued to implement vaguely worded legislation that potentially allows for its abuse to penalise dissent as causing harm to national security and safety. This law may be used to criminalise access to information, specifically computer data or IT services that portray the government and its officials in a negative light (Narin, 2020a). It also serves to penalise journalists, activists, NGOs, or even the general public, who share critical information on the state that might negatively impact its reputation.

If and when officially promulgated, the cybercrime law must be guided by existing international standards on combating cybercrime. While Cambodia is not a party to the Budapest Convention on Cybercrime, it should nevertheless be guided by the standards under this Convention, which is the leading convention on cybercrime. In particular, the Convention emphasises the need to ensure a strong balance between law enforcement and fundamental human rights as enshrined in, inter alia, the ICCPR. The RCG should also note that, under international law, accession to one international human rights treaty does not negate its obligations under the others.

The pre-existing regulations regarding the limits of freedom of speech are often vaguely-worded and can be implemented to stifle criticism and crackdown on political opposition. There is an evident uptick in new legislation during periods of political sensitivity, such as the elections in 2018. Amid the COVID-19 pandemic, threats and arrests have increased to stifle any criticism over the handling of the pandemic. The RGC continues to introduce new legal provisions to further control online content and monitor political opponents, under the guise of containing fake news or threats to national security, but in actuality this has been used to further consolidate state power. The next section will analyse the impact of legal, technical and societal factors upon the state of Cambodia's online freedom of expression.

## 3. Impact on Internet Freedoms

With the proliferation of the internet, and its increased use for discussion and debate over policies, the RGC has taken successive steps to curtail internet freedoms, through monitoring and controlling the use of the internet and access to social media content. These measures appear heightened during periods of political importance, such as the 2018 elections, and the COVID-19 crisis. The RGC has actively shut down media sites and organisations, or restricted access to them at periods of political tension, with the aim of controlling the online narrative. Online surveillance has given rise to concerns of data privacy and protection, as well as increased persecution of those who write and share critical content online. These measures, in tandem with the active promulgation of the government's information operations,<sup>5</sup> allows the state to not only control dissent online but also crowd out any other information that threatens their reputation. Ultimately, the practices of self-censorship, as highlighted below, have risen over time and are expected to solidify with persecutions upon the implementation of the NIG, as well as actions taken in the run-up to the 2022 communal election and the 2023 general election.

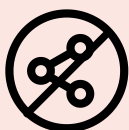
### 3a. Self-Censorship

It is important to note that legal and non-legal measures that restrict the exercise of freedom of expression and internet freedoms were applied simultaneously against targeted groups or individuals to maximise the result: fear to speak up against the ruling regime. In other words, while government disinformation serves to discredit government critics, the use of the various legislations—justifying monitoring and penalising those who engage in critical discussions online—has bred an environment of fear and self-censorship in Cambodia. Individuals have taken a step back from sharing their own political opinions online or participating in political events, and instead prefer to simply read or listen to such content as they are afraid to get into trouble with the Cambodian authorities, who have ramped up their control of the online sphere. Even controls on Facebook, the last platform where individuals could engage in free speech online as compared to national radio or television, have become much stricter, as Hun Sen has explicitly shared that his authorities can “track and arrest a Facebook user within six minutes of a post” (Bemma, 2018).

In 2020, according to the CCHR's Cambodia Fundamental Freedoms Monitor report, 108 cases of restriction on freedom of expression by the RGC were reported; out of which 57 cases (53%) occurred online. This has contributed to an atmosphere of self-censorship as 79% of the respondents—who are members of CSO and trade unions—of the same report also shared that they feel unsafe to impart information through social media. This trend has been consistent in the past three years where 83% (2019), 73% (2018), 69% (2017) of respondents were cautious for their own safety when sending or sharing information over social media. Based on data gathered, the report revealed that Facebook was the most surveilled online platform, with 46 cases of restrictions on freedom of expression reported, followed by Tiktok (8) and YouTube (7). Meanwhile, 29% of respondents further believed that their organizations' communications had been subjected to government surveillance in the last year.

### Self-Censorship

#### Refrain from Posting and Sharing



People step back from posting and sharing political information and opinions online

#### Consume Online Content Privately



People choose to only read, listen, and watch online contents privately

#### Cease Accessing Political Content



People cease accessing critical political content

#### Avoid Online Political Participation



People avoid participating in online political events







In 2020, Soeng Senkaruna, senior investigator at rights group ADHOC, expressed his concerns that people were increasingly unwilling to express critiques of the government, given the rise in arrests of dissidents (Narim, 2020). In 2021, when the Cambodian Journalists Alliance Association (CamboJA) and dozens of NGOs expressed concerns over the issue of self-censorship on the occasion of World Press Freedom Day, spokesperson of the Ministry of Information dismissed the accusation, stating that Cambodia has “no restrictions on press freedoms or journalists...and that the NGOs failed to check the facts of the law in each case” (Radio Free Asia, 2021b). UN bodies, such as the OHCHR, have attempted to engage with the government on matters pertaining to internet freedoms and the rise in controls and persecutions, but responses simply serve to justify the actions of the state as necessary to protect national security and dignity of others.

With the implementation of the NIG, individuals may be even more fearful of accessing certain pro-democratic sites or sites that share sensitive political content. Self-censorship is only set to worsen, as NGOs, civil society activists, and media organisations further curtail their discussions of any politically-sensitive topics in fear of repercussion from the authorities. While they were previously willing to at least access certain sites that share sensitive content, they may now be even less willing to do so, much less share their own opinions or join programs that discuss such opinions.

### 3b. Denial of Online Access

Access to news outlets and other websites are periodically blocked, whenever the ruling CPP government perceives the online content to be a threat to its rule. A lack of free and independent media, criminalisation of critical online contents, together with pro-government outlets overwhelming the media ecosystem, has resulted in the practice of austere self-censorship (David, 2021).

#### Denial of Online Access

<p><b>Legal Measures</b></p>  <p>Huge tax obligations arbitrarily imposed to force closure of online media</p>	<p><b>Censorship</b></p>  <p>Blocking access to websites and content that put the government in a negative light</p>	<p><b>Electricity Cut-off</b></p>  <p>Penalties increased for disseminating 'fake news'</p>	<p><b>Internet Slowdowns</b></p>  <p>Throttling the speed of the internet</p>
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In September 2017, after 24 years of operation, the English-language independent newspaper *Cambodia Daily* was forced to shut down after it was unable to pay the politically-motivated tax bill of \$US6.3 million imposed by the government a month prior (Westerman, 2017). The Ministry of Posts and Telecommunications (MPTC) ordered local ISPs to block access to *Cambodia Daily* IP’s address and its social media account on Facebook and Twitter. In February 2018, the MPTC doubled down on their action against *Cambodia Daily* by issuing a threat to ISPs that had not blocked the outlet’s website and social media handles with investigation and revocation of licenses (Handley, 2018a).

In September 2018, based on the request of the Ministry of Labour, the MPTC issued an order to all media outlets, including online and social media, to ban a Khmer song portraying the appalling working conditions of domestic workers in Cambodia. The MPTC reasoned that the action was necessary to protect the feelings and dignity of the domestic workers as the government worked to improve their situation (David, 2018).

Denial of online access continued during the COVID-19 pandemic. In March 2020, an online website Monoroom was blocked after it published various articles displaying the impact of the COVID-19 pandemic in Cambodia (Mathur-Ashton, 2020). In April 2020, after the editor of the TVFB Sovann Rithy was arrested and TVFB's license was revoked, the TRC announced that it would further block two more websites owned by TVFB (Sirivadh, 2020). Moreover, since the first local imported COVID-19 case was reported on 31 January 2021, the Cambodian government has revoked five licenses of independent online media outlets: *Community for Khmer Villages* (CKV) TV Online, *Rithysen* news site, TVFB news site, *San Prum News*, and *Angkor Today* (Leakhena, 2020; Sovuthy, 2020), which means access to critical content from these outlets is no longer available online.

All of the published content that led to the licenses of these media outlets being revoked was criticism towards the government's failure in managing the COVID-19 public health crisis or other sensitive issues such as ongoing land disputes, corruption, or political succession. However, the government maintained that the concerned media outlets spread fake news that provoked violence, incited people to protest, and generated an adverse effect on the security, public order and safety of society. As mentioned above, the government has often used this narrative of national security and social harmony to block content that is critical towards the state.

During consultation calls with local stakeholders, Asia Centre was informed that extralegal actions were also preemptively taken by the ISPs. Apart from following orders from the MPTC to block access, there are a few tactics used by ISPs, upon the request of the government officials, to control internet access to certain groups, such as activists, HRDs, and civil society groups. During consultations, Asia Centre was informed that the MPTC is well-aware of where these groups are located and work, and are thus able to also carry out these tactics in a targeted manner, in specific neighbourhoods or blocks. Organisations have experienced electricity cut-offs, so that internet routers are unable to work and those who rely on fixed internet access cannot access the internet.

Stakeholders also informed Asia Centre that ISPs have also been known to slow down the speed of the internet to disrupt the activities of media organisations and NGOs, especially the live-streaming of events. When organisations approach their ISPs to inform them of internet disruptions, the ISPs would inform them that there was nothing that could be done about the situation at hand. Social media users who have approached their ISPs also face such retorts, which imply that these are problems internet users must face if they wish to continue using the internet. These measures essentially restrict access to the internet, or certain sites and events that discuss sensitive topics that risk harming the reputation of the state and its officials. This practice confirms information weaned from local NGOs during the Asia Centre's consultation for this report.

### 3c. Controlling Election Narratives

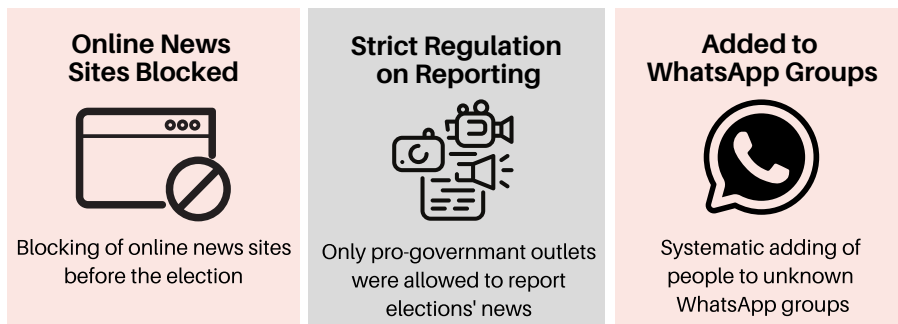
The CPP has looked towards controlling the narratives surrounding important political events, such as the elections, through blackouts on key sources of information that are critical of the government. During the 2013 election and campaigning period, this was achieved by a ban on airing foreign programs by broadcasters such as Voice of America, over local radio channels. As Cambodians looked towards online news sites and social media as a source of information, the CPP threatened that those who share 'improper' content on Facebook would face criminalisation. Given the relatively low use of the internet in the country in 2013, there were no outright bans on internet use (Soeung, 2013).

The CNRP, however, was able to effectively use the internet to advance its campaigns, and thus garner strong support (Soeung, 2013). Those who had access to the internet, were able to continue accessing alternative information online.

The increasing use of the internet as a source for information, as well as its use by opposition parties to seek support, posed worries to the CPP's rule. Fast forward to 2018, the state took concerted action to ensure that online sources of information were tightly controlled during elections periods. Besides banning the CNRP, the government focused on measures to clamp down on the existing civic space in Cambodia, through a short-notice ban on independent media.

In July 2018, two days before the general election was to take place, the Ministry of Information ordered 17 independent news websites to be blocked and carried out by the TRC. News outlets such as Voice of America, Radio Free Asia, Voice of Democracy and the Phnom Penh Post were inaccessible, due to their political "tendencies" and "provocative" content (Handley, 2018b). Local authorities at the Ministry of Interior, Ministry of Information and Ministry of Post and Telecommunications were instructed to monitor online news, especially those that 'had intention to cause instability' (Reuters, 2018). During the week of the blocking of independent media websites, many Cambodians were also added into WhatsApp groups systematically, which led to the belief that these groups were to be used to spread pro-CPP propaganda to the public to crowd out any other information sent to them (Handley, 2018b).

### Controlling Election Narratives



The government's tactics of information manipulation are evident through an analysis of the period of the 2018 elections - access restriction to independent online news sites, strict regulations on reporting, and attempts to crowd out critical information with its own information operations. Other manipulation tactics included claims discrediting critics and political dissidents from dubious sources such as Fresh News, elaborated on in Section 3d. The state of restrictions, especially surrounding elections and political events, create a media landscape, where only pro-government outlets are able to report the news. In Cambodia's upcoming election period of 2022 - 2023, there is concern among Cambodian activists that the CPP will employ the same tactics again in order to continue its reign over the Kingdom, amidst increasing criticisms of its governance and handling of the pandemic.

### 3d. Online Surveillance

As discussed in Section 3a, the state has tightened controls over ISPs. Laws such as the Telecommunication Law and Inter-Ministerial Prakas have provided the government further legitimacy to exert their influence over ISPs and ensure that ISPs abide by their regulations.

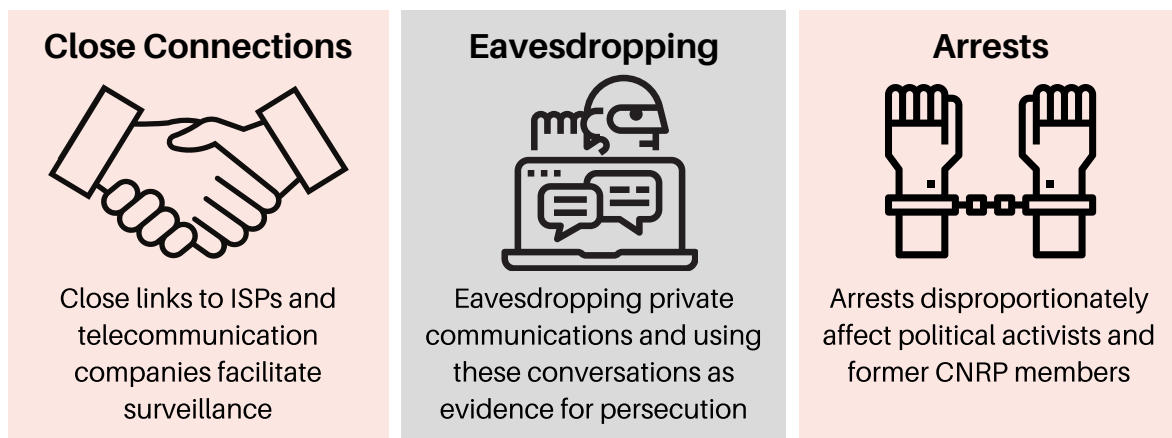
A prominent theme across the various legislations used by the government to persecute internet users is its ability to monitor and surveil individuals' online activities. Wanton surveillance has essentially been legalised, through instruments such as the Law on Telecommunications, the Inter-Ministerial Prakas, and most recently the NIG. Even before the NIG, the government had been effective in eavesdropping or tapping into private communications of human rights activists, NGOs, and opposition party members and supporters.

Clause 4 of the Prakas, for example, provides for an establishment of specialised units to monitor websites and social media, and take legal action if they publish content that creates turmoil or undermine national security. Due to its vagueness, the action of such a unit could potentially lead to criminalisation of government critics. In other words, the Prakas aims to manage all speech online and empowers local officials to utilize broad powers to restrict speech made online (ICNL, 2018). Private communications obtained through phone tapping have even been used during investigations to prosecute individuals (Nachemson and Meta, 2019).

CNRP members are afraid to hold phone conversations pertaining to politics, as they are aware that they are being strictly monitored by the government and military. In 2019, two CNRP members were charged with incitement and defamation for insulting Prime Minister Hun Sen over a private phone conversation, and for violating a Supreme Court order by discussing the possible return of Sam Rainsy (Nachemson and Meta, 2019). According to the lawyer representing the two, the police did not obtain any prior permission from the individuals or warrant from the court, but they proceeded anyway on the basis that it was a matter of national security.

In 2021, the 16-year-old son of a former CNRP official was charged with incitement and insulting a public official on a private Telegram chat. Due to his status as a son of a former CNRP official, this is the third time Kak Sovann Chhay experienced persecutions either from the police or a vigilante group (Narim, 2021). The arrest of activists from Mother Nature Cambodia, an environmentalist group, was also a result of leaked conversations on Zoom. They were charged under the lèse-majesté law for insulting and plotting against the King for “gathering strength for an uprising” (Sony, 2021). In Cambodia, private messages, calls, and meetings on occasions are recorded and then forwarded to others, exposing in the public domain private conversations that may risk political persecutions. This points to the absence of a legal framework to protect the privacy of such conversations.

### Online Surveillance



There are at least two official media and social media monitoring teams: a social media monitoring team under the Inter-Ministerial Prakas No. 170, and the Press Quick and Reaction Unit (PQRU) of the Council of Ministers, whose mandates concern “carrying out media work and reacting to content with a negative character coming from national and international media” (Dara, 2018). Online discussion or expression are closely monitored by these two government task forces, and on occasions some cases were filed in court or referred to the police for further investigation or legal action. For example, in the first quarter of 2021, the MPTC announced that they had found 525 cases of fake news online. These were a mix of statements and criticisms against the King and government officials, statements causing ‘incitement’, disinformation and fabricated information (Socheath, 2021).

Through this monitoring of social media, the authorities were able to arrest political actors and supporters of the dissolved CNRP for posting critical comments about COVID-19 management over social media (Dara and Baliga, 2020). As previously mentioned Section 2b, from January to June 2020, Cambodian authorities arrested 30 individuals for their incitement and fake news of what they posted over their social media; 12 of the arrested are affiliated with the dissolved CNRP (Human Rights Watch, 2020b).

Meanwhile, the government has been actively curbing the rights of journalists and social media news outlets in their reporting on the COVID-19 pandemic. Examples in Section 2b on the use of the Penal Code, such as the case of Phut Thona Lorn, who was arrested and charged with spreading false information over his Facebook videos claiming that RGC needs the help of the Vietnamese government to identify COVID-19 imported cases. The police revealed that they had monitored his Facebook account for five days and thereafter chose to act without explaining the legal basis behind the surveillance (Human Rights Watch, 2020). This exemplifies the concerns of the general public on the monitoring of their internet use. The arrest of Ros Sokhet, publisher of privately-owned newspaper *'Cheat Khmer'*, reveals that an online discussion on a clearly legitimate topic—such as Prime Minister Hun Sen's possible successor and the loan debt crisis Cambodia is facing—could be criminalised (CIVICUS, 2020). Similarly, journalist Kouv Piseth was arrested on 14 July 2021 for simply expressing his concerns on Facebook on the use of China's Sinopharm and Sinovac vaccines in Cambodia (RSF, 2021). These cases exemplify the extent to which information gathered through government monitoring or acquired from the sharing of private conversations is used to actively wrongfoot political opponents.

Such developments only raise further worries over the implementation of the NIG. The NIG sub-decree is the latest piece of legislation tailored towards monitoring the online sphere and seeking out critical social media users. The government has stated explicitly, in its response to the SRs' letter to the government on their concerns of the NIG, that it will not be using the NIG for monitoring purposes (OHCHR, 2021b). However, the evident misuse of existing legislation to spy on Cambodians' private communications calls into question the validity of such statements. Moreover, all available information on the NIG and its implementation, whether in the capital or provinces, has been highly vague and secretive thus far, which does not allow for one to be sure that they will not be monitored. The lack of consultation with NGOs and civil society groups on the NIG and its implementation (OHCHR, 2021b) has not allowed them to play a key 'check and balance' role on whether the NIG would curtail freedom of expression.

The NIG holds the potential to effectively control the narratives online during the period preceding the upcoming 2022 communal election and the 2023 general election and beyond, stifling any semblance of freedom of expression online. Along with laws criminalising online activity deemed critical towards the state, the post 2014 election period illustrates a striking assault on online freedom of expression. The online civic space, once an alternative avenue for advocacy, engagement, and objective news coverage, has been effectively captured by the Cambodian government over time.

### 3e. Media and Social Media Manipulation

Prime Minister Hun Sen and the CPP have been able to effectively leverage the popularity of social media, specifically Facebook, to spread their tailored content to Cambodians. Hun Sen has a team that runs his Facebook page, which has amassed over 13 million followers as of 2021. This allows him to put out tailored content constantly and directly to the public, and essentially crowd out other information online. Some of the content he put out amounts to threats, hate speech and thinly-veiled disinformation directed at critics and opposition members. Coupled with his family's dominance over the telecommunications sector and tight controls over independent media, the CPP has been able to dominate the media landscape—from print, to online and social media. Due to a lack of digital literacy as well as general literacy, Cambodians are not as critical about the information they see online, and are thus highly susceptible to state propaganda. This is the insight local partners shared with Asia Centre during the consultation calls, which is supported by UNDP's research (2020) that points to a low level of digital literacy.

According to the Oxford University’s Industrialised Disinformation report in 2020, Cambodia has engaged in social media manipulation to amplify pro-government content and drown out or intimidate political opponents (Bradshaw, Bailey and Howard, 2021). The most used techniques are using fake accounts or bots to amplify political incumbents’ online presence and pro-government narratives, and the creation and dissemination of disinformation aimed at discrediting government critics and political dissidents.

As early as 2016, Prime Minister Hun Sen reportedly hired foreigners to create fake accounts on Facebook, and increase the number of followers on his Facebook page (Palatino, 2016). This artificial boosting, or ‘like-farming,’ was exposed after the *Phnom Penh Post* reported that only 20% of likes were originally from Cambodia; the rest were foreign-based, especially from India and Philippines (Phnom Penh Post, 2016). By 2018, Prime Minister Hun Sen’s Facebook page had approximately 9.6 million followers and was considered the fifth most popular of any world leader (Burson Cohn and Wolfe, 2018). It was through his Facebook page that, during the period leading to the general election in 2018, Prime Minister Hun Sen had propagated hate speech against members of the opposition, government critics and HRDs. Issuing death threats, he condemned political dissidents as traitors who were instigating a ‘colour revolution or treason’. He warned them to prepare their own coffins as Cambodia would return to the civil war period, had he not been re-elected (Ek, 2019).

### Media and Social Media Manipulation



The main strategy encompassing Cambodia’s social media manipulation is the creation of disinformation and the use of manipulated media. This includes the creation of creative fake news websites, doctored images, videos or other deceptive online content. Prime Minister Hun Sen and the CPP officials have a close relationship with Lim Cheavutha, founder and Chief Executive Officer (CEO) of *Fresh News*, a self-proclaimed news outlet. *Fresh News* distributes dubious stories online that defame opposition personalities and government critics without providing credible sources or evidence to substantiate their claims (Paladino, 2018). These ‘fake news’ have had real-world consequences as government authorities have used them to press charges against political dissidents and the regime’s critics. For example, in 2018, a 132-page book written by the government was published on *Fresh News*’ website. This book was referred to in support of their actions in dissolving the CNRP and cracking down on civil society to suppress the ‘colour revolution’ supposedly funded by foreign superpowers (Vicheika, 2018).

Disinformation has also come directly from government institutions. In October 2017, even before the dissolution of the CNRP, the PQRU released a fabricated video trying to link the CNRP members to protest movements in the Middle East and Eastern Europe, amplifying the government narrative on a possible regime change. The spokesman of the PQRU, Tith Sothea, claimed that the video was to educate the public on the colour revolution, rather than for investigation of those involved. However, the video directly placed blame on the CNRP for using media outlets such as Radio Free Asia, Voice of America, Voice of Democracy, the Cambodia Daily, and the The Phnom Penh Post to push out its agenda (Dara and Baliga, 2017). In November 2019, when Sam Rainsy announced his planned return from his self-exile in France, local authorities were quick to respond, labelling his return as a coup attempt. The PQRU then released staged videos of CNRP supporters, confessing to participating in the coup and condemning Rainsy (Nachemson, 2019). The video was also made available on Facebook by pro-government news outlet *Fresh News*.

Furthermore, during the election period in 2018, social media bots were reportedly deployed to influence the outcome of the election. Well-known journalists and HRDs were targeted by Twitter bots flooding them with government propaganda supporting the ruling CPP. These bots also overwhelmed the popular hashtag *#Electionkh* used by the opposition to call on people to boycott the election (Pacific Prism, 2018). Bots and fake accounts were also used to intimidate and harass journalists. In 2020, Voice of America journalist Kann Vicheika received hateful and insulting comments from government supporters and party members, after she asked Prime Minister Hun Sen about the new state of emergency bill during a Facebook livestream (Vicheika, 2020).

The stifling legal environment and incessant persecutions against critics, former CNRP members and human rights defenders has affected internet freedoms and given rise to self-censorship. Typically, such actions escalate during the period leading up to general elections, when the ruling CPP feels threatened and tries to quell public criticism by disrupting internet access and shutting down news outlets. However, these actions have been normalised and continue unabated through the denial of access to online critical content and online surveillance by the authorities. In the next section, key recommendations are presented that can be taken up as policy actions by stakeholders to address these issues.

## 4. Recommendations

Following a review of Cambodia’s existing and draft legislation and their alignment to ratified international human rights standards, it is evident that existing laws do not provide effective safeguards for internet freedoms, specifically freedom of expression, access to information and the right to privacy. Rather, these laws are able to effectively allow for the suppression of internet freedoms. To ensure the protection of internet freedoms, this section outlines a set of recommendations for parliamentarians and legislators to review and amend existing laws, and further advocate for increased freedoms in Cambodia.

- Amend Article 49(2) of the Constitution so that it cannot be used to restrict the freedom of expression.
- Repeal Article 305 (criminal defamation) of the Penal Code and, if necessary, place defamation in the country’s Civil Code.
- Repeal or amend vaguely-worded provisions—specifically, Articles 437 bis (*lèse-majesté*), 494 and 495 (incitement to commit a crime)—under the Penal Code that unduly criminalise the exercise of freedom of expression.
- Repeal Article 425 (false information) and Article 453 (plotting) of the Penal Code to prevent the criminalisation of freedom of expression by categorising it as ‘fake news’.
- Repeal Articles 6 and 97 of the Law on Telecommunication to safeguard the rights to privacy, both online and offline.
- Revise Article 80 of the Law on Telecommunication to ensure it does not arbitrarily penalise online expression, including private communication.
- Revise the Law on Telecommunication—specifically, Articles 8 to 13, 70 and 71— to guarantee the autonomy of the telecommunication inspection officers and the public regulatory body, the Telecommunication Regulator of Cambodia.
- Repeal the Inter-Ministerial Prakas No. 170 to ensure its alignment with international standards, including repealing Clause 7 and 8.
- Repeal the Sub-Decree No. 23 (National Internet Gateway).
- Drop the draft Cybercrime Law or amend it to be aligned with international standards. One can add to these, alignment with the Budapest Convention on Cybercrime and its Additional Protocol.
- Seek advice from civil society organisations and ensure meaningful public participation when drafting new laws that may impact on freedom of expression or public access to information.
- Refrain from using non-legal measures—such as imposition of tax bills, revocation of licences of online media outlets, harassment of journalists and human rights defenders on online and social media platforms—that can stifle internet freedoms.
- Refrain from using information operations against government critics, opposition members, and human rights defenders.
- Establish an independent authority responsible for oversight *ex ante* and *ex post* of all surveillance measures conducted by law enforcement agencies to monitor compliance with international human rights standards regarding online freedoms.
- Ensure the Cambodian Human Rights Committee is independent and meets the requirements of the Paris Principles
- Technology companies must better enforce their own policies and community standards by flagging disinformation on their platforms, even when propagated by public figures or political incumbents and take further action to suspend their accounts they persistently engage in disinformation to promote hate speech, violence and persecution of individuals for expressing critical views.



## 5. Conclusion

The Paris Agreement and involvement of UNTAC in post-conflict reconstruction provided Cambodia the framework for democratic governance and rule of law. While poor internet infrastructure and connectivity in rural areas still poses difficulties in internet access, internet penetration has been increasing over time, due to the declining costs of mobile internet access. The internet, specifically social media, has become the new medium for information sharing, consumption and political expression.

Articles 41 and 42 of the Constitution guarantee freedom of expression, and Cambodia's ratification of the ICCPR obligates it to uphold these fundamental rights. However, reviews by international rights bodies consistently point to issues of freedom of expression. UPR submissions and submissions by the SR on the situation of human rights in Cambodia have noted that the increase in internet usage has led to disproportionate increases in online restrictions. Its membership in ASEAN has not led to improvements in human rights, especially since many in the regional association continue to perceive human rights as serving foreign interests. Nationally, the Cambodian Human Rights Committee is under the influence of the government, rendering it an ineffective check and balance mechanism due to its lack of alignment with the Paris Principles.

The use of the internet and social media platforms as a civic space has threatened the rule of the authoritarian CPP and prompted repercussions. The monitoring of opposition members, journalists, media organisations, and social media users through provisions in the Penal Code, Law on Telecommunication and the Inter-Ministerial Prakas has led to an environment of self-censorship in Cambodia, as individuals fear repercussions from the authorities. These legislations have put progress on internet freedoms and freedom of expression on the back foot. It is to be seen how the implementation of the draft Cybercrime Law, and the upcoming 2023 elections, further restricts these freedoms in Cambodia.

The NIG, scheduled to be implemented in February 2022, will further curtail freedom of expression and the right to data privacy as internet use will be increasingly monitored. As highlighted in this report, existing government mechanisms such as the PQRU and the social media task force actively monitor social media. This has enabled the authorities to track content, identify the persons behind it and execute arrests and persecute government critics, journalists and HRDs. The full implementation of the NIG is expected to increase the persecution of critics and consequently drive self-censorship.

In examining the existing legislation, this report recommends that legislators and parliamentarians ensure that existing and draft laws are aligned with constitutional and international standards of internet freedoms and freedom of expression or otherwise amend or repeal them. Such an alignment will allow for the protection of internet freedoms in Cambodia, and provide the necessary space for individuals, journalists, and civil society groups to express their criticisms without fear, for the democratic progress of Cambodia.

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