

Myanmar

	2015	2016		
Internet Freedom Status	Not Free	Not Free	Population:	53.9 million
Obstacles to Access (0-25)	18	17	Internet Penetration 2015 (ITU):	22 percent
Limits on Content (0-35)	17	17	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	28	27	Political/Social Content Blocked:	No
TOTAL* (0-100)	63	61	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2016 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2015 – May 2016

- Internet penetration topped 20 percent in 2015, up from less than 2 percent in 2013 (see **Availability and Ease of Access**).
- Hackers targeted *The Irrawaddy* magazine's Burmese-language website in the lead-up to the November 2015 elections, publishing a fake report about Aung San Suu Kyi's health, though her National League for Democracy party won a parliamentary majority (see **Technical Attacks**).
- Five people were detained for at least six months each under the 2013 Telecommunications Law in reprisal for online speech criticizing military or government officials; at least one trial was still pending under the new administration (see **Prosecutions and Detentions for Online Activities**).
- Outgoing officials approved Vietnamese military-linked Viettel's bid to enter the mobile telecommunications market in a joint venture with local firms and a subsidiary of military conglomerate Myanmar Economic Corporation (see **Availability and Ease of Access**).
- Campaigners used social media to advance causes including constitutional reform, election monitoring, and humanitarian assistance to flood victims and refugees (see **Digital Activism**).

Introduction

Higher rates of internet access and digital advocacy improved internet freedom, though the year also saw the highest number of prosecutions documented since liberalization began in 2011.¹

Myanmar went through its second phase of political transition, shifting 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 2016.² Troublingly, internet users were tentative in their discussion about the new government, and continued to practice self-censorship after the November elections, fearing harassment and censure from the still-powerful military, and even supporters of the democratically elected leadership.

The unprecedented political dynamism of the general elections in November 2015 was marred by intimidation of internet users by supporters on both sides of the political divide. With the new NLD administration sworn in on March 30, 2016, rights groups expect reform. Dozens of political prisoners were pardoned and released in April.³ Another early step was to streamline bureaucracy with the creation of a new Ministry of Transport and Communications.

The government of former military leader President Thein Sein officially ended media censorship in 2012. Norway's Telenor Group established the country's first independent connection to the international internet, and Qatar's Ooredoo launched mobile phone service across large parts of the country in 2014. The government passed a Telecommunications Law to facilitate this opening of the market.⁴ However, it was the basis of several arrests for online speech in 2015 and 2016. And the outgoing communications ministry issued its last mobile telecommunication operator license to a newly-formed consortium in a move that observers said advantaged the military's financial interests.

Online mobilization was particularly dynamic. All major political parties engaged on social media, which was an influential platform in major cities, and internet usage nationwide was 12 percent higher than usual on election day, according to one report.⁵ However, intolerance is also rampant online, aggravated by discriminatory policies against ethnic minorities like the Muslim Rohingya,⁶ who are denied citizenship under Myanmar's laws. Religious nationalist movements negatively influenced public discourse on the internet, especially in the run-up to the elections and immediately after the new government took office. In a new development, some NLD supporters are showing intolerance for criticism of Aung San Suu Kyi.

1 Earlier Freedom House publications referred to Myanmar as Burma. The military-led government changed the country's name from Union of Burma to the Republic of the Union of Myanmar without a referendum in 1989, a decision the opposition rejected as politicized. Myanmar became increasingly common, particularly after the regime adopted a more civilian form of government.

2 Although the NLD won 79 percent of seats in parliament, Aung San Suu Kyi is barred from running for president under a clause in the constitution which excludes her for having a spouse or children who are foreign nationals (her sons are British citizens). Parliament elected her ally Htin Kway to the presidency and appointed Aung San Suu Kyi to the newly-created position of state counselor. See: BBC News, "Myanmar elects Htin Kyaw as first civilian president in decades," March 15, 2016, <http://www.bbc.com/news/world-asia-35808921>; Euan McKirdy, New government role created for Myanmar's Aung San Suu Kyi," April 7, 2016, <http://www.cnn.com/2016/04/06/asia/aung-san-suu-kyi-state-counselor-role-created/>.

3 AAPP-B, "AAPP-B monthly Chronology of April 2016 and Current Political Prisoners list," May 20, 2016, <http://aappb.org/2016/05/aapp-b-monthly-chronology-of-april-2016/>.

4 Shibani Mahtani, "Myanmar's Telecom Revolution Bogs Down," The Wall Street Journal, October 25, 2013. <http://on.wsj.com/1w4ITPD>.

5 *Internet Journal*, November 13, 2015, <http://internetjournal.media/news/4772>

6 Human Rights Watch, "Myanmar: Rohingya Muslims Face Humanitarian Crisis," March 26, 2013, <http://bit.ly/1HSsJdA>.

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 two years. The International Telecommunication Union estimated internet penetration at 22 percent in 2015, revising its 2014 estimate from 2 to 12 percent; it was less than 2 percent in 2013.⁷ Users in most provincial towns have much poorer quality connections in comparison with the few urban cities, let alone those in rural villages. Chronic power outages, service interruptions, and insufficient transmission towers continue to impede efficient internet usage.

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 Kpbs 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.⁸ Redlink, a private company run by the son of a former military general-turned-house speaker, charges even more: a fiber connection of 2 Mbps cost US\$500 to set up, then US\$125 per month plus a US\$60 annual fee. Since Myanmar's gross domestic product was just US\$980 per capita in 2014, these costs keep personal internet access far out of reach for the majority.⁹

Mobile penetration in the country reached 65 percent in December 2015, an increase from 30 percent in 2014. This calculation was based on the number of active SIM cards, which totaled 36 million by January 2016. Ericsson's Q3 2015 Mobility Report names Myanmar as the fourth-fastest growing market in the world.¹⁰

MPT has offered mobile phones since the 1990s, but charged from US\$2,000 to US\$5,000. The price dropped to US\$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). However, since they lack infrastructure compared to MPT, their underperforming services are often the impetus for users to subscribe to multiple providers and switch SIM cards to overcome connection issues.

7 International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2015," <http://bit.ly/1cblxxY>.

8 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/>.

9 International Monetary Fund, "World Economic Outlook Database," October 2013, <http://bit.ly/1DvPA4d>.

10 Catherine Trautwein, "Myanmar named fourth-fastest-growing mobile market in the world by Ericsson," *Myanmar Times*, November 20, 2015, <http://www.mmtimes.com/index.php/business/technology/17727-myanmar-named-fourth-fastest-growing-mobile-market-in-the-world-by-ericsson.html>.

MPT offers this more reliable service and coverage at a premium, in violation of the state's own pricing regulation. According to an MCIT directive, operators should not charge more than MMK 20 (US\$0.01) per minute for voice calls during peak hours and MMK 15 per minute off-peak, but MPT charged MMK 50 per minute in 2015, reduced to MMK 25 per minute in 2016. Ooredoo and Telenor also charged MMK 25 per minute, according to local news reports. MPT's prepaid service cost MMK 2 per minute for users on the GSM wireless network, and MMK 4 per minute for users of CDMA 800 and WCDMA networks. All operators offer promotional plans costing MMK 6 to 8 per 1MB of data and voice calls at MMK 20 per minute.

At these rates, mobile internet service is more accessible than ever before. In September 2015, operators described the prices as among the lowest in the world given Myanmar's recent entry into the telecommunications market.¹¹ Senior figures within the sector accused their counterparts of sparking a price war by lowering their prices, threatening the investment still needed to ensure quality of service for consumers unsustainable.¹²

However, a regular mobile internet user might still expect to spend MMK 10,000 to 20,000 (US\$10 to US\$20) per month in 2016, while those who rely on the connection for business could spend MMK 30,000 to 50,000 (US\$30 to US\$50). This represents little change from last year and limits connectivity for a large percentage of the population, one quarter of which lives below poverty line.¹³

Restrictions on Connectivity

Until 2014, the Ministry of Communications and Information Technology (MCIT) essentially controlled the country's infrastructure via the state-owned Myanmar Post Telecommunication (MPT), which covers over 90 percent of the country.

Major operators and infrastructure investors have said that building infrastructure in Myanmar is the greatest challenge of the sector.¹⁴ International financial institutions such as the Asia Development Bank and Europe's Infrastructure Development Fund have provided operators with loans and support to develop cable, bandwidth, and transmission towers.¹⁵

Myanmar is connected to the international internet via the SEA-ME-WE 3 submarine cable, and satellite and cross-border cable links with China and Thailand. Connections were formerly controlled by MPT, giving it a monopoly over international bandwidth, but Telenor and Ooredoo each reported having constructed three international connections to Thailand and China in 2016; Telenor said it is working on a fourth, to India.¹⁶ A spokesperson for the company rated its dependence on MPT

11 *Internet Journal*, September 30, 2015, <http://internetjournal.media/news/4307>.

12 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/>.

13 Asian Development Bank, "Asian Development Bank & Myanmar: Fact Sheet," December 31, 2014, <http://bit.ly/1RU97j7>.

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

15 *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/>.

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

at 10 percent in an interview with *Frontier Myanmar*, though Ooredoo declined to make a similar estimate.¹⁷

In early 2016, the Singapore-based cable company Campana Group announced plans to develop the Myanmar-Malaysia-Thailand-International Connection (MYTHIC) cable, Myanmar's first private undersea internet cable, which it said would provide an extra 300 Gigabits a second of bandwidth once it becomes operational in 2017.¹⁸ As part of a first 100-Day Plan, the new Ministry of Transport and Communications also announced construction of onshore link to the undersea cable SEA-ME-WE 5 to be operational by early 2017.¹⁹

Since the two foreign telecom firms started to develop their own fiber networks in March 2015, capacity has increased. Low bandwidth continues to cause congestion, however, and power outages also frequently disrupt access.²⁰ Heavy flooding in several regions of the country, bureaucratic processes, and corruption often impede construction.

ICT Market

Despite diversification, state-owned conglomerates continue to skew the telecommunications playing field through the state-owned Myanmar Post Telecommunication (MPT), and a new military-linked joint venture. Long-promised plans to privatize MPT have not materialized since the government announced them in 2012.

In 2013, the government awarded international licenses to Norway's Telenor and Qatar's Ooredoo, allowing them to offer services and infrastructure alongside MPT.²¹ Military-linked Yatanarpon Teleport (YTP) was also allowed to run as a local operator.

Between June 2015 and April 2016, in a maneuver that allegedly advantaged the military's financial interests, the outgoing ministry selected the Vietnamese company Viettel,²² which is run by the Vietnamese military,²³ to operate a 49 percent stake in a fourth mobile telecommunication operator as part of a joint venture with a consortium of 11 local firms and a government shareholder.²⁴ The consortium and the government shareholder, Star High Public Company under the supervision of the Ministry of Defense, will control 51 percent of the operation, which was expected to apply for a license in late 2016 and begin providing service in 2017.²⁵

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

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

19 *Internet Journal*, May 31, 2016, <http://internetjournal.media/news/6511>.

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

22 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/>;

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

24 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>.

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

Star High Public Company is operated by the military-run conglomerate Myanmar Economic Corporation, which since 2008 is subject to financial sanctions by United States Treasury for its role in supporting repression by the military junta.²⁶ 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 license fee for the fourth operator, at US\$300 million, 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.²⁷

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 with the Ministry of Rail Transport and Ministry of Transport to create a new Ministry of Transport and Communications.²⁸

Other state institutions tasked with information and communications technology (ICT) development and management have been largely inactive.²⁹ 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. Critics say it failed to take advantage of the 2011 political change to play a more active role in the ICT sector.

Clause 86 of the Telecommunications Law established an independent commission to take over regulatory functions within two years. The business community also welcomed the law's creation of an appeal tribunal mechanism to adjudicate over administrative issues in the telecommunications industry. The MCIT subsequently released two regulatory laws, License Provision in October 2014 and Networking and Linking in January 2015.

Three more regulatory laws followed: Rules on Competition in June 2015, Rules on Numbering in December, and Frequency Spectrum in March 2016. The MCIT released a draft by-law on Gateway Regulation to regulate international gateway services in January, developed in consultation with the World Bank. The enactment of the by-laws and regulations is a good indication of the government's willingness to further liberalize the country's telecoms sector.

26 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>.

27 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>.

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

29 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.

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-2016.

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").

In a phenomenon seen for the first time during the coverage period, Facebook users misused the mechanism for reporting offensive content in order to disable rival pages. Activists with different political agendas organized to report their opponents for violating Facebook's community standards, resulting in specific accounts or pages being temporarily removed while the owner appealed to have them reinstated.

Some prominent examples were apparently carried out by NLD supporters. A cartoonist who uses the penname Maung Maung Fountain had his account briefly shut down in January 2016 after he shared a cartoon that made fun of Aung San Suu Kyi's inconsistencies. Unknown people had reported him to Facebook for violating a requirement that users identify themselves by name they use in everyday life.³⁰ Dr. Than Htut Aung, CEO of the Eleven Media Group, said that his Facebook account was temporarily disabled in January using the same process after he criticized a top NLD leader's handling of the media.³¹ The Eleven Media Group had generally advocated for the NLD when it was in the opposition.

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

³⁰ Nyan Lynn Aung, "Facebook unblocks cartoonist's page," *Myanmar Times*, January 14, 2016, <http://www.mmtimes.com/index.php/national-news/yangon/18473-facebook-unblocks-cartoonist-s-page.html>.

³¹ Interview with Dr. Than Htut Aung, March 30, 2016

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.³² In June 2015, one local reporter told *The Irrawaddy* she had changed her online behavior and “acted more cautiously when covering controversial subjects” from fear of online harassment.³³

Social media and communication apps including Viber, Line, Friendfinder, 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 seven million Facebook users in October 2015, up from three million in January.³⁴ For some users frustrated at the challenge of navigating between sites on poor connections, Facebook is the sole source of online news, potentially depriving local outlets of the advertising revenue.

Facebook was also an effective instrument for urban politicians in the run-up to the November elections, though its impact is limited in rural areas. One-third of Myanmar’s 91 political parties have an active Facebook presence.³⁵ Young, digitally-savvy candidates used Facebook to mobilize volunteers and communicate with voters, including Nay Phone Latt, the blogger and former political prisoner who directs the advocacy group Myanmar ICT for Development Organization (MIDO). During a purge inside the then-ruling USDP party in August, House Speaker Thura U Shwe Mann, who was removed from the party’s chairmanship, took to Facebook after several hours incommunicado, generating thousands of “likes.” Aung San Suu Kyi, whose official page has been “liked” by over 1.3 million people, received the most online support. Along with content from the campaign trail, the politician many call “The Lady” posted a video on how to cast a ballot.³⁶

Some progovernment Facebook pages, such as Myanmar Express, and blogs like *OppositEye*, actively manipulate online commentary to conduct smear campaigns against Muslims or the political opposition. Ethnic Burman internet users also spread racially-charged comments across social media platforms throughout the coverage period.³⁷ *Mabatha*, the radical group of Buddhist monks, intensified its anti-Muslim and anti-NLD campaigns in the run-up to the elections.

Digital Activism

Online activism increased during the coverage period thanks to the 2015 elections and humanitarian relief campaigns online. One of the most effective online campaigns urged people to verify their names in the electoral register in September, after the Union Election Commission announced irregularities in the existing voter lists.

From July through September 2015, severe flooding hit 12 of the country’s 14 states resulting in over 100 deaths and affecting up to one million people. Local charity associations effectively used social

32 *7 Day Daily*, March 30, 2016, <http://www.7daydaily.com/story/61577> .

33 Sean Gleeson, “For Burma’s Journalists, a Bumpy Road to ‘Discipline-Flourishing Democracy,’” *Irrawaddy*, June 17, 2015, <http://www.irrawaddy.com/burma/for-burmas-journalists-a-bumpy-road-to-discipline-flourishing-democracy.html> .

34 *Internet Journal*, October 23, 2016, <http://internetjournal.media/news/4582> .

35 Catherine Trautwein, Wa Lone, “The Facebook election? Not quite yet,” *Myanmar Times*, October 7, 2015, <http://www.mmtimes.com/index.php/business/technology/16877-the-facebook-election-not-quite-yet.html> .

36 Catherine Trautwein, Wa Lone, “The Facebook election? Not quite yet.”

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

media to spread news and mobilize resources. Via the three mobile operators, people could make donation to flood victims via SMS. MPT, which has 13 million mobile subscribers, reported receiving US\$200,000 of donations within four days.³⁸ Facebook also partnered with Save the Children International to fundraise for children affected by the disaster. In August, a new button appeared atop cluttered newsfeeds across the globe offering users the chance to donate US\$10 or more to the cause; Facebook pledged to match donations up to a total of US\$500,000.³⁹

Online advocacy also had a positive effect after a video clip depicting abuse in a military academy circulated widely on social media. The public response forced the military to launch a high-level investigation team and pledge action against abusive officials,⁴⁰ an unprecedented gesture towards accountability from the country's virtual power holder.

A five percent tax on mobile phone top up cards was the subject of a huge online campaign, causing the previous parliament to suspend it in May 2015. The tax took effect on April 1, 2016, but media outlets and social media users who had been vocal against the levy appeared to concede, particularly since the revenue generated was now supporting the new government, which said the first month's earnings went to support education.⁴¹

Violations of User Rights

The 2013 Telecommunications Law transformed the industry, but introduced a defamation provision which was used to jail internet users for political speech during the coverage period of this report. Other harsh punishments for political dissent on electronic media remain on the books. Hackers targeted private media outlets and also high-level, newly-elected officials.

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."⁴²

Parliament enacted the long-pending Telecommunications Law, drafted with the help of international experts including the World Bank, in October 2013.⁴³ Domestic and international investors applauded the consultative drafting process, along with the guidelines for the industry which pro-

38 *Internet Journal*, August 11, 2015, <http://internetjournal.media/news/3696> .

39 Yen Saning, "Facebook Will Match Your Flood Relief Donations," *Irrawaddy*, August 10, 2015, <http://www.irrawaddy.com/burma/facebook-will-match-your-flood-relief-donations.html> .

40 <https://www.facebook.com/XinhuaMyanmar/photos/a.423782941124025.1073741827.422671591235160/565720306930287/?type=3&theater>.

41 *Internet Journal*, May 27, 2016, <http://internetjournal.media/news/6484> and "Tax paid on cell phone top-ups to be spent on education," *Coconuts Yangon*, May 27, 2016, <http://yangon.coconuts.co/2016/05/27/tax-paid-cell-phone-top-ups-be-spent-education> .

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

43 The Pyidaungsu Hluttaw passage of The Telecommunication Law, No. 31, October 8, 2013, <http://bit.ly/1g8hIU5>.

vided the foundation for improving access.⁴⁴ 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 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 a year, an unspecified fine, or both. The law was repeatedly implemented to punish speech during the coverage period of this report, though no by-laws have been enacted detailing procedures for its enforcement.⁴⁵

The government also failed to repeal the notorious 2004 Electronic Transaction Law (ETL) in 2013, which has routinely been used to criminalize internet activism. Instead, parliament amended the ETL, reducing but not eliminating possible jail sentences for ill-defined online actions. Under the newly-amended law, “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—is punishable 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.”⁴⁶ In 2014 the MCIT announced plans to revise the ETL and clarify confusing language, but no developments had been reported in mid-2016.⁴⁷ During the coverage period, officials also said a draft law to punish cybercrime was being drawn up, but none had been submitted to the new parliament by mid-year.⁴⁸

Prosecutions and Detentions for Online Activities

Prior to the leadership change, at least six internet users were charged and four subsequently sentenced under the 2013 Telecommunications Law for sharing social and political content on Facebook, marking the highest number of prosecutions for online speech since the political opening.⁴⁹ One of those charges was brought by NLD supporters in response to images of Aung San Suu Kyi doctored to make her appear naked.

- In September 2015, Zaw Myo Nyunt was arrested for sharing an illustration showing feet stamping on Myanmar’s army chief on Facebook. In January 2016 he was given a one-year prison sentence with labor under the telecommunication law. Patrick Kum Jaa Lee, an NGO worker, was also arrested for allegedly sharing Zaw Myo Nyunt’s post. He served a six-

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

45 Lun Min Mang, “Kachin activist convicted in Facebook defamation case,” *Myanmar Times*, January 25, 2016. <http://www.mmtimes.com/index.php/national-news/18631-kachin-activist-convicted-in-facebook-defamation-case.html>.

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

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

48 “Task force set up to tackle cyber crime,” *Eleven Myanmar*, May 30, 2015, <http://elevenmyanmar.com/local/task-force-set-tackle-cyber-crime>.

49 Dozens of political prisoners formerly jailed for electronic activities remained free after they were released en masse in January 2012.

month sentence for violating Article 66(d) of the Telecommunication Law and was released in April 2016.⁵⁰

- In November 2015, poet Maung Saung Kha was detained under Article 505 of the penal code, which criminalizes insult, and Article 66(d) of the Telecommunication Law for posting a poem on Facebook that implied a tattoo of the president on his penis disappointed his wife.⁵¹ He was given six month prison sentence and released in May 2016 because he had already served the time.⁵²
- In December 2015, a court jailed NLD party member Chaw Sandi Tun for six months under Article 66(d) of the Telecommunication Law for a Facebook post perceived as mocking the army chief and a new military uniform. Her post compared the light green officer's uniform with that of a *longyi*, or traditional Myanmar skirt, worn by Aung San Suu Kyi. She was arrested in October 2015 and released on March 30, 2016, after serving her sentence.⁵³
- In February 2016, sailor Hla Phone was detained under Article 66(d) of the Telecommunications Law over a series of posts "defaming the army chief, the military and the president by posting photoshopped pictures and text," made by the well-known Facebook account Kyat Pha Gyi. He denied operating the account, which remained active after his arrest and denied any connection with Hla Phone.⁵⁴ Another charge under Article 505 of the penal code was added later,⁵⁵ and he was officially indicted in August, after more than six months in detention.⁵⁶
- In March 2016, Facebook user Than Tun, a local USDP official, was sentenced to six months in prison with labor after NLD supporters charged him under Article 66(d) of the Telecommunication Law for sharing an image of Aung San Suu Kyi altered to make her appear naked, along with sexually explicit language.⁵⁷

Moreover, at least one arrest took place after the new government came to power. On May 4, 2016, police arrested Nay Myo Wai, a prominent anti-Muslim activist, after an NLD supporter filed suit against him under Article 66(d) of the Telecommunications Law. News reports said he was charged based on a Facebook post claiming that army chief Min Aung Hliang had not seized power because

50 Esther Hitusan, "Prominent Political Prisoner Freed in Myanmar, Many Remain," The Associated Press, April 1, 2016, <http://www.usnews.com/news/world/articles/2016-04-01/prominent-political-prisoner-freed-in-myanmar-many-remain> and Lun Min Mang, "Kachin activist convicted in Facebook defamation case," *Myanmar Times*, January 25, 2016, <http://www.mmtimes.com/index.php/national-news/19805-kachin-activist-released-after-imprisonment-for-facebook-post.html> .

51 *Eleven Media*, Facebook, <http://bit.ly/2eGUvCu>; Su Myat Mon, "Kachin Aid Worker Jailed for Defamatory Facebook Post Walks Free," *Irrawaddy*, April 1, 2016, <http://www.irrawaddy.com/burma/kachin-aid-worker-jailed-for-defamatory-facebook-post-walks-free.html> and PEN International, "Myanmar: Poet on trial for defamation," May 30, 2016, <http://www.pen-international.org/newsitems/myanmar-poet-on-trial-for-defamation/> .

52 ABC News "Myanmar's 'penis poet' Maung Saungkha freed after six months in jail for defamation," May 24, 2016, <http://www.abc.net.au/news/2016-05-24/myanmars-penis-poet-freed-after-six-months-in-jail/7442908> .

53 Su Myat Mon, "Chaw Sandi Tun, Famed Facebook Antagonizer, Released From Prison," *Irrawaddy*, March 30, 2016, <http://www.irrawaddy.com/burma/chaw-sandi-tun-famed-facebook-antagonizer-released-from-prison.html> .

54 *Irrawaddy*, "Arrest over Facebook Post a Case of Mistaken Identity, Defendant Says," February 16, 2016, <http://www.irrawaddy.com/burma/arrest-over-facebook-post-a-case-of-mistaken-identity-defendant-says.html> .

55 "Accused 'Kyat Pha Gyi' account owner face another charge," *Eleven Media*, October 3, 2016, <http://www.elevenmyanmar.com/local/accused-kyat-pha-gyi-account-owner-face-another-charge> .

56 Reuters, "Man Indicted for Insulting Military Chief, Former President on Facebook," via *Irrawaddy*, August 23, 2016, <http://www.irrawaddy.com/burma/man-indicted-for-insulting-military-chief-former-president-on-facebook.html> .

57 *7 Day Daily*, March 28, 2016, <http://www.7daydaily.com/story/61497>; Salai Thant Zin, "USDP Official Sued over Fake Suu Kyi Nude Shared on Facebook," *Irrawaddy*, October 19, 2015, <http://www.irrawaddy.com/election/news/usdp-official-sued-over-fake-suu-kyi-nude-shared-on-facebook> .

he wanted to marry Suu Kyi.⁵⁸ The regional court denied his bail request in June,⁵⁹ he was found not guilty in July.⁶⁰

However, the NLD did not press charges against an individual using the Facebook account name Ye Lwin Myint who threatened to kill Aung San Suu Kyi, after the user issued an apology. On February 3, the Ye Lwin Myint account posted a threat to shoot Suu Kyi if Article 59(f) of the constitution, which bars her from the presidency, was suspended.⁶¹

Surveillance, Privacy, and Anonymity

State surveillance, historically pervasive and politicized, abated after the political opening but has intensified somewhat since 2013 due to religious unrest and the opposition-led constitutional reform movement, among other issues. Regrettably, the Telecommunications Law introduced 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.

In March 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 while a framework establishing procedures for compliance with the Telecommunications law remains pending. Telenor reported complying with 11 out of 58 requests, and Ooredoo with nine out of 27. Both companies said that requests have been so far limited to historical data or call records.⁶² MPT refused to supply the media with any information about such requests. Several international and local civil society representatives and some diplomats believe that the military has stepped up surveillance by means of wiretapping, hacking and even intercepting Voice over Internet Protocol (VoIP) calls amid the intensifying social protests and political rivalries developing during the coverage period.⁶³

Intimidation and Violence

No incident of violence was reported during this coverage period, though journalists operating on and offline reported receiving death threats. In just one example, an anti-Muslim extremist threatened journalists in June 2015 following the Democratic Voice of Burma’s coverage of Rohingya

58 The Associated Press, “Myanmar Anti-Muslim Activist Arrested for Post About Suu Kyi,” via Voice of America, May 5, 2016, <http://www.voanews.com/content/myanmar-anti-muslim-activist-arrested-for-post-about-suu-kyi/3316586.html>.

59 Salai Thant Zin, “The Irrawaddy: Court denies bail to ultra-nationalist politician charged with defamation,” Burma Net, June 21, 2016, <http://www.burmanet.org/news/2016/06/21/the-irrawaddy-court-denies-bail-to-ultra-nationalist-politician-charged-with-defamation-salai-thant-zin/>.

60 Salai Thant Zin, “Nationalist Provocateur Let Free in Defamation Case,” *Irrawaddy*, July 15, 2016, <http://www.irrawaddy.com/burma/nationalist-provocateur-let-free-defamation-case.html>.

61 Toe Wai Aung, “NLD accepts apology from Facebook user,” *Myanmar Times*, February 10, 2016, <http://www.mmtimes.com/index.php/national-news/18895-nld-accepts-apology-from-facebook-user.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 Interviews with a family member of Thura Shwe Mann, who was purged in August 2015 from the ruling party’s chairmanship, and one senior diplomat” December 2015.

migrants stranded in the Andaman Sea and the Malacca Straits.⁶⁴ The internet was also a medium for intimidation and harassment. Ye Lwin Myint threatened to kill Aung San Suu Kyi on Facebook in February 2016 (see “Prosecutions and Detentions for Online Activities”).

Technical Attacks

Research published during the coverage period identified attacks resulting in a string of media website defacements dating back to 2012 as having been initiated on military premises.

In October 2015, hackers attacked *The Irrawaddy* magazine’s Burmese-language website twice within a few days. The hackers posted a fabricated story saying then-opposition leader Aung San Suu Kyi was suffering from ovarian cancer. In a separate attack, the site was hacked and left inaccessible for several hours.⁶⁵

In November, the Sweden-based cyber security firm Unleash Research Labs released the results of a three-year investigation identifying the group behind the attack, and others timed to coincide with the lead-up to the November 2015 elections, as the “Union of Hacktivists.” The firm said it had traced the group’s activities to a secretive, military-operated network hidden behind two firewall proxies. The attackers compromised the target sites weeks or months ahead of publicly defacing them, and worked to obtain passwords to staff email accounts, according to the report.

The firm’s report also detailed the activities of the prominent hacktivist network Blink Hacker Group (BHG), which has claimed responsibility for numerous distributed denial-of-service (DDoS) attacks on Democratic Voice of Burma over its coverage of the persecuted Rohingya minority in western Myanmar.⁶⁶

Targeted hacks remained widespread in 2016. High profile public figures were subject to attacks, including top NLD leader Win Htein and the newly elected Yangon Chief Minister Phyo Min Thein.⁶⁷

64 Kyi Naing, “Politician directs death threats at Myanmar journalists,” *The Nation*, June 2, 2015, <http://www.nationmultimedia.com/asean&beyon/Politician-directs-death-threats-at-Myanmar-journa-30261260.html> .

65 “Hackers Hit The Irrawaddy’s Burmese Website with False News Story,” *Irrawaddy*, October 12, 2015, <http://www.irrawaddy.com/burma/hackers-hit-the-irrawaddys-burmese-website-with-false-news-story.html> .

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

67 *7 Day Daily*, April 20, 2016, <http://www.7daydaily.com/story/62602> .