

**Joint Submission to the United Nations Special Rapporteur on Right to Freedom of Opinion and Expression: Opportunities, Challenges and Threats to Media in the Digital Age**

**Key trends, Threats or Challenges to the Freedom, Independence, Pluralism and Diversity of Media and the Safety of Journalists in Southeast Asia**

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# **Introduction**

Restrictive legislation, intimidation, and even the murder of journalists tarnish the commitment to freedom of expression of the Southeast Asian countries. Vague and expansive laws are used to criminalise legitimate online speech and infringe upon individuals’ right to freedom of expression, by granting governments sweeping monitoring powers over digital communications. Lesè-majesté, sedition, slander, and ‘fake news’ are just a few of the offenses invoked to threaten and punish journalists and individuals for exercising their right to free expression. Furthermore, Governments’ efforts to limit freedom of expression have been documented through impositions on content on social media platforms, with many of these impositions being introduced under the guise of protecting cybersecurity or combating ‘fake news’. All these aspects, along with a lack of procedural safeguards and independent oversight, as well as problematic appeals processes, have led to a shrinking civic space.

As a result, a rise in digital dictatorship has been recorded in Southeast Asia, characterised by several trends that will be analysed in this Joint Submission. The Joint Submission focuses on eight Southeast Asian countries, namely Cambodia, Indonesia, Malaysia, Myanmar, Singapore, Thailand and Vietnam, highlighting the threats and challenges that journalists encounter in conducting their legitimate work. This Joint Submission articulates the broad pattern of abuse of journalists and media across the region where legal provisions curtail the right to freedom of expression, by outlining legal frameworks and relevant cases for each trend.

# **Telling the Truth is now a crime under SEA’s repressive ICT and Defamation Laws**

The provisions under repressive ICT and defamation laws in Southeast Asia are weaponised to target online freedom of expression and to harass and silence journalists, activists, human rights defenders as well as critics.

In **Cambodia**, defamation provisions are mostly used to silence dissent or critical voices. Under the Criminal Code, individuals can be penalised for making statements or sharing any audio-visual communication that affect the reputation of a person or institution, or for purported outrageous expression.[[1]](#endnote-1) Journalists have been targeted for defamation on numerous occasions, including in two events from March 2020[[2]](#endnote-2) and September 2021[[3]](#endnote-3), when they were summoned and respectively sentenced over their reporting on a land dispute. In addition to defamation provisions, a range of laws[[4]](#endnote-4) and provisions in the Criminal Code[[5]](#endnote-5) unduly restrict freedom of expression and stifle criticism, while the NIG Sub-Decree on the Establishment of the National Internet Gateway (NIG Sub-Decree) grants authorities overbearing surveillance powers, potentially allowing for content blocking prior to its publication.[[6]](#endnote-6) Other laws still in the legislative process, contain provisions that restrict or criminalise online expression.[[7]](#endnote-7) With such laws in place, independent journalists and media outlets operate in precarious environments and practice self-censorship to ensure their independent reporting does not result in criminal sanctions or other forms of harassment. Reportedly, from January to October 2021 alone, 81 journalists were targeted for doing their work, with 31 of them arrested, including 4 women.[[8]](#endnote-8)

In **Indonesia**, defamation provisions are enshrined under the Penal Code[[9]](#endnote-9) and the Electronic Information and Transactions Law (ITE) law[[10]](#endnote-10), as well as the pending Revision of the Criminal Code Bill (RKUHP) that contains problematic provisions on defamation against the President, Vice President and the Government.[[11]](#endnote-11) The ITE Law has been misused to criminalise hundreds of people for exercising their right to freedom of expression, with 81 people charged from January 2020 to October 2021, most of the cases being related to defamation.[[12]](#endnote-12) In a prominent case, chief editor Mohamad Sadli was sentenced to two-year prison term for an opinion piece critical of a local government’s road construction project.[[13]](#endnote-13) Human rights defenders Haris Azhar and Fatia Maulidiyanti were threatened with legal action for defamation, under ITE Law and Penal Code.[[14]](#endnote-14) In addition, the ITE Law contains overbroad provisions that allow authorities to label critical expression as “false information” or “hate speech”, criminalising free expression.[[15]](#endnote-15) Journalist Muhammad Asrul was detained for alleged hate speech based on three news articles about corruption allegations[[16]](#endnote-16), and sentenced to three months in prison in November 2021.[[17]](#endnote-17)

In **Lao PDR,** the sole legal party has consistently imposed restrictions on traditional media and online media, using provisions under the Penal Code[[18]](#endnote-18) such as slander and “propaganda against the state” to persecute those who defame state authority and target critics of the government. Moreover, a series of legal provisions under the Penal Code[[19]](#endnote-19) impose unlawful restrictions on freedom of expression and media freedom on the basis of “national security” or “public order”, while other legislations confer unrestricted power to the authority to silence online criticisms and impose penalties on the circulation of “false information online”.[[20]](#endnote-20)

 In **Malaysia,** the governing powers maintain a tight grip on people, restricting civil liberties through oppressive mechanisms and strict legal provisions. The government has used the defamation provisions under the Penal Code[[21]](#endnote-21) to silence journalists, opposition lawmakers, activists, and individuals criticising the regime, as in the case of Anna Har and Amin Landak, investigated under the Penal Code and the CMA.[[22]](#endnote-22)

In addition, in 2021, a criminal defamation prosecution against advocate journalist Rewcastle Brown was reopened, and she was charged in her absence under Section 500 of the Penal Code.[[23]](#endnote-23) Besides, a great number of repressive laws and provisions aim to impose censorship and punish those voicing their critics.[[24]](#endnote-24) Between March 2020 and February 2021, 66 cases involving 77 individuals initiated under the Sedition Act and Section 233 of the CMA which infringed on the right to freedom of expression were documented[[25]](#endnote-25), with about 60 cases related to online activities. For instance, blogger Dian Abdullah was charged under Section 505(b) of the Penal Code and Section 233(1)(a) of the CMA for allegedly criticising the King and the Prime Minister in her blog post published in March 2020.[[26]](#endnote-26) Furthermore, journalists and online news outlets have been repeatedly subjected to investigation and prosecution as a result of their critical reporting, as in the case of Tashny Sukumaran, a South China Morning Post correspondent[[27]](#endnote-27), and the international broadcaster Al Jazeera[[28]](#endnote-28).

In **Myanmar,** the military has created an environment of fear and cracked down on dissenting voices, with 114 journalists and media staff arrested by 31 December 2021, of whom 43 are still detained.[[29]](#endnote-29) Defamation is criminalised under a myriad of laws, such as the Penal Code and the Telecommunications Law. [[30]](#endnote-30) In January 2021, editor U Ne Win San and reporter Ma Hnin Nwean were sued by the military under Section 66 (d) of the Telecommunications Law for publishing a news story about alleged military corruption.[[31]](#endnote-31) In addition, since the coup, the State Administration Council (SAC) has amended a few laws and enacted a draft Cyber Security Law (CSL) which further creates the legal basis for violation of online freedom. The work of journalists and online media is further restricted by the licensing regime imposed, as news agencies and websites are required to register prior to producing content.[[32]](#endnote-32) In addition, provisions under the Penal Code includes wide-ranging restrictions on freedom of expression[[33]](#endnote-33), while the 2014 amended Electronic Transactions Law (ETL) and its 2021 Amendment restrict expression through electronic transactions technology and establish harsh criminal sanctions for those convicted.[[34]](#endnote-34) The post-coup crackdown on free media came after the military repeatedly threatened to revoke media licenses if they continued using the words “regime” or “junta”.[[35]](#endnote-35) Many private news media companies have been banned for disobeying the junta’s commands, and those who attempt to remain operational have faced strict censorship.[[36]](#endnote-36) While hundreds of journalists hunted by the military were forced to hide[[37]](#endnote-37), others have been arrested and/or charged, such as reporter Kay Kay Zon Nway[[38]](#endnote-38), journalists Han Thar Nyein and Nathan Maung[[39]](#endnote-39), Sithu Aung Myint and Htet Htet Khine[[40]](#endnote-40).

In recent years, **Singaporean** authorities have increasingly used harsh and overly broad laws to restrict and prosecute speech critical of the government, censoring independent media. Extremely strict defamation provisions are enshrined in the Penal Code[[41]](#endnote-41), and, in addition to criminal charges, civil liber suits brought under the Defamation Act[[42]](#endnote-42) are systematically used to silence dissenting voices and activists.[[43]](#endnote-43) As such, editor Terry Xu and contributor Daniel De Costa of The Online Citizen (TOC) went on trial on charges of criminal defamation, after Xu published De Costa’s letter in which he accused the PAP leadership of corruption.[[44]](#endnote-44) In November 2021, each was convicted of defaming Cabinet members.[[45]](#endnote-45) Terry Xu was also involved in a separate defamation suit by the PM Lee[[46]](#endnote-46), in which the Court ruled the defamatory statements as “grave and serious”[[47]](#endnote-47), and the PM Lee Hsien Loong was awarded a large amount of money in damages and costs and disbursements.[[48]](#endnote-48) Moreover, a series of repressive laws criminalise online activities and hamper the enjoyment of online freedom by individuals.[[49]](#endnote-49) Since the Foreign Interference (Countermeasures) Bill (FICA) allows authorities to legitimately control almost any form of expression, including to remove or disable online content, journalists are disproportionately impacted by default, as the issues on which they work are under increased State oversight and control.[[50]](#endnote-50)

In **Thailand**, the authorities have weaponised laws and policies to censor information and target journalists, HRDs and activists in relation to criticism of the monarchy and the government.  In the past years, many young people have become citizen journalists, reporting the truth of what is happening in Thailand. State actors and large corporations[[51]](#endnote-51) have long wielded defamation provisions under the Penal Code[[52]](#endnote-52) to target journalists and activists who bring to light human rights violations or share information critical of the regime, having a chilling effect on their legitimate work. As such, a committee was established to investigate defamatory content against the Prime Minister and his cabinet on social media platforms, and over 100 cases have been initiated against those criticising the PM, as of June 2021.[[53]](#endnote-53) Furthermore, unduly restrictive laws such as the Computer Crimes Act (CCA), imposing restrictions on freedom of expression online by punishing individuals who disseminate “fake news” via online means[[54]](#endnote-54), and several provisions under the Criminal Code (Article 112 on lèse-majesté, Article 328)[[55]](#endnote-55) further criminalise freedom of expression. From 24 November 2020 to 6 December 2021, at least 168 lèse-majesté lawsuits were documented.[[56]](#endnote-56) Notably, in January 2021, Anchan Preelert, a radio host who criticised the Thai monarchy on YouTube, was sentenced to a record of 87 years in prison under Article 112 while her sentence was later halved to 43 and a half years after she pleaded guilty to the charge.[[57]](#endnote-57) With restrictive laws in place to criminalise free expression, activists who bring to light human rights violations or share information critical of the regime are frequently charged for sedition and computer crimes.[[58]](#endnote-58) Additionally, an “anti-fake news” centre was established in November to strictly implement provisions of the CCA. The definition of “fake news” and the scope of the centre’s mandate is, however, overbroad and appears to target critical dissent.

In **Vietnam**, the Communist Party of Vietnam maintains a strong stance against those who express dissent. For daring to speak truth to power, these individuals are met with extreme vengeance by authorities.[[59]](#endnote-59) While a broad criminal defamation provision is entailed in the Criminal Code[[60]](#endnote-60), the Vietnam authority has rarely utilised it, invoking frequently Articles 117 and 331 of the Criminal Code to charge individuals for “defaming” the government.[[61]](#endnote-61) Besides, the Law on Cybersecurity[[62]](#endnote-62), and numerous decrees are used to defy the constitutional and legal provisions guaranteeing freedom of expression and information. For instance, many of the provisions of Decree 72/2013/ND-CP restrict the freedom of expression[[63]](#endnote-63), while Decree 15/2020/ND-CP makes it a crime to post or share “fake news” on social networks.[[64]](#endnote-64) Journalists are fined and prosecuted for criticising the government and promoting democracy or discussing sensitive matters online. In this light, the journalists Nguyen Tuong, Le Huu Minh Tuan, Pham Chi Dung were sentenced for a total of 37 years for sharing ‘anti-state propaganda’ under Article 117 of the Criminal Code, with Pham Chi Dung facing 15 years in prison - the longest sentence for this crime up to date.[[65]](#endnote-65) Moreover, Pham Doan Trang, outspoken Vietnamese democracy journalist, activist and HRD, was charged under the Penal Code with 9 years in prison on anti-state charges.[[66]](#endnote-66) Also, five journalists were sentenced to years in prison for infringing upon the interests of the state in their Facebook posts, and were banned from working for three years.[[67]](#endnote-67)

# **The Weaponisation of COVID-19 to silence critics in SEA**

The COVID-19 health crisis has exacerbated the effect of so-called anti-fake news laws in Southeast Asia, where laws with either a dedicated statute to target the spread of “fake news” or with statutes aimed specifically at regulating “fake news” about COVID-19 have been enacted.

In **Cambodia**, the COVID-19 pandemic has provided fertile grounds for the Royal Government of Cambodia to restrict freedom of expression online. A State of Emergency Law and the COVID-19 Law were passed, providing the government with sweeping and unfettered powers to implement measures during states of emergency, including restricting or prohibiting free speech, surveilling communication and controlling social media.[[68]](#endnote-68) Consequently, journalists and independent media have been highly repressed. In March 2020, journalist Sovann Rithy was arrested for quoting a comment made by the Prime Minister during a speech on COVID-19. His online media outlet was blocked and its license was revoked.[[69]](#endnote-69) Similarly, journalist Kouv Piseth, was detained for expressing concerns on Facebook regarding the Cambodian government’s decision on the use of vaccines. [[70]](#endnote-70) Moreover, in May 2021, the Ministry of Information warned journalists to cease broadcasting live from within red zones of the lockdown areas, treatment centres or hospitals, or otherwise face legal action.[[71]](#endnote-71)

In **Indonesia**, under the guise of COVID-19 pandemic, the Indonesian authorities have invoked the ITE Law and other regulations to restrict the civic space in the country. Furthermore, a Directive was issued in April 2020 authorising police officers to crack down on “coronavirus-related hoaxes”.[[72]](#endnote-72) From January 2020 to March 2021, 113 individuals were being investigated for spreading false information about COVID-19.[[73]](#endnote-73) In addition, the Government has routinely required platforms and content hosts to remove negative content posted by users related to COVID-19. [[74]](#endnote-74) Media outlets and civil society organisations, including Tempo, Tirto.id, and the Centre for Indonesia’s Strategic Development Initiatives (CISDI), were hacked after posting articles that criticised the government’s management of the COVID-19 pandemic and their journalists were targeted by doxing attacks.[[75]](#endnote-75)

In **Lao PDR**, amid the COVID-19 pandemic, cases of arrests for “fake news” or “spreading rumours aimed at causing public panic” related to COVID-19 have been documented.  Although no cases of journalists convicted for spreading information related to COVID-19 have been reported, several cases of ordinary users were registered.[[76]](#endnote-76) Moreover, for the purpose of allegedly controlling the spread of “fake news” concerning the pandemic, the Ministry of Information, Culture and Tourism has enforced the registration order by asking provincial authorities to keep records of official social media channels and encouraging them to supervise the registration of social media platforms.[[77]](#endnote-77) The following day, on 21 May 2021, a notice was issue indicating the set-up of a special taskforce to surveil, trace and respond to “illegal online media” and “fake news” posted by both domestic and international actors.[[78]](#endnote-78)

In **Malaysia,** the Emergency (Essential Powers) (No. 2) Ordinance adopted in March 2021 establishes a number of criminal offences relating to ‘fake news’ about the COVID-19 pandemic and raises concerns about freedom of expression in Malaysia.[[79]](#endnote-79) From March to December 2021, 30 investigations were opened for uploading or spreading fake news on COVID-19 and the Emergency Proclamation.[[80]](#endnote-80) Provisions of the Penal Code have also been invoked to crack down on journalists reporting on the coronavirus pandemic. For instance, journalist Wan Noor Hayati Wan Alias faces six years' imprisonment, if convicted, for three charges over three COVID-19 related posts on her Facebook account.[[81]](#endnote-81)

**Myanmar**'s COVID-19 response has exacerbated the human rights issues in the country, as the authorities have restricted the right to freedom of expression under the guise of the pandemic. Journalists, activists and individuals have been charged for falsely reporting or sharing information about the virus on the internet, with some being found guilty and serving prison sentences of up to two years.[[82]](#endnote-82) The Prevention and Control of Communicable Disease Law (PCCDL), the Natural Disaster Management Law, and existing repressive laws have provided the legal framework for COVID-19 response.[[83]](#endnote-83)

Censorship related to the COVID-19 pandemic has been documented in **Singapore**, as the Government has curtailed free expression and information online through Protection from Online Falsehoods and Manipulation Act (POFMA).[[84]](#endnote-84) In May 2020, the Facebook pages of the Singapore States Times and its owner Alex Tan Zhi Xiang were blocked under the Anti-fake News Law for communicating “falsehoods regarding the COVID-19 virus situation”.[[85]](#endnote-85) In 2021, numerous correction notices were issued by the Ministry on Health on contents related to COVID-19.[[86]](#endnote-86) For instance, a correction notice was issued in October on materials published by a website on the effectiveness of COVID-19 vaccines while in December, the Minister of Health instructed POFMA to issue a correction notice over Facebook posts containing “egregious claims” about the Omicron variant of the COVID-19 virus.[[87]](#endnote-87)

In **Thailand,** overbroad restrictions on freedom of expression and access to information under the pretext of COVID-19 have been implemented. Section 9 of 2005 Emergency Decree on Public Administration in Emergency Situation (Emergency Decree) and Section 5 of the State of Emergency to combat COVID-19 limit free speech in relation to information regarding COVID-19 or opinions over government’s measures to contain the pandemic[[88]](#endnote-88), while Regulation No. 27 punishes those disseminating information or news that causes “fear”, “misunderstanding” or “affects national security or public order”.[[89]](#endnote-89) In addition, a new centre was set up in May 2021 to support the Department of Special Investigation (DSI) in its investigations surrounding COVID-19 so-called “false information”, with a focus on online platforms.[[90]](#endnote-90) Numerous cases of online users charged under CCA for expressing criticism over the government’s handling of pandemic and vaccine policy have been recorded.[[91]](#endnote-91)

In **Vietnam**, the COVID-19 pandemic has been used by the Government as an excuse to tighten the control online, including over social media and websites. Claiming to be for “fake or false information” which distorts or damages the dignity of others, and to stop panic among the population, the authorities have abused laws to arbitrarily restrict information and expression during the pandemic. Such provisions are found under Decree No. 15/2020[[92]](#endnote-92) and Decree No. 119/2020[[93]](#endnote-93). Furthermore, as per the Ministry of Information and Communications (MIC) document from July 2021, ministries and other authorities are required to inform police when detecting "fake news" information about COVID-19 on the internet.[[94]](#endnote-94) Since the COVID-19 pandemic, the Vietnam government has taken a notably restrictive course of action than it had previously, with journalists or likewise being charged and/or arrested for reporting on the crisis.[[95]](#endnote-95) Amid growing criticism of government containment efforts of COVID-19 virus, in October 2021, former journalist Vo Hoang Tho was arrested for allegedly defaming the country’s leaders over a series of online posts criticising government efforts to prevent and control the spread of COVID-19.[[96]](#endnote-96)

# **State-sponsored Online Disinformation to manipulate public debate & State propaganda in the name of combating ‘fake news’**

With the exception of Lao PDR and Singapore, state-sponsored online disinformation and/or propaganda to manipulate public debate and discredit journalists and media have been reported in the Southeast Asian countries covered in this Joint Submission.

In **Cambodia**, journalists have been oftentimes attacked or threatened with violence while exercising their press freedoms. Government-direct smear campaigns designed to discredit outspoken critics of the country’s authoritarian policies have been implemented, with at least 72 journalists harassed in 2020[[97]](#endnote-97) and 21 from July to September 2021.[[98]](#endnote-98) In addition to such smear campaigns, as in the case of Luon Sovath[[99]](#endnote-99), the government has also pressured, threatened or harshly criticised civil society groups, undermining their work.

In **Indonesia**, hired by the government to promote government policies, state-sponsored disinformation by paid commenters, known as “buzzers”, has continued to proliferate.[[100]](#endnote-100) Reportedly, there was a network of 10 online news sites funded and operated by the military that publish pro-government propaganda and target government critics and human rights advocates. [[101]](#endnote-101) The presence of cyber troops in Indonesia since 2019 has influenced the elections, the controversial Omnibus Law on Job Creation, and the nation’s COVID-19 policy, posing a considerable and growing threat for public debate and democracy.[[102]](#endnote-102) Also, the government has frequently monitored activities on social media platforms in 2018 and 2021.[[103]](#endnote-103)

In **Malaysia**, state propaganda in the name of countering “fake news” and monitoring sensitive statements exist, and the presence of government-sponsored online commenters, known as cyber troopers, has been reported.[[104]](#endnote-104) In addition to the fact-checking portal SEBENARNYA[[105]](#endnote-105), several government agencies have been regularly monitoring social media platforms for false and sensitive statements relating to 3Rs: race, religion and royalty[[106]](#endnote-106), and a WhatsApp group was set up by the MCMC requesting people to lodge screenshots of social media posts that they deem sensitive to the 3Rs. [[107]](#endnote-107)

In **Myanmar**, online freedom has deteriorated in recent years, as the authority has controlled the entire broadcasting sector and owned a significantly large portion of media.[[108]](#endnote-108) Cyber troops were employed in Myanmar to shape the information space using a variety of communication strategies, including the creation of disinformation, trolling, and amplifying content and media online. [[109]](#endnote-109) In addition, in the following months after the coup, the junta-controlled Ministry of Information has started publishing books denouncing the anti-regime movement, praising the junta’s State Administrative Council, and blaming social influencers for inciting the protests and causing people’s death and arrest.[[110]](#endnote-110)

In **Thailand,** state-sponsored disinformation, online hate speech and harassment against activists to disqualify and discredit the legitimacy and reputation of human rights defenders and CSOs have been reported in Thailand.[[111]](#endnote-111) A Facebook post reporting the voice of the wife of environmental indigenous HRD[[112]](#endnote-112), and another containing a video of the protest by Karen peoples have been filled with a large number of negative comments from IOs accounts.[[113]](#endnote-113) Such patterns of ‘cyber army’ instigating online disinformation are constantly growing, and the existence of the Thai army’s secret IO network to manipulating pro-government sentiments and targeting political opposition figures online has been confirmed.[[114]](#endnote-114) Facebook’s Coordinated Inauthentic Behaviour Report also reported the detection and removal of 185 social media accounts found to bear links with the ISOC to target audiences in the country’s Deep South.[[115]](#endnote-115)

In **Vietnam**, the Vietnamese government has taken direct action to manipulate content and public opinion. “Public opinion shapers” were deployed to defend the state against “hostile forces”, and Force 47, a group of cyber troops to counter “wrongful opinions” about the regime was introduced in 2017.[[116]](#endnote-116) Moreover, approximately 10,000 of these so-called “cyber troops” were employed to manipulate online discourse in line with Communist Party’s line.[[117]](#endnote-117)

# **Infringement of online privacy and State mass surveillance with AI**

The legislation and regulations in place in Southeast Asia enable monitoring and surveillance of Internet activity, allow for the interception of digital communications, and enable the acquisition and preservation of personal data, infringing on the right to privacy and freedom of speech. As a result, the media is severely impacted, with journalists forced to practice self-censorship for fear of being punished. Furthermore, as part of their efforts to restrict the spread of COVID-19, states have established new monitoring techniques, such as track-and-trace applications, raising serious concerns about journalists' privacy rights.

Although **Cambodia**’s Constitution provides general protections surrounding the right to privacy, it fails to mention privacy online or in online communications.[[118]](#endnote-118) Conversely, the laws that include such provisions, namely the 2015 Law on Telecommunications[[119]](#endnote-119), NIG Sub-Decree[[120]](#endnote-120) and State of Emergency Law[[121]](#endnote-121) can facilitate the mass surveillance of all internet activity, as they allow for interception of digital communications. Likewise, the Draft Law on Cybercrime contains provisions on mandatory data retention without legitimate justification, procedural safeguards or judicial oversight. There have been records of individuals’ privacy being unlawfully interfered with, as in the case of two former CNRP activists sentenced to prison on the grounds of the transcript of a private phone conversation.[[122]](#endnote-122) Besides, during the pandemic, the identities of individuals infected with COVID-19 were published online for tracking purposes[[123]](#endnote-123), and the “Stop COVID-19” QR Code system, raises further privacy concerns.[[124]](#endnote-124) Moreover, the use of CCTV cameras and the announcement of a new security deal with the Chinese government to supply new biometric surveillance technologies to Cambodia poses further threats to privacy rights.[[125]](#endnote-125)

In **Indonesia**, several laws and regulations allow for government surveillance without judicial oversight and safeguards, such as the ITE law[[126]](#endnote-126), and the 2018 amendments to the 2003 Eradication of Criminal Acts of Terrorism Law (CT Law) which grants the authorities sweeping powers to conduct surveillance in the name of counterterrorism.[[127]](#endnote-127) In recent years, the government has indicated or considered several plans on restriction on anonymity, including the use of biometric data for SIM card registration, the requirement for users to add their phone numbers when signing up for a social media account, and the regulation of VPN use through licenses.[[128]](#endnote-128) Spyware and other sophisticated surveillance tools are allegedly used by the authority to collect data such as Skype audio, key logs, and screenshots.[[129]](#endnote-129) Also, the government’s response in order to track the spread of COVID-19 has raised concerns about privacy violations.[[130]](#endnote-130)

In **Lao PDR**, cybersecurity laws grant the government sweeping power to surveil the use of the internet and even private communications and to collect relevant data when there is a perceived security threat, without effective oversight or procedural safeguards, creating the basis for illegal intrusion into users’ privacy.[[131]](#endnote-131) Such problematic provisions raise concerns over the possible abuse of users’ information for unsubstantiated “national security” related investigations or targeting. In addition, mandatory SIM card registration further curtails the right to privacy, and those who fail to properly register will face disconnection.[[132]](#endnote-132) To facilitate the registration process, the Ministry developed 3 Grab Sim Registration app, allowing users to register their SIM cards online. However, the app contains excessive permissions, putting at risk personal information and privacy.[[133]](#endnote-133)

In **Malaysia**, there is a series of legal provisions allow for search, interception and data collection by the authority with limited oversight and procedural safeguards under the pretext of emergency or national security, under the Security Offenses (Special Measures) Act (SOSMA)[[134]](#endnote-134) and the Criminal Procedure Code[[135]](#endnote-135). More concerning, the Emergency (Essential Powers) No. 2 Ordinance empowers police officers to request traffic data and “computerised data” from individuals, corporations, and social media platforms.[[136]](#endnote-136) To assist in managing the COVID-19 outbreaks in the country, the government has developed a number of applications that collect and access personal information.[[137]](#endnote-137)

In **Myanmar**, vague provisions under the Law Protecting the Privacy and Security of Citizens and the Telecommunications Law allow for authority surveillance and access to unspecified information, without clear procedures or judicial review to prevent data from being collected and stored.[[138]](#endnote-138) More concerning, several privacy safeguards granted in Chapter IV were suspended by the SAC, rendering anyone subjected to arbitrary interference with their privacy.[[139]](#endnote-139) The draft CSL further poses significant risks to privacy by giving the military unrestricted access to private data. Online anonymity and the use of pseudonyms are also curbed in the draft law and punishable.[[140]](#endnote-140) In addition, the enforcement of SIM card registration requirements since 2017 has made users less likely to maintain anonymous communication online or via mobile data.[[141]](#endnote-141) Surveillance technology was also employed by law enforcement agencies and intelligence to collect data from the journalists’ smartphone[[142]](#endnote-142) as well as to counter those causing “instability” online.[[143]](#endnote-143) Since the coup, the use of sophisticated technology has been reported to increase.[[144]](#endnote-144)

In **Singapore**, a number of laws provide the government with the power to search electronic devices without judicial oversight and access to users’ personal information if it is deemed to be in the national interests, under the 2018 Cybersecurity Act[[145]](#endnote-145) and the Criminal Procedure Code.[[146]](#endnote-146) Although State’s monitoring capabilities and tactics are unknown in their entirety, law enforcement agencies have extensive power to carry out surveillance and gather information, with no need of prior judicial authorisation.[[147]](#endnote-147) In addition, to cope with the spread of the COVID-19 pandemic, the government developed the contact tracing system which raises several concerns over the collection and use of data in criminal investigations[[148]](#endnote-148) as well as the mandatory use of one of the apps.[[149]](#endnote-149) Further, being in the top 20 of the most surveilled cities and lacking guarantees for the right to privacy in the Constitution, the plan to increase the number of police camera surveillance raises serious questions on the invasion of privacy.[[150]](#endnote-150)

There are a series of laws in **Thailand** that allow for surveillance and the arbitrary search and seizure of data on grounds of public order and national security, largely curtailing individuals’ rights to privacy and heightening conditions for unlawful digital surveillance.[[151]](#endnote-151) Malay Muslims across Thailand’s southernmost provinces have been subjected to the discriminatory and forced collection of biometric data and expanded CCTV surveillance[[152]](#endnote-152), being also required to re-register their SIM cards through the facial recognition system alongside the data on their National ID cards.[[153]](#endnote-153) Moreover, two contact tracing apps endorsed to stop the spread of COVID-19 contain excessive user permissions, lacking transparent terms and conditions, and without informing how personal data is being used and shared.[[154]](#endnote-154) More worrisome is the rising data sharing across government agencies[[155]](#endnote-155), which jeopardises not only data subjects' rights, but can also be abused for unsubstantiated "national security" investigations or targeting. To verify information shared online and combat unverified news, the Anti-Fake News Center has applied a hybrid of human and Artificial Intelligence (AI).[[156]](#endnote-156) In November 2021, an alarming news report emerged when Thai politicians, activists and academics received an email from Apple notifying them of possible ‘state-sponsored attackers’ who were remotely targeting their iPhones “because of who you are and what you do”. This news report raises serious privacy concerns, especially in view of the report revealing the mighty presence of notorious Pegasus spyware in Thailand.[[157]](#endnote-157)

In **Vietnam,** repressive laws suppress the right to privacy by granting unfettered and unlimited power to the authority to access users’ information.[[158]](#endnote-158) The Law on Cyberinformation Security (LOCS) allows the authority to request users’ information from private companies without a warrant, and similar provisions are also laid out in various Decrees.[[159]](#endnote-159) Although the extent of the use of the surveillance technology by the authorities remains unknown, the country has reportedly developed considerable cyberespionage capabilities in recent years, setting up social media monitoring mechanism to regularly surveil online usage.[[160]](#endnote-160) Moreover, amid the pandemic, the government released Bluezone, a COVID-19 tracing app, which can be silently transmitting complete contact history and determining the real-world identity of users.[[161]](#endnote-161) Subsequently, individuals and journalists are feeling increasingly concerned about voicing their opinions for fear of being identified and prosecuted by the government.

# **Looming control over ISPs and Media outlets**

A range of legal provisions in **Cambodia** compel online service providers to facilitate government surveillance, retain and hand over users’ data, and collaborate with the authority to block or disconnect network connections.[[162]](#endnote-162) The extent of government requests for user’s information or to remove content from online service providers remains opaque and unknown, as the implementation is based on informal communications between government officials and service providers.[[163]](#endnote-163) On 4 March 2021, the MPTC warned telecom operators of legal action if they collude with or sell wholesale internet access services to unlicensed providers.[[164]](#endnote-164)

In **Indonesia**, the existing legal framework allows the authority to compel service providers, tech companies and social media platforms to filter content and facilitate censorship. Under ITE Law and MR5, ISPs can be requested by the government to disable access to online content.[[165]](#endnote-165) The authority regularly issues requests to websites and social media platforms to remove information referred to as hoaxes and/or “insult” and hate speech.[[166]](#endnote-166)

In **Lao PDR**, cybersecurity laws pressure web managers, social media platforms and ISPs to facilitate censorship by holding them accountable for the information published on the digital platform violating the law.[[167]](#endnote-167) The official number of government requests for content restriction and user information remains unknown. Neither Google nor Twitter has documented the Lao government’s requests to remove content or for user information on their website.[[168]](#endnote-168) According to the news report, over 12 million items of misinformation have been removed from Facebook between March to October 2020[[169]](#endnote-169), and Facebook reported 12 restrictions between July to December 2020, and one between January to June 2021.[[170]](#endnote-170) Moreover, media is tightly controlled by the government through repressive laws aiming to ensure that TV, radio and printed publications are adherent to and reflect the government policies. After the 2018 Xe Pien-Xe Nam Noy dam collapse, the Prime Minister warned all Lao citizens to only trust information shared by state-owned media.[[171]](#endnote-171) Online media is further suppressed by the authorities as the news outlets administrators on social media platforms are compelled to register their accounts with the Ministry of Information, Culture and Tourism[[172]](#endnote-172), and a special taskforce is set up to surveil, trace and respond to “illegal online media” and “fake news” posted by both domestic and international actors.[[173]](#endnote-173)

In **Malaysia**, internet providers and tech companies are forced to assist governments in online surveillance and information takedowns, which has worrying implications for an environment of fear and self-censorship.[[174]](#endnote-174) The government and law enforcement agencies have continued to request that social media platforms and news outlets restrict access to or remove content. For instance, in 2019, the MCMC ordered all social media platforms to take down any video of the Christchurch shootings, in New Zealand, in which two Malaysians got injured too[[175]](#endnote-175), and in 2020, the MCMC warned that legal action could be taken against account holders of parody accounts.[[176]](#endnote-176) Twitter and Facebook received numerous demands from the government to remove content and restrict access to items. [[177]](#endnote-177) Media activities have also been tightly regulated and limited, showcased by the prominent case of the news portal Malaysiakini, finedan excessive sum for comments made on their platform by third-party subscribers[[178]](#endnote-178), and media coverage has been restricted on several occasions in October 2020 and September 2021.[[179]](#endnote-179)

In **Myanmar**, telecommunications companies need licenses to operate and are bound to vaguely worded licensing compliance guidelines[[180]](#endnote-180), and the government is granted powers to exert absolute control over online service providers, allowing both temporary and permanent bans on any online service provider, and temporary control of any network devices.[[181]](#endnote-181) Under both the Telecommunications Law and the draft CSL, online service providers can be pressured by the authority to facilitate online monitoring and surveillance by retaining and disclosing user’s information, without judicial oversight or procedural safeguards.[[182]](#endnote-182) Prior to 2020, the government rarely blocked or filtered content while it first began such a move from March 2020 when MoTC issued a series of directives ordering ISPs to block media outlets and websites.[[183]](#endnote-183) Since the coup, illegitimate pressure on internet service providers to block websites has been an increasingly critical issue.[[184]](#endnote-184) Reportedly, the Junta also sent secret orders to ISPs, asking them to block VPNs.[[185]](#endnote-185) The exact list of blocked websites is not available, and service providers are prevented from publishing such directives.[[186]](#endnote-186) As of June 2021, the licenses of seven major media outlets had been revoked.[[187]](#endnote-187) Official requests for social media platforms to remove content are not publicly reported by Google, Twitter, and Facebook; however, the previous government before the coup called on platforms, especially Facebook and WhatsApp, to address “misinformation”, and incitement on their platforms.[[188]](#endnote-188) Also, the military has dominated public discourse and promoted propaganda by taking control of all government and State media communications including Facebook pages and Twitter accounts. In addition, in an attempt to further silence the dissemination of information, Myanmar’s military regime instructed police and village administrators to seize radios from shops, and planned to restrict imports.[[189]](#endnote-189)

Internet regulation is a reality in **Singapore**; however, there is a lack of transparency in the process for restricting online and digital content. Long-term blocks are imposed on various websites, and the government directs internet service providers (ISPs) to restrict access to websites and pages. POFMA contains flawed provisions on intermediary liability, which forces ISPs and digital platforms to correct, remove or restrict access to content deemed “false”. [[190]](#endnote-190) Similar obligations on intermediaries are also laid out in the Broadcasting Act.[[191]](#endnote-191) In addition, under the Foreign Interference (Countermeasures) Bill (FICA), the Minister of Home Affairs is granted the powers to issue directions to social media services, internet access services, media, as well as to people who run websites, blogs or social media pages to block content.[[192]](#endnote-192) The state’s Infocomm Media Development Authority (IMDA) has also imposed a series of restrictions to stifle and silence online criticisms of the government. [[193]](#endnote-193) For instance, in October 2021, the license of The Online Citizen (TOC) website, often critical of authorities, was cancelled after it failed to comply with its legal obligation to declare all sources of funding.[[194]](#endnote-194) As the government has repeatedly invoked POFMA, ISPs are compelled to block news sites or websites that are essential to public discourse.[[195]](#endnote-195) News outlets and social media platforms are also required to comply with correction orders and restrict access to certain pages. [[196]](#endnote-196) Since the implementation of Protection from Online Falsehoods and Manipulation Act (POFMA), the government has invoked it many times, with about 45 correction notices sent to POFMA Office by different Ministries to issue correction directions from 2019 to December 2021.[[197]](#endnote-197)

In **Thailand**, there are legal provisions that require companies to store or hand over user data, such as CCA[[198]](#endnote-198) and the 2019 National Intelligence Act.[[199]](#endnote-199) Moreover, in the attempt to impose an authoritative control over the digital space, the Ministerial Regulations of the Ministry of Digital Economy and Society regarding criteria for the retention of computer traffic data by service providers requires telecommunication and broadcast carriers to preserve internet traffic logs.**[[200]](#endnote-200)** In addition, tech companies are obliged to report cybersecurity incidents.[[201]](#endnote-201) Tech companies have also been threatened to take down or restrict access to content.[[202]](#endnote-202) Facebook and Google reported a great number of requests from the government to restrict access to different items, especially related to criticism of monarchy and the government. [[203]](#endnote-203) Legal actions were either initiated or warned by the Ministry of DES against Facebook and Twitter for refusing to comply with court-issued takedown orders.[[204]](#endnote-204) Furthermore, 4 independent media agencies were silenced in 2020[[205]](#endnote-205), and in 2021, NBTC Commissioner warned media outlets against reporting on the youth pro-democracy movement’s call for monarchy reform, citing the Constitutional Court’s former ruling.[[206]](#endnote-206)

In **Vietnam**, intermediary responsibility has been laid out in a variety of laws, forcing tech companies to facilitate online censorship for the Vietnam government and provide authorities with users’ information upon request. [[207]](#endnote-207) In addition, tech companies are compelled to aid the government in surveillance under data retention and localisation provisions, and offshore internet-based service providers are also required to locate at least one server in Vietnam.[[208]](#endnote-208) Pressured by the authority, social media platforms have increasingly removed content and slowed down traffic upon the government’s requests.[[209]](#endnote-209) Both Facebook and Google reported a high number of item removal requests from the authority.[[210]](#endnote-210)

# **Shutdown and disruptions of Internet and Media**

In four of the 8 countries analysed in this Submission, episodes of internet and media disruptions and shutdown have been recorded. In **Indonesia**, the government has implemented an internet shutdown policy, invoking the rise of hoaxes, the need to restore security and control the dissemination of purportedly fake news. Episodes of disrupted internet connectivity and even shutdown were registered prior to and amid the pandemic to crack down on free expression and control the flow of information.[[211]](#endnote-211) In **Myanmar**, the Telecommunications Law and the Draft CSL includes provisions that enable the authority to control internet connections, mobile services, and ban any online services in “public interest”.[[212]](#endnote-212) The censorship events in Myanmar reflect increasing patterns of politically motivated censorship and provide insight into how the governing powers have used censorship tactics to attain their immediate goals. Shutdown episodes in Myanmar’s history are numerous, with the most recent ones making timely reporting of human rights violations committed during the coup difficult, if not impossible, and preventing information about the COVID-19 pandemic from reaching the public in the midst of the ongoing health emergency.[[213]](#endnote-213) In the case of **Thailand**, although no internet shutdown was reported, instances of media agencies and outlets silenced during pro-democracy protests have been registered, hampering access to information online already extensively restricted by the government through the crackdown on journalists and online media, access restriction, and content blocking and removal.[[214]](#endnote-214) **Vietnam** witnessed several episodes of disrupted internet connectivity, in 2017 and 2020. Moreover, Facebook’s local servers were taken offline with traffic being slowed down significantly, and restored after Facebook agreed to remove much more “anti-state” material.[[215]](#endnote-215)

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