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Myanmar

	2016	2017		
Internet Freedom Status	Not Free	Not Free	Population:	52.9 million
Obstacles to Access (0-25)	17	17	Internet Penetration 2016 (ITU):	25.1 percent
Limits on Content (0-35)	17	17	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	27	29	Political/Social Content Blocked:	No
TOTAL* (0-100)	61	63	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2017 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- Mobile phone penetration jumped to 90 percent, although women remain significantly less likely to own their own devices as men (see **Availability and Ease of Access**).
- At least 61 people were prosecuted for online speech under the new NLD administration, a dramatic increase from last year; several were held for weeks without bail, and some were sentenced to prison (see **Prosecutions and Detentions for Online Activities**).
- Violent attacks were reported against at least two journalists active online, including one murder (see **Intimidation and Violence**).

Introduction

Internet freedom declined after the transfer of power from the military-backed government to the National League for Democracy (NLD) party chaired by Nobel Peace Prize laureate Aung San Suu Kyi in April 2016. Dozens of internet users were prosecuted under the Telecommunication Law, and a journalist was killed, possibly in relation to social media posts exposing illegal logging.

Internet and mobile penetration have increased dramatically since the former military leadership allowed Norway's Telenor Group and Qatar's Ooredoo to enter the telecommunications market alongside state-owned Myanmar Post Telecommunication (MPT) in 2013. A fourth operator entered the market in 2017 but had yet to offer service as of mid-year. The previous government selected the military-linked consortium behind the new entrant to apply for a license before the leadership change. While service remains prohibitively slow for most, the internet is gradually becoming a useful tool in daily life, enabling app-based transportation services in major cities and digital advocacy efforts.

Aung San Suu Kyi set her government's top priority to negotiate internal peace with armed ethnic groups radicalized by decades of discriminatory policies, like the Muslim Rohingya, who are denied citizenship under Myanmar's laws.¹ However, conflicts have intensified in the northeastern states of Kachin and Shan. In western Rakhine state, the security forces' response to an October 2016 attack by alleged Rohingya militants launched a campaign of persecution that Human Rights Watch characterized as ethnic cleansing in September 2017.² In this environment, securitization has overwhelmed concern for human rights, including free speech online.

The new government has drawn particular criticism for failing to check prosecutions involving online speech under the Telecommunication Law. Sixty-eight cases have been documented since the law passed in 2013. Among them, 61 were filed after the civilian-dominated government came to power, including 14 involving journalists. Politicians, military figures, and ordinary internet users sued based on criticism, satire, and commentary published online. The accused were held for long periods without bail, and many were tried and sentenced.

Obstacles to Access

Internet access is improving in Myanmar, as increasing numbers of users go online via cell phones, which are becoming more affordable. Yet internet penetration still ranks among the world's lowest. The quality of service remains poor because of inadequate infrastructure, and poverty continues to limit citizens' internet usage. Military conglomerates are still positioned to benefit from the system and manipulate the telecommunications market.

Availability and Ease of Access

The number of internet users has notably increased over the past three years, though reported

1 "Who will help Myanmar's Rohingya?" BBC, January 10, 2017, <http://www.bbc.com/news/world-asia-38168917>; Human Rights Watch, "Myanmar: Rohingya Muslims Face Humanitarian Crisis," March 26, 2013, <http://bit.ly/1HSsJdA>

2 <https://www.hrw.org/world-report/2017/country-chapters/burma#f3ec3e>; <https://www.hrw.org/news/2017/09/08/burma-rohingya-describe-military-atrocities>

penetration figures differ significantly.³ The variation may depend on how different sources calculate mobile internet usage. The ITU cited 25 percent internet penetration and 90 percent mobile penetration, citing official figures (see Availability and Ease of Access: Key Indicators), but the majority of mobile handsets are capable of connecting to the internet, according to other reports.⁴ Mobile penetration figures may also be inflated because many users own more than one SIM card.

Key Access Indicators		
Internet penetration (ITU) ^a	2016	25.1%
	2015	21.8%
	2011	1.0%
Mobile penetration (ITU) ^b	2016	89%
	2015	77%
	2011	2%
Average connection speeds (Akamai) ^c	2017(Q1)	4.4 Mbps
	2016(Q1)	3.6 Mbps

^a International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2016," <http://bit.ly/1cblxxY>.

^b International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2016," <http://bit.ly/1cblxxY>.

^c Akamai, "State of the Internet - Connectivity Report, Q1 2017," <https://goo.gl/TQH7L7>.

The speed and quality of service, however, is generally very poor. Users in most provincial towns have much poorer quality connections than those in major cities, let alone in rural villages. Chronic power outages, service interruptions, and infrastructure issues continue to impede efficient internet usage (see Restrictions on Connectivity). In May, the Ministry of Transport and Communications granted Telenor, Ooredoo and MPT additional spectrum in the 1.8Ghz band,⁵ extra capacity that should allow them to provide customers with a "real" 4G experience.⁶

Private fixed-line internet connections are prohibitively expensive, though there is significant regional variation. While prices are trending downwards, the cost of service during the coverage period remained comparable to the previous year. The one-time installation cost for a home broadband connection from MPT, the dominant state-owned provider, was US\$50, plus an annual fee of US\$50, with monthly rates from US\$17 to US\$80 for speeds from 512 Kbps to 2.5 Mbps. For faster fiber connections, setup costs range from US\$200 to US\$1,000; in addition to an annual US\$60 fee, monthly service, starting at US\$100, can run to thousands of dollars per month for speeds up to 100 Mbps.⁷ These costs keep personal internet access far out of reach for the majority.

3 Ministry of Transport and Communications figures from 2017, cited in local media, reported 88 percent internet penetration. The UK-based company We Are Social reported 26 percent penetration at around the same time. See, <http://www.internetjournal.media/မန္တလေးတိုင်းဒေသကြီး-အတွင်း> and <https://coconuts.co/yanon/news/ministry-of-communications-report-10-million-increase-in-internet-users-within-last-year/>; Internet in Myanmar, "Internet users in Myanmar increased by 97% in 1 year, 70% are mobile users," April 11, 2017, <https://www.internetinmyanmar.com/internet-users-myanmar-2017/>.

4 Internet in Myanmar, "Internet users in Myanmar increased by 97% in 1 year, 70% are mobile users," April 11, 2017, <https://www.internetinmyanmar.com/internet-users-myanmar-2017/>; Philip Heijmans, "The Unprecedented Explosion of Smartphones in Myanmar," Bloomberg, July 10, 2017, <https://www.bloomberg.com/news/features/2017-07-10/the-unprecedented-explosion-of-smartphones-in-myanmar>

5 James Barton, "Myanmar allocates 1.8GHz spectrum with \$80m price point," May 23, 2017, <https://www.developingtelecoms.com/business/regulation/7093-myanmar-allocates-1-8ghz-spectrum-with-80m-price-point.html>

6 <http://www.internetjournal.media/အေပရေတိုင်းဒေသကြီး-အတွင်း-1/>

7 Based on an exchange rate of MMK 1,000 to \$1, fiber service for 100mbps was listed at MMK 7,000,000 in 2015. See, <http://www.mpt.com.mm/en/product-services/fixed-line-internet/>

The price of mobile broadband access, by contrast, has plunged. MPT has offered mobile phones since the 1990s, but charged from US\$2,000 to \$5,000. The price dropped to \$200 in 2012 after the political and economic liberalization in 2011. In 2013, the military-owned MEC and MPT distributed a finite number of SIM cards per month for about US\$1.5 each under a state-run lottery. Telenor and Ooredoo introduced competition to the market in 2014 (see ICT Market). Lacking the infrastructure of MPT, their underperforming services are often the impetus for users to subscribe to multiple providers and switch SIM cards to overcome connection issues. But competition has certainly resulted in lower prices, with some companies warning the reduced revenue may threaten investments still needed to ensure quality of service for consumers.⁸ With the fourth operator entering the market, competition is set to increase (see ICT Market).

For data use in 2017, MPT charged MMK 6 (less than one US cent) per 1 MB under the *Swe Thaha* promotion, and MMK 8 per 1 MB under the new *Shal Pyaw* plan introduced in March 2017.⁹ These rates are subject to an additional 5 percent commercial tax introduced in April 2016. A regular mobile internet user might expect to spend MMK 10,000 to 20,000 (US\$10 to US\$20) per month in 2017, while business customers could spend MMK 30,000 to 50,000 (US\$30 to US\$50). This represents little change from last year and still limits access for a large percentage of the population.

There are indications of a digital divide along gender lines. According to the findings of a public-private joint workshop held in November 2016, “There is a 30 percent gender gap in mobile phone ownership, skewed to men.”¹⁰ Women usually use phones owned by others, making them unable to reap the full potential of internet access and acquire the same digital skills as men.

Restrictions on Connectivity

The Ministry of Communications and Information Technology (MCIT) controls much of the telecommunications infrastructure via the state-owned Myanmar Post Telecommunication (MPT), though private providers are gradually diversifying ownership of the internet backbone. There were no reports of the state deliberately shutting down telecommunications services.

New operators and investors described infrastructure development as their greatest challenge in 2015.¹¹ International institutions provided operators with loans and support to develop cable, bandwidth, and transmission towers,¹² and Telenor and Ooredoo started to develop their own fiber networks. However, heavy flooding, bureaucratic processes, and corruption often impede construction.

Telenor and Ooredoo each reported having constructed three international connections to Thailand

8 Telegeography, “Price war, what is it good for? Absolutely nothing, say Myanmar cellcos,” September 28, 2015, <https://www.telegeography.com/products/commsupdate/articles/2015/09/28/price-war-what-is-it-good-for-absolutely-nothing-say-myanmar-cellcos/>

9 Rates based on author’s market survey, mid-2017. MPT charged MMK 25 per minute for voice calls, less under promotions. Ooredoo charged MMK 23 per minute for voice calls and MMK 6 per 1 MB for internet. Telenor charged MMK 27 per minute for voice calls and MMK 8 for 1 MB of internet use.

10 A4AI-Myanmar Coalition Meeting; Workshop on Gender-Responsive ICT Policy and Regulation; and Consultation on Myanmar Universal Service Strategy, Yangon, November 17-18, 2016, <http://1e8q3q16vyc81g8l3h3md6q5f5e.wpengine.netdna-cdn.com/wp-content/uploads/2016/12/A4AI-Myanmar-Coalition---November-2016-Report.pdf>

11 *Internet Journal*, September 16, 2015, <http://internetjournal.media/news/4123>

12 *7 Day Daily*, February 9, 2016, <http://7daydaily.com/story/57611> and Telegeography, “IGT secures USD122m loan for Myanmar tower rollout,” January 11, 2016, <https://www.telegeography.com/products/commsupdate/articles/2016/01/11/igt-secures-usd122m-loan-for-myanmar-tower-rollout/>.

and China by 2016; Telenor was working on a fourth, to India.¹³ A spokesperson for the company rated its dependence on MPT at 10 percent in a 2016 interview with *Frontier Myanmar*; Ooredoo declined to make a similar estimate.¹⁴

Other developments are making the international connection more resilient. In January 2017, the installation of an onshore link to the undersea cable SEA-ME-WE 5 was completed as part of the Ministry of Transport and Communications' 100-Day Plan.¹⁵ This provided an alternative to the SEA-ME-WE 3 cable, as well as satellite and cross-border cable links with China and Thailand, which had been exclusively controlled by MPT before 2014.¹⁶ Myanmar's first private undersea internet cable, the Myanmar-Malaysia-Thailand-International Connection (MYTHIC),¹⁷ is being developed by the Singapore-based cable company Campana Group and is scheduled to be activated in 2018.¹⁸ Another new submarine cable will connect Bangladesh with Myanmar. A May 2017 news reports said it would take six months to lay the cable under the sea from Cox's Bazar to the coastal city of Sittwe.¹⁹

The developments have yet to transform internet use for many people, and low bandwidth continues to cause congestion. Power outages also frequently disrupt access.²⁰

ICT Market

State-owned conglomerates continued to skew the market in 2017, through MPT and a fourth major telecommunications operator run by a military-linked joint venture, which was granted a license during the reporting period.

The government announced plans to privatize MPT in 2012, but they have yet to materialize. News reports said a fifth official meeting to discuss privatization was held in April 2017.²¹

In 2013, the government awarded international licenses to Norway's Telenor and Qatar's Ooredoo, allowing them to offer services and infrastructure alongside MPT.²² Military-linked Yatanarpon Teleport (YTP) was also allowed to run as a local operator, one of more than a dozen ISPs that offer service without peering with international carriers.²³

13 "Myanmar's connectivity catch-up," *Frontier Myanmar*, February 1, 2016, <http://frontiermyanmar.net/en/news/myanmars-connectivity-catch-up>

14 "Myanmar's connectivity catch-up," *Frontier Myanmar*, February 1, 2016, <http://frontiermyanmar.net/en/news/myanmars-connectivity-catch-up>.

15 <http://www.datacenterdynamics.com/content-tracks/core-edge/sea-me-we-5-subsea-cable-completed-on-schedule/97537.fullarticle>, and *Internet Journal*, May 31, 2016, <http://internetjournal.media/news/6511>

16 Naomi Gingold, "Making connections: Telenor goes online," *Myanmar Times*, April 2, 2014, <https://www.mmmtimes.com/business/technology/10060-telenor-becomes-the-first-private-company-to-connect-out-of-myanmar.html>

17 "Myanmar's connectivity catch-up," *Frontier Myanmar*, February 1, 2016, <http://frontiermyanmar.net/en/news/myanmars-connectivity-catch-up>.

18 Abu Saeed Khan, "Campana takes giant leap to plug Myanmar fail-safe," *Linne Asia*, January 29, 2017, <http://linneasiasia.net/2017/01/campana-takes-giant-leap-to-plug-myanmar-fail-safe/>

19 <http://www.thedailystar.net/business/submarine-cable-link-between-bangladesh-myanmar-cards-1400164>

20 Kyaw Hsu Mon, "Power Chief Pledges End to Rangoon Outages," *The Irrawaddy*, April 8, 2015, <http://www.irrawaddy.org/burma/power-chief-pledges-end-to-rangoon-outages.html>

21 <http://www.internetjournal.media/မြန်မာ့အကူအညီ/ပြောရေးလုပ်င/>

22 Shibani Mahtani and Chun Han Wong, "Norway's Telenor, Qatar Telecom Get Myanmar Telecom Licenses," *Wall Street Journal*, June 27, 2013.

23 Internet in Myanmar, "Internet Service Providers overview in Myanmar," September 20, 2016, <https://www.internetinmyanmar.com/isp-overview-myanmar/>

A fourth operator, Myanmar National Tele & Communications operating under the brand name Mytel, was granted a license in January 2017.²⁴ Mytel will reportedly make use of existing infrastructure currently owned or used by sister company MECTel.

Mytel is owned by the Vietnamese-military controlled company Viettel,^{25,26} a consortium of 11 local firms,²⁷ and Star High Public Company under the supervision of the Ministry of Defense.²⁸ Star High Public Company is operated by the military-run conglomerate Myanmar Economic Corporation (MEC), which was subjected to financial sanctions by the United States Treasury for its role in supporting repression by the military junta between 2008 and 2016.²⁹ MEC also owns MECTel.³⁰

The operator was selected to apply for a license before the new civilian-led government took over in April 2016. Officials said the company was chosen because it could offer capital, access to 1,000 towers and more than 13,000 kilometers of fiber, among other telecoms assets. However, the US\$300 million license fee was significantly lower than payments made by the other two foreign firms, creating the appearance of an uneven playing field. Telenor paid US\$500 million and local news reports said Qatar's Ooredoo spent more than US\$1 billion for their respective licenses.³¹

RedLink, a WIMAX internet provider with connections to a military official in the previous government, officially ceased activity after 9 years in March 2017, though some observers said it was rebranding. It had been operating on frequency it did not officially own.³² With a market crowded with licensees, experts predict that other companies that may soon be put out of business.³³

Regulatory Bodies

The Posts and Telecommunications Department regulates Myanmar's telecommunications industry under the MCIT. Under the junta, the MCIT and intelligence agencies implemented arbitrary and ad hoc censorship decisions. Upon taking power in 2016, the new NLD administration merged the MCIT

24 Aung Kyaw Nyunt, "Myanmar's fourth telco gets licence at last," *Myanmar Times*, January 13, 2017, <https://www.mmmtimes.com/business/technology/24533-myanmar-s-fourth-telco-gets-licence-at-last.html>.

25 Telegeography, "Myanmar selects Viettel to partner for fourth licence," March 29, 2016, <https://www.telegeography.com/products/commsupdate/articles/2016/03/29/myanmar-selects-viettel-to-partner-for-fourth-licence/> ;

26 Reuters, "Viettel plans \$1.5 billion Myanmar telecoms investment with local firms," April 18, 2016, <http://www.reuters.com/article/viettel-myanmar-telecoms-idUSL3N17L3DR> .

27 Republic of the Union of Myanmar, "Results of the Request for Proposal for Partnership with local Consortium willing to apply for Fourth Telecom Operator Licence in the Republic of the Union of Myanmar," press release, March 25, 2016, <http://bit.ly/2fBTGju>

28 Aung Kyaw Nyunt and Steve Gilmore, "Fourth telco licence just weeks away," *Myanmar Times*, October 4, 2016, <http://www.mmmtimes.com/index.php/business/technology/22882-fourth-telco-licence-just-weeks-away.html> .

29 U.S. Department of the Treasury, "Treasury Designates Burmese State-Owned Enterprises," press release, July 29, 2008, <https://www.treasury.gov/press-center/press-releases/Pages/hp1105.aspx>; Shibani Mahtani and Richard C. Paddock "'Cronies' of Former Myanmar Regime Thrive Despite U.S. Blacklist," *Wall Street Journal*, August 12, 2015, <http://www.wsj.com/articles/cronies-of-former-myanmar-regime-thrive-despite-u-s-blacklist-1439433052> ; Michael Peel, "Myanmar: the military-commercial complex," February 1, 2017, <https://www.ft.com/content/c6fe7dce-d26a-11e6-b06b-680c49b4b4c0>

30 Aung Kyaw Nyunt, "Myanmar's fourth telco gets licence at last," *Myanmar Times*, January 13, 2017, <https://www.mmmtimes.com/business/technology/24533-myanmar-s-fourth-telco-gets-licence-at-last.html>.

31 Clare Hammond and Catherine Trautwein, "Viettel picked for fourth telecoms tie-up with military partner," *Myanmar Times*, March 25, 2016, <http://www.mmmtimes.com/index.php/business/technology/19662-viettel-nears-contract-for-fourth-telecoms-operator.html>; Catherine Trautwein, "Telcos lobby govt over fourth operator," *Myanmar Times*, February 19, 2016, <http://www.mmmtimes.com/index.php/business/technology/19088-telcos-lobby-govt-over-fourth-operator.html>.

32 Internet in Myanmar, "RedLink is dead, Hail to RedLink !," April 2, 2017, <https://www.internetinmyanmar.com/redlink-dead-hail-redlink/>.

33 Author's interview with a two business people in Yangon, May 18, 2017

with the Ministry of Rail Transport and Ministry of Transport to create a new Ministry of Transport and Communications.³⁴

Other state institutions tasked with information and communications technology (ICT) development and management have been largely inactive.³⁵ The Myanmar Computer Federation, formed under the 1996 Computer Science Development Law and comprised of industry professionals, is the designated focal point for coordination with the ITU.

Clause 86 of the 2013 Telecommunication Law established an independent commission to take over regulatory functions and an appeal tribunal mechanism to adjudicate over administrative issues in the telecommunications industry. These are still being implemented, though the MCIT has since released regulations on license provision, networking and linking, and frequency spectrum, among other issues, including a draft by-law to regulate international gateway services in January 2017, developed in consultation with the World Bank.

Limits on Content

During the coverage period, both military and self-styled pro-democracy activists actively pressured online media practitioners and outlets they perceived as critical, keeping levels of self-censorship high. Tactics included reporting rival Facebook users for violating the site's community standards—resulting in their accounts being temporarily disabled—and manipulative political commentary. While digital content was not subject to censorship, sensitive political and social topics were nevertheless underrepresented online.

Blocking and Filtering

The government lifted systematic state censorship of traditional and electronic media in 2012. Since then, political content appeared to be almost universally available, and even social content, such as pornography, was not blocked as of mid-2017.³⁶

Content Removal

While new readers are more likely to encounter a range of content than they were in the past, authorities have made a concerted effort to exclude certain topics from mainstream discourse in ways that lack transparency and due process. Notably, since censorship was officially lifted the military has pressured individuals and media outlets to remove posts or images perceived to hurt the public image of the armed forces. Content subject to prosecution is also generally removed (see Prosecutions and Detentions for Online Activities).

34 Aye Thidar Kyaw and Catherine Trautwein, Chan Mya Htwe, "NLD proposes merging economic ministries into powerhouses," March 18, 2016, <http://www.mmtimes.com/index.php/business/19540-nld-proposes-merging-economic-ministries-into-powerhouses.html>

35 These include the Myanmar Computer Science Development Council, the e-National Task Force, the Myanmar Computer Federation, the Myanmar Computer Professionals' Association, the Myanmar Computer Industry Association, and the Myanmar Computer Enthusiasts' Association.

36 Kay Yen Wong et al, "The State of Internet Censorship in Myanmar," OONI, <https://ooni.torproject.org/post/myanmar-report/>

Content removal decisions by international companies attracted controversy during the reporting period. In May 2017, Facebook apparently restricted posts containing the word *kala* and sanctioned users who posted it for violating the platform's terms of service.³⁷ The word, originally used to describe foreigners, has increasingly been used as a derogatory term for Muslims, who face widespread discrimination in Myanmar. Observers noted that the blocking was inconsistent across all posts mentioning *kala*, which also forms parts of many benign Burmese words and phrases. The restrictions were lifted after netizens protested.³⁸

Facebook users periodically misuse the mechanism for reporting offensive content in order to disable rival pages. Activists with different political agendas allege their opponents have violated Facebook's community standards in order to have their content removed. Owners must appeal to Facebook to have it reinstated.

Several campaigners who protest against hate speech, however, welcomed reports from the ultranationalist Buddhist monk U Wirathu that Facebook had temporarily shut down two of his accounts on May 31.³⁹ The monk is known for his extreme anti-Muslim rhetoric; a local Buddhist authority had banned him from giving sermons in March.⁴⁰

Media, Diversity, and Content Manipulation

Self-censorship with regard to military and related issues is common online, especially after military officials issued warnings in response to news articles and cartoons they said harmed the dignity and spirit of the military during the Kokang conflict in 2015. At the same time, journalists are becoming more cautious when reporting on the NLD government. Although the media was relieved from "government censorship" in 2012, they increasingly fear "public censorship" in the form of social media abuse, according to one of the country's largest weeklies.⁴¹

Social media and communication apps including Viber, Line, Friend Finder, and Google+ are freely available. Facebook is the most popular, since many users developed the habit of using the platform to share information, initiate collective action on social and political issues, or follow exile media outlets when website blocking was still pervasive. According to one estimate, there were about 15 million Facebook users in June 2017, up from 7 million in 2015.⁴² For some users frustrated at the challenge of navigating between sites on poor connections, Facebook has become the sole source of online news, potentially depriving local outlets of the advertising revenue.

Online content is subject to some manipulation, though the extent and impact are unclear. Regional government officials, elements of the military, and some business people are believed to hire cybertroopers to promote their cause and spin the news on social media—especially Facebook—to their advantage, though their activities have not been well-documented. Some ethnic Burman

37 Aung Kaung Myat, "Facebook is banning the derogatory word, kalar, but not in the way you expect," Medium, May 27, 2017, <https://medium.com/@aungkaungmyat/facebook-is-banning-the-derogatory-word-kalar-but-not-in-the-way-you-expect-1ec1ea7dcb44>. "Facebook Ban of Racial Slur Sparks Debate in Burma," *Irrawaddy*, May 31, 2017, <https://www.irrawaddy.com/news/burma/facebook-ban-of-racial-slur-sparks-debate-in-burma.html>

38 Author interviews with two journalists who do ICT reporting, June 21, 2017.

39 <https://www.irrawaddy.com/news/burma/u-wirathu-claims-facebook-blocked-accounts.html>

40 "Wirathu silenced by Myanmar's top Buddhist body," Al Jazeera, March 12, 2017, <http://www.aljazeera.com/news/2017/03/wirathu-silenced-myanmar-top-buddhist-body-170311141258664.html>.

41 *7 Day Daily*, March 30, 2016, <http://www.7daydaily.com/story/61577>.

42 <http://limeasia.net/2017/06/proportion-facebook-users-myanmar/> and <http://www.veropr.com/will-facebook-block-post/>

internet users also run organized campaigns to spread racially charged comments across social media platforms. The issue is longstanding but continued throughout the coverage period.⁴³ U Wirathu, a key figure in the movement, reported that he was temporarily barred from Facebook in May 2017 (see Content Removal). Some of the manipulation took the form of fake news, deliberately false or inflammatory content disguised to look like a news report.⁴⁴

Much of the manipulative activity targets the political incumbents. In May, the government warned that unidentified people were spreading rumors to cause “political instability” during the tenure of leader Aung San Suu Kyi. Rumors included a suggestion that President Htin Kyaw—who Suu Kyi picked for head of state—would step down.⁴⁵

Digital Activism

Activism fell off slightly in comparison with the previous reporting period, when the 2015 elections and humanitarian relief campaigns fueled significant online mobilization. Several dynamic campaigns were mounted to defend the environment or promote free speech, though they rarely achieved the desired outcome.

One of the most visible campaigns was a call led by journalists and activists for the government to unconditionally drop Clause 66(d) of the Telecommunication Law, which criminalizes online defamation, disturbances, and threats.⁴⁶ When the government proposed amendments, however, they fell short of the needed reform (see Legal Environment).⁴⁷

Violations of User Rights

The 2013 Telecommunications Law transformed the industry, but introduced a defamation provision which was used to jail dozens of internet users for political speech during the coverage period of this report. Assailants separately attacked two journalists active online, one fatally. Hackers continued to target the media.

Legal Environment

The current constitution, drafted by the military-led government and approved in a flawed 2008 referendum, does not guarantee internet freedom. It states that every citizen may exercise the right to “express and publish their convictions and opinions,” if “not contrary to the laws enacted for Union [of Myanmar] security, prevalence of law and order, community peace and tranquility or public order and morality.”⁴⁸

Some laws explicitly penalize online activity and have been used to imprison internet users.

43 Sait Latt, “Intolerance, Islam and the Internet in Myanmar today,” New Mandala, June 10, 2012, <http://bit.ly/1g6ktQr>

44 Megha Rajagopalan, “Internet Trolls Are Using Facebook To Target Myanmar’s Muslims,” BuzzFeed, March 18, 2017, https://www.buzzfeed.com/meghara/how-fake-news-and-online-hate-are-making-life-hell-for?utm_term=.csyN8MQqGK#.cy243jVdRL

45 Reuters, “Myanmar says fake news being spread to destabilize Suu Kyi government,” May 5, 2017, <http://www.reuters.com/article/us-myanmar-suukyi-idUSKBN1810E3>

46 <https://advoc.globalvoices.org/2017/06/07/myanmar-journalists-unite-against-online-defamation-law/>

47 <https://cpj.org/2017/07/online-defamation-law-amendments-fall-short-in-mya.php>

48 Republic of the Union of Myanmar Constitution, Ch. VII, Defense Services, art. 354 sec. b. <http://www.Myanmarlibrary.org/show.php?cat=1140>

Parliament enacted a long-pending Telecommunication Law, drafted with the help of international experts including the World Bank, in October 2013.⁴⁹ Domestic and international investors applauded the consultative drafting process, along with the guidelines for the industry which provided the foundation for improving access (see Regulatory Bodies).⁵⁰ However, the law includes broadly worded clauses that subject internet activity to criminal punishment. Clause 66(d) prohibits “extortion...coercion, unlawful restriction, defamation, interfering, undue influence, or intimidation using a telecommunication network,” with penalties of up to three years of imprisonment. Clause 68 punishes “communication, reception, sending, distribution or sharing of incorrect information with dishonest intention” with imprisonment for up to one year, an unspecified fine, or both. At least 68 prosecutions have been documented since the law was passed (see Prosecutions and Detentions for Online Activity).

The NLD government has refused to repeal or initiate a significant amendment of the Telecommunication Law. The Ministry of Transport and Communications submitted a draft amendment to the Upper House of Parliament in July 2017. If approved, the changes would allow suspects to post bail—many are currently held for long periods in pretrial detention—and put limits on the circumstances in which people are allowed to submit complaints on behalf of others, among other minor reforms. But the bill would retain the same penalties for convictions.⁵¹

The previous government amended but failed to repeal the notorious 2004 Electronic Transaction Law (ETL) in 2013. It was routinely used to criminalize internet activism under the junta. The amendments reduced but did not eliminate possible jail sentences for ill-defined online actions, punishing “any act detrimental to” state security, law and order, community peace and tranquility, national solidarity, the national economy, or national culture—including “receiving or sending” related information—by three to seven years imprisonment, down from seven to fifteen years.

In 2014, Thaung Tin, an MCIT deputy, acknowledged the need to fix repressive laws like the ETL and the Computer Science and Development Law, which criminalizes unauthorized use of a computer with a “fax-modem card.”⁵² The MCIT announced plans to revise the ETL, but no developments had been reported as of mid-2017.⁵³

Prosecutions and Detentions for Online Activities

At the end of this report’s coverage period, at least 68 cases had been brought to the courts under the Telecommunication Law since it passed in October 2013 (see Legal Environment). Among them, 61 fell under the NLD government. The seven brought under the previous government mostly involved criticism of the government and the military on Facebook. All went to trial, and five resulted in prison terms of up to six months.⁵⁴

49 The Pyidaungsu Hluttaw passage of The Telecommunication Law, No. 31, October 8, 2013, <http://bit.ly/1g8hlU5>.

50 Shibani Mahtani, “Myanmar’s Telecom Revolution Bogs Down,” The Wall Street Journal, October 25, 2013. <http://on.wsj.com/1w4ITPD>.

51 Committee to Protect Journalists, “Online defamation law amendments fall short in Myanmar,” July 17, 2017, <https://cpj.org/2017/07/online-defamation-law-amendments-fall-short-in-mya.php>.

52 The State Law and order Restoration Council passage of The Computer Science Development Law, No. 10/96, September 20, 1996, <http://bit.ly/1CXw1zk>.

53 “A newly designed Electronic Contact Cooperation Law may be released soon,” 7Day Daily, December 14, 2014. <http://7daydaily.com/story/26977>.

54 Institute for Strategy and Policy— Myanmar data as of June 6, 2017. <https://www.facebook.com/ISPMyanmarpage/photos/a.1587257184911841.1073741828.1584183878552505/1694827787488113/?type=3&theater>

Under the NLD administration, use of the law has been less strategic, but the number of cases has mushroomed as government officials, NLD parliamentarians, and NLD party members all brought charges against anyone they perceived to be opposing them online. Troublingly, at least 14 journalists have been now been charged under Clause 66 D.

Citizens have also used the law against each other. For instance, at least eight cases were brought by NLD supporters against Facebook users for posts that allegedly attacked or defamed Aung San Suu Kyi.

Charges under the Telecommunication Law are not automatically eligible for bail, and in some cases, courts repeatedly refused requests for bail, meaning people were held for long periods before trial.

High profile cases include the following:

- In October 2016, Myo Yan Naung Thein, secretary of the NLD's Central Committee for Research and Strategy Studies, was arrested after calling for the resignation of military chief Senior-General Min Aung Hlaing in a Facebook post. He was sentenced to six months' imprisonment.⁵⁵
- In November 2016, authorities detained Dr. Than Htut Aung, chief executive of Eleven Media Group, and Wai Phyo, chief editor of the group's *Daily Eleven* newspaper, over Facebook posts involving an opinion piece that alleged high-level government corruption. They were held in pretrial detention for 54 days before being released on bail.⁵⁶ Their trial was ongoing in mid-2017, though Eleven Media issued a public apology for the editorial.
- In June 2017, Kyaw Min Swe, chief editor of *The Voice Daily*, was detained in relation to the online publication of an opinion column that satirized a military propaganda film. The columnist was also charged, but Kyaw Min Swe, as editor, took responsibility for sharing the content on the internet. Following more than two months' detention, Kyaw Min Swe was released on MMK 10 million (US\$7,350) bail in August.⁵⁷

Surveillance, Privacy, and Anonymity

The government adopted a Law Protecting the Privacy and Security of Citizens (Citizens Privacy and Security Law) in March 2017. It prohibits intrusion on communication data, except based on permission, orders, or warrants provided under other laws. But the law did not outline clear procedures to prevent data being stored, and observers said its definition of privacy was inadequate.⁵⁸

State surveillance, historically pervasive and politicized, abated after the political opening but has intensified somewhat since 2013 due to religious unrest and other issues. The *Tatmadaw* or armed forces appear to have stepped up using interception for domestic surveillance and security reasons

55 <https://frontiermyanmar.net/en/nld-official-gets-six-month-sentence-in-latest-telco-law-case>

56 Radio Free Asia, "Detained Eleven Media CEO, Top Editor Released on Bail in Myanmar," January 6, 2017, <http://www.rfa.org/english/news/myanmar/detained-eleven-media-ceo-top-editor-released-on-bail-in-myanmar-01062017153600.html>

57 <http://www.dvb.no/news/voice-chief-editor-released-bail/76730>

58 <http://www.myanmar-responsiblebusiness.org/news/lack-of-consultation-citizens-privacy-and-security-law.html>; <https://www.irrawaddy.com/news/burma/critics-skeptical-of-new-privacy-legislation.html>

in this coverage period.⁵⁹ Since their activities lack transparency, however, the extent is impossible to confirm.

The Telecommunication Law contains scope for abuse. Clause 75 grants unspecified government agents the authority “to direct the organization concerned as necessary to intercept, irrespective of the means of communication, any information that affects the national security or rule of law.” The clause added that the government would do so without affecting the fundamental rights of the citizens, but included no privacy protections. Clause 76 allows the government to inspect or seize this information on the premises of private telecommunications enterprises.⁶⁰

A framework establishing procedures for compliance with interception requests under the Telecommunication Law was still pending during the coverage period of this report.⁶¹ In early 2016, Telenor and Ooredoo told journalists that authorities have asked them to provide private customer information 85 times in total under an interim agreement with the regulator. Telenor reported complying with 11 out of 58 requests, and Ooredoo with 9 out of 27. Both companies said that requests were limited to historical data or call records.⁶² MPT refused to supply the media with any information about such requests.⁶³ Internationally, Facebook reported that it received one legal request for user data during the reporting period, between July and December 2016, but did not comply.⁶⁴

There are few restrictions on anonymous internet use, though the NLD government enforced registration of SIM cards of mobile phone users by March 31, 2017.⁶⁵ Registration requirements had not been strictly implemented in the past. The Ministry of Transport and Communications blocked 6 million unregistered SIM cards after the deadline.⁶⁶ The ministry said mobile phone operators will be advised when they receive their license that they must register the buyer of each SIM card they sell. Mobile subscribers will have to give their name, a copy of their ID, date of birth, address, gender, and nationality in order to register.⁶⁷

Intimidation and Violence

At least two incidents of violence against journalists were reported during this coverage period. Both worked for traditional media outlets, but may have been targeted in part because of information circulated on the internet.

Soe Moe Tun, a reporter for Eleven Media, was found dead with head injuries in Monywa in the northwestern Sagaing region, on December 13, 2016. He was reporting on illegal wood smuggling,

59 Author interviews with sources in Myanmar who requested anonymity.

60 The Pyidaungsu Hluttaw passage of The Telecommunication Law, No. 31, October 8, 2013, <http://bit.ly/1g8hlU5>

61 Steve Gilbert, “Telenor CEO talks data consumption, competition and reinvestment,” November 21, 2016, *Myanmar Times*, <https://www.mmtimes.com/business/technology/23804-telenor-ceo-talks-data-consumption-competition-and-reinvestment.html>

62 Catherine Trautwein, “Mobile operators comply with one in four data requests,” *Myanmar Times*, March 30, 2016, <http://www.mmtimes.com/index.php/business/technology/19721-mobile-operators-comply-with-one-in-four-data-requests.html>

63 Catherine Trautwein, “MPT keeps lid on police requests for customer data,” *Myanmar Times*, April 7, 2016, <https://www.mmtimes.com/business/technology/19867-mpt-keeps-lid-on-police-requests-for-customer-data.html>

64 Facebook, Government Requests Report, “Myanmar: Requests for Data,” July 2016—December 2016, <https://govtrequests.facebook.com/country/Myanmar/2016-H2/>

65 Aung Kyaw Nyunt, “SIM card registration to be enforced in 2017,” *Myanmar Times*, August 3, 2016, <https://www.mmtimes.com/business/technology/21728-sim-card-registration-to-be-enforced-in-2017.html>

66 Nay Myo Tun, “6m unregistered SIM cards axed,” *Eleven Media*, August 19, 2017, <http://www.elevenmyanmar.com/local/11171>

67 <http://www.mmtimes.com/index.php/business/technology/21728-sim-card-registration-to-be-enforced-in-2017.html>

among other issues.⁶⁸ Less than a week before he was killed, he republished his own Facebook post from 2014 that included photos of a notebook with the names and contact information of alleged smugglers.⁶⁹ His colleagues suspect that the murder is related to his online activities and reporting, though the murder was unsolved in mid-2017.⁷⁰

On May 26, 2017, *Kantarawaddy Times* reporter Maw Oo Myar was abducted near the town of Loikaw, in southeastern Kayah State. Her abductors crashed their car and she was unconscious in hospital for three days.⁷¹ It was unclear what triggered the attack. Maw Oo Myar reported on politics, women's rights, business, and public health.⁷² The *Kantarawaddy Times* is active and influential online, especially on Facebook, and Maw Oo Myar also produced a regular segment for the multimedia broadcaster Democratic Voice of Burma. Other journalists working for the outlet received threats in 2016 and 2017.

Technical Attacks

Media and civil society websites are periodically subject to cyberattacks, including at least one incident under the new government. In June 2016, a website operated by the Eleven Media Group was hacked by the so-called "Union of Hacktivists" hacker group. Eleven Media said the attack was in retaliation for its criticism of the new administration's reforms. The website was defaced in the attack, which lasted about an hour.⁷³ Researchers have concluded that a string of media website defacements carried out by the same group since 2012 have been initiated on military premises.⁷⁴

Government sites were also attacked. On January 10, 2017, the Ministry of Information announced that its website had suffered a two-day DDoS (distributed denial of service) attack, a malicious attempt to disrupt a network by flooding its bandwidth.⁷⁵

68 <http://www.mmtimes.com/national-news/24189-police-suspect-murder-after-eleven-media-reporter-found-dead.html>

69 <https://www.facebook.com/photo.php?fbid=633188453476502&set=pcb.633188513476496&type=3&theater>

70 Author's interview with two reporters in April, 2017, and <https://www.irrawaddy.com/news/burma/widow-friends-murdered-journalist-urge-progress-case.html>

71 <https://www.facebook.com/kantarawaddytimes/photos/a.496994583752390.1073741827.496146527170529/1286896158095558/?type=3>

72 <https://cpj.org/2017/05/journalist-abducted-seriously-injured-in-myanmar.php>

73 "Hackers' Union' targets EMG site," June 17, 2016, <http://www.elevenmyanmar.com/local/hackers%E2%80%99union-targets-emg-site>

74 Unleashed Research Labs, "Fighting Cyber Attacks during the Burmese Elections, November 2015, <http://unleashed.blinkhackergroup.org/release/>

75 <http://www.mmtimes.com/national-news/24489-ministry-of-information-portal-taken-down-by-unknown-hackers.html>