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An internet user reads political commentary on a website in Chamkarmon district. © Scott Howes

Cyber bill raises concerns

Wed, 9 April 2014 Kevin Ponniah

Cambodia's highly secretive draft law on cybercrime, which has never been released publicly, seeks to criminalise online content that "slanders or undermines" government agencies, ministries or officials or affects "political cohesiveness", a copy obtained by the Post reveals.

The law, which was first announced in May 2012 to the trepidation of many netizens, is supposed to be passed this mandate. But the government has thus far ignored calls from civil society groups to release a draft for consultation.

Article 19, the London-based freedom-of-expression advocacy group that obtained an English-language version of the draft law, said that it falls "well below international standards" on freedom of expression, information and privacy, and if passed could see "Cambodia's currently free online space [backsliding] into the country's deep-seated culture of secrecy and self-censorship".

Article 28 of the 16-page draft law, labelled "draft V.1" and developed by the Cybercrime Law Formulation Working Group of the Council of Ministers, stipulates offences related to online content and publications.

It proposes criminalising content that is deemed to "hinder the sovereignty and integrity" of Cambodia; publications that "incite or instigate the general population that could cause one or many to generate anarchism"; publications that "generate insecurity, instability, and [affect] political cohesiveness"; and any publication deemed "to be non-factual which slanders or [undermines] the integrity of any government agencies [or] ministries".

All these offences are punishable with one to three years in prison and a fine of between two million and six million riel (\$500 to \$1,500), the draft law stipulates.

More than four million Cambodians were using the internet, including on mobile telephones, as of December 2013, according to government data, an increase from 2.7 million in late 2012.

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“The Draft Cybercrime Law has been formulated behind closed doors for far too long. With a version of the Draft Law released, the authorities can no longer deflect the legitimate concerns of the national and international human rights community,” Thomas Hughes, Article 19’s executive director, said in a statement.

The provisions in Article 28 of the draft law, which also address “publications deemed damaging to the moral and cultural values of society”, need to be entirely removed, because they are “extremely vague and open to abuse”, the group said.

Council of Ministers spokesman Phay Siphan yesterday said he would not comment on an “unofficial document” in order to avoid “manipulating anything”.

“Once they pass it, after it’s been reviewed in the Council of Ministers and passed by the cabinet and then sent down to the National Assembly, then we can talk,” he said. “You remember this is an illegal document. So [we] don’t touch it until it comes up.... It is government property [and] it’s not official yet.... It’s a problem if people leaked this to you. It’s not supposed to be leaked to anyone.”

Siphan added, however, that a number of offences listed in the draft cyber law were based on existing offences in the criminal code.

When the law was announced in May 2012, Council of Ministers spokesman Ek Tha said it would be designed to “prevent any ill-willed people or bad-mood people from spreading false information [and] groundless information”.

Minister for Information Khieu Kanharith has stated several times, including in February, that despite social media being “complex” for the government to deal with, there were no plans to restrict access.

He did not respond to requests for comment yesterday.

Chem Sangva, director of the inspection department at the Ministry of Posts and Telecommunications, referred questions to Minister Prak Sokhon, who could not be reached.

The provisions in the draft law were “extremely worrying” for freedom of expression, Cambodian Center for Human Rights executive director Chak Sopheap said yesterday.

“It’s not hard to imagine how terms such as ‘political cohesiveness’ may be used to silence anyone who disagrees with the government and ruling party, and stand directly against the constitutional guarantees of free speech,” she said.

The draft law, if passed, would see the establishment of a National Anti-Cybercrime Committee, with senior officials from its general secretariat given judicial police powers to investigate and make arrests.

Given that the committee will predominantly be made up of high-ranking government officials, “the lack of adequate definitions and preciseness in the law is especially concerning”, Sopheap said.

Aside from online content, other offences listed in the draft law include child pornography, illegal access to systems – which encompasses hacking, data theft and espionage – and computer-related fraud.

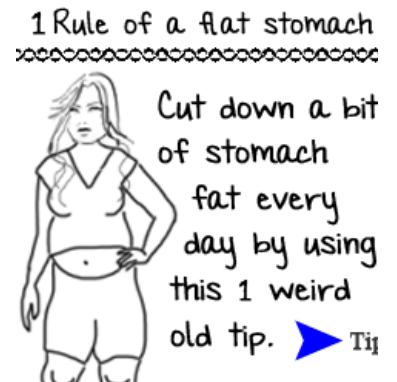
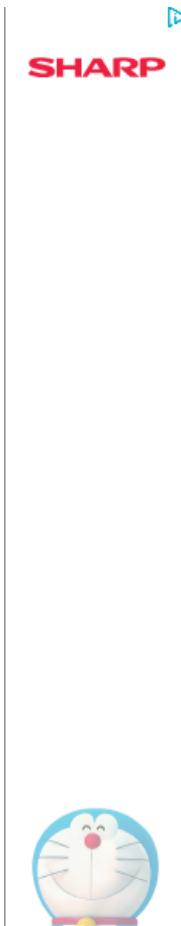
The past year has seen a surge in cyberattacks in the Kingdom, with Anonymous Cambodia, the local chapter of the global “hacktivist” collective, defacing several government websites following the July election.

According to Article 19, some penalties under the draft cyber law are harsher than their criminal code equivalents.

“Offences conducted online should not carry heavier penalties than that of crimes conducted offline,” the group said in its statement.

It also notes that prosecutors are “granted extremely broad powers to order the preservation of computer data or traffic data” from internet service providers under the draft law, which is “very worrying given the intrusive nature of such measures and that prosecutors lack the independence necessary for the proper balancing of the various interests involved”.

Included in its provision for content deemed damaging to moral and cultural



values, the draft cyber law states that any “drawings, pictorials, or pixilation that [are] deemed to slander or defame human beings or commoners of the state performing activities unbecoming, with animals of any species” are punishable with imprisonment and heavy fines.

“[Members of the government] are angry with [people who insult them online],” lawyer Sok Sam Oeun, head of the Cambodian Defenders Project, said.

“In our society, they don’t like mocking; you can see in the Press Law it’s also the same. We cannot use cartoons for example, so now, mostly people from outside [the country] do that.”

A number of overseas-based pro-opposition blogs and websites that often contain commentary ridiculing senior Cambodian People’s Party figures and lambasting political influence from Vietnam in derogatory terms have been occasionally targeted by the government in recent years.

Perhaps in line with this, the draft law stipulates clearly that its scope includes offences committed outside Cambodia that affect individuals within Cambodia and the “interests” of the Kingdom.

Prominent blogger and social media consultant Kounila Keo yesterday said the “sinister ambiguity of provisions” in the draft law relating to online content would “create a chilling effect for freedom of speech and expression” if they remain when the law passes.

“If there is any truth to the provisions that [I have seen], we are clearly heading on the path towards increasing government control over thought and speech,” she said.

ADDITIONAL REPORTING BY VONG SOKHENG

Contact author: Kevin Ponniah

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Post Media Co Ltd
888 Building F, 8th Floor, Phnom Penh Center
Corner Sothearos & Sihanouk Blvd
Sangkat Tonle Bassac
120101 Phnom Penh
Cambodia

Tel: +855(0) 23 214 3 11-17
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