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WORKSHOP 88

UNSHACKLING EXPRESSION: A PATHWAY TO DECRIMINALIZE THE  
INTERNET

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>> GAYATRI KHANDHADAI: Okay. So we're going to kick off.  
Thank you so much for actually being awake at this time to  
be at this panel. I'm sure we'll make it fun and  
interesting and keep you all awake. So, this is a really,  
remain important panel, at least we think so because we're  
working on this project looking at criminalization of  
speech on the internet. It's a project we're doing across  
six country us. It's led by APC. Digital Asia hub is one  
of the partners involved and I'm really happy to welcome  
all working with us. We have Geetha Hariharan, who is  
going to spell out you the background, and she'll say a  
little about the methodology who is being used. We have  
Nayathara, who is going to talk about the Indian piece. We

have pat, who will talk about Cambodia, and Dapa. Then we've got Ed from Vika who will talk about all of this criminalization of speech on the media as the head of the southeast Asian alliance. Really interesting set of speakers. I'm just going to hand over to Geetha who will set the framework for this project and how we expect to approach this and what the methodology is as well as the international frame against which the studies are being done. Geetha, go ahead.

>> GEETHA HARIHARAN: Hi. So, I have two things to do today. The first is to talk about the methodology that we're following in this project and the second is to talk about the gnarl standards. I'm going to give a brief overview of international standards for freedom of speech and expression so we have a fundamental understanding of how to approach this issue in the international context. About the methodology, there are two aspects we've taken on. The first is a theoretical understanding of freedom of expression and the second is to look at what exceptions countries have provided in restricting and criminalizing freedom of expression. So, about the legal foundation, what we're looking at is a set of laws that apply specifically to the cyberspace to see what each state has set in place for an understanding of freedom of expression. So, in India, for instance, there's Article 191A of the institution which guarantees the right of freedom and expression and this right can be curtailed only according to the requirements that are given in Article nine-two of the Constitution which spell out basic circumstances on the basis of which the country can forego these rights so each country has a set of these, except for Cambodia, which applies Internet Governance directly into their law. We'll talk about that in more detail.

The second, most countries provide a certain set of justifications for curtailing freedom of expression and Speech even though these are not specifically applicable to the online place because many of these laws were written into practice prior to the online space exploding as it has. Some of the justifications that these six countries provide and many other states across the world are situations like national security, public order, protecting the rights of others, violating friendly relations between state, sedition, blasphemy, hurting religious and endemic groups, related to contempt of court, defamation, and situations such as these. Obviously, there's questioning about whether these conditions are apt and to criminalize

freedom of speech and expression and that's one of the issues we'll deal with in the project itself. Now, why are these justifications important? These justifications are important because in the international scenario, if we look at the international government for civil and political rights, which is the main government we're looking at, there are certain restrictions that are available to states to curtail freedom of expression by. So, what I want to do is to first talk about the content of the right under Article 19 of this covenant for political rights and then go into the restrictions and limitations governments can make, and then look at one of the special exceptions, that is hate speech and provocative speech. About the content of the covenant. Article 19 says everybody should have the right to hold opinions without interference and everyone shall have the right to freedom of expression and this right should include the right, the freedom to speak ideas of all times, either orally, in writing or print or in the form of art or three any other media of his choice.

Now, an authoritative interpretation has been given, I want to make a slight digression here to talk about the human rights committee. A group of 16 experts who come together three times a year and provide authority to interpretations of different Articles of the covenant and they also receive individual communications from different states and to decide upon those individual communications, those states that have assigned the optional protocol to the covenant for specific and human rights. On the other hand, it the human rights council is an individual body of 49 states which meet once a year and pass relevant resolutions on provisions of the International Covenant.

So, what is the content of this right? So the two freedoms, the freedom of opinion and the freedom of expression are closely related. The freedom of expression provides the vehicle of exchange and development of opinions and therefore the freedom of opinion under the could have intent has no exceptions whatsoever. Everyone, all opinions are protected, including opinions of a political, scientific, historic, modern, or religious nature. There are no exceptions to this.

Secondly, the right to free speech and expression is available regardless of frontiers and these include all forms of audio visual and electronic modes of expression. Now, when the general comment what's written prior to comment 34, which was general comment ten, it didn't

address electronic and internet modes of expression, however, the clarity which is general comment 34 states clearly that freedom of expression is available across electronic and internet-based modes of expression and this is available not only to individuals but also to media outlets that they must take account of the extent to which development information and communication technologies such as the internet and mobile based electronic dissemination systems have substantially changed communication practices across the world.

Now, specifically, the Frank Lurel report of 2012 explains clearly that access to the internet means two things. One is access to online content and the second is access to infrastructure, availability of infrastructure that makes access to the internet possible in itself. And these rights that we have under Article 19, the rights of freedom and expression, clearly apply online. That is the sixth international human standards. In particular, the restrictions of Article 19, paragraph 3 of the international covenant are pertinent to determine what kinds of restrictions can be placed online. That is the rights of Article 19 apply not only in online situations but also in offline situations.

Now, what are these restrictions? The restrictions are that the rights can be curtailed in two circumstances. The first is for the respects of rights of others and the second is for the protection of national security or for public order or for public health and morals. Now, while these are the justifications under which restrictions can be provided, there are also three other tests that each restriction must follow in order to be considered legitimate and valid. The first is that of legality. That is each restriction has to be established by law, the law being either a legislation that's been passed or an order of the government or a judicial pronouncement and these restrictions can only be for reasons that have been set out in Article 19-3. That is the one we just read. And the third is that of necessity and proportionality. For that, necessity would be, is there a pressing social need in the country that requires a curtailment of Article 19 and for the question of proportionality, is there another, lesser basis upon which these restrictions can be placed? So I want to take an example of an internet ban in India which came on the wake of an un agitation in a particular state. Now, there the question would be, is the agitation severe enough to produce a situation of emergency in that

particular state? If that were the case, then perhaps the state would have a justification in stating that it is necessary to set forth an internet ban. Now, the second question, which has to come in addition to the first question is that, is there another lesser restrictive method other than an internet ban, a complete ban on communication services, which allows for, which allows the government to reach the same requirement, which is to contain the emergency situation. If there is a lesser restrictive method available, then if the government introduced an internet ban, then that will be in violation of Article 19 and Article 19-3 of the International Covenant and while national contexts are different, it is important for us to understand this, within the international context because many of these countries, most of these countries, 196 countries are significant stories to the international government and therefore -- (no English translation)

To every state in the world today. Now, the last thing I want to talk about is an exception. It's a special situation to Article 19, which is Article 20-two of the international government which says that any advocacy of national, racial, or religious hatred that constitutes incitement of hostilities shall be prohibited by law. It is easier to call this hate speech or provocative speech and it's important to understand two separate prongs of this, of hate speech and provocative speech. The first is that content that phones, shocks, or disturbs certain people are not by their nature, are not, per se, against Article 22 and therefore the government cannot, just because they offend people, restrict these expressions. So then, what is required for the government to legitimately restrict this expression? What's needed is that there is an imminent threat of violence if a particular threat is made. So, for instance, if there is a direct and public incitement to genocide.

Direct meaning there must be communication which is sufficiently specific for a particular action to take place and that the speaker has an intent to incite for the act of genocide or violence and that there is a likelihood that this intent will be carried out in practice. If these conditions are met, then provocative speech becomes legitimately can be restricted under Article 22 of the International Covenant. In other cases where it merely offends or for pornographic content, the government cannot restrict. So the three requirements under Article 22 to

look at whether the action can be legitimately restricted is the content of the speaker, his intent to see whether he intends to incite the violence and whether there's a likelihood of the violence to actually happening, and finally, the eminent danger of the public being incited to do a particular act, whatever act that the public is saying that should happen. So these are the international standards on the basis of which speech and expression can be legitimately restricted in the national context itself. Now I'm going to hand it over to Nayathara to talk about the Indian situation.

>> NAYATHARA: Thanks. I'm going to talk about four main trends that we've seen so far in the initial stages of our research. The first one is a prominence of provisions that are securing the status quo. Now, what I mean by that is provisions which are securing the interest of the state or interest of collective morality, whether real or imagined. These provisions having a higher place in implementation than user-centric or individual-centric rights. Now, to give you an example, section 43 of the ID act is about tampering with, stealing, or deleting information from computer systems. Now, there have been data breaches big and small, breaches in the ATM networks, but this section is often like gathering cobwebs in the statute. Right? As opposed to something like section 124A of the IPC, like sedition where somebody just receiving a message which is offensive or which is considered to be derogatory for persons in the government. The provision for sedition is used in a lot of really frivolous cases. Another example is when it comes to obscenity, so using the obscenity section which is more about collective morality as opposed to section 66E which is about, section 66E is punishment for capture, publishing, transmitting images of private areas without your consent. So that is more an individual's right, consent, but that's not used as much. That's another example where this plays out.

I guess an exception for this trend would be criminal defamation. A lot of cases of criminal defamation get filed even now. Even then, often persons filing for these charges either have the blessing of corporate interest or have the state behind them in some form so even there, they're on the right side of the power imbalance, the persons fighting these charges.

Now, the second trend that I want to point at is about implementation and policing of -- in relation to implementation and policing.

(no English translation)

Senior police officer quite candidly admitted about the state of police relations and reporting is that a lack of capacity in the police actually makes them discourage filing of charges under a lot of different sections. So whether or not it is intended, when cases are filed for sedition for receiving a message or being a WhatsApp admin, if such a message has been received, it creates a kind of chilling effect in general so to give you an example, recently, there was a case where a person who was actually apprehended for abetment of smuggling, the police went through his message and found a voice message that called for a protest about disrespecting the Quran which had nothing to do with sedition but he was booked on charges of sedition. Eventually, the magistrate let him off but letting him off doesn't make the news as much as such a thing. And while chilling effect is a challenging thing to measure from a research point of view, it does create such an atmosphere.

And I think, in this context, it's also important to mention the project and to surveillance, so when you even if you want to call an ambulance, it's going to be linked to your number so in such a situation, the potential for surveillance could be huge. And while we have no data at the moment, I think it's just important to keep that in minority.

Another blunt instrument as Geetha already pointed out is section 144 of the criminal code, which is used for network shutdowns. So it actually is for curbing unlawful assemblies are preventing danger. This is another blunt instrument that is often used. Now, I'll move on to the third trend which is the rough consensus around the fact that child pornography is bad, this being bordered to criminalizing sexual expression in gender is another trend. So in a petition before the supreme Court, for example, the ask was for blocking porno graphic sites, especially child porn. Now, what does that mean? Do you want to block child porn sites? Is that a different hierarchy? So, this is evident in law making as well. For example, the indecency of women's act which was legislation in 1996, it was amended in 2008 which became the indecent actions of women and children so suddenly you have the actions of women and children which require different regulations and do not even merit being put together.

So, yes, the code in that case in direction to the government to ask for banning of child porn sites. The

judge says when law prohibits obscenity and porn is directly obscene, then you have to ban it. How you ban it is a different issue. So, yeah, that's the third trend that we saw. And the last one is with regard to draft laws. So, in a lot of draft laws that are being put out by the government, the lack of a user-centric lens is quite prominent and I want to take two examples. One is of something called the geospatial information regulation bill. It is a bill which made geospatial information, the publishing, the transmitting, the storage of geospatial information criminal. What is geospatial information? According to the definition, it could be your Uber or any kind of logistics company map that you might use to order food in, to find directions, or even me putting a dot from my hotel to this place and drawing out a representation of geospatial information on paper. So all of this was criminalized.

And if you needed to publish such information or even have it with you, you need to go to a security vetting authority for this. So if I have a map and I kind of point a new dot and write it, it would count as value addition and you have to go back to the security waiting authority. And in a lot of cases where there's moving traffic and you have all of that represented on your maps, it doesn't make sense, right? So a lot of people, like students, persons that use volunteers of open source projects like open street maps, so many people are affected by it and whether or not we agree with the intention of the bill, the design of it is not keeping users in mind. This is also the case with the draft encryption policy which also got revoked.

So, even there it required the users and businesses to store any encrypted communication in plain text for up to 90 days. So, whether or not we like the intention, it's really hard to do. So, like the very one-sided thinking is evident in a lot of draft laws. Thanks.

>> GAYATRI KHANDHADAI: Thank you so much. The thing about conflating women and children reminded me of one of the most awful signs I've ever seen at the Bangkok club. They have a men's bar in this day in age but they had a sign from colonial times that said no women, children, or dogs and the staff was actually happier to allow dogs in than women or children so it's not surprising at all that the same sort of mentality carries to legislation. This is in India, yeah. They've taken it down now, but last years. They still didn't allow women to be citizens. No, Bangalore. But it's all for our own good, obviously. So

I'm now going to turn to pat from the Cambodian Center for Human Rights -- sorry, do we have Sadaf first? We're going to go remotely to Sadaf in Pakistan for Media for Democracy who is going to talk to us about their work on the project. Sadaf, can you hear us? So I guess we are getting Pat. Which would be great to have as a contrast to India because every time I think India is doing terrible things I have to look next door and say maybe we're not the only ones. So Pat, tell us how horrible things are in Cambodia, or not.

>> PAT: Wonderful with that segue. You're prepared. So, yeah, thank you for inviting me. I think for Cambodia, the legal and political context is, to my knowledge, very unique --

>> SADAF KHAN: Hi, can you guys hear me?

>> GAYATRI KHANDHADAI: A lag of about seven minutes. Hi, how are you, Sadaf? Can we have you on now?

>> SADAF KHAN: Hi, I'm good. Sorry for the technical thing.

>> GAYATRI KHANDHADAI: No problem. We can hear you. Go ahead. We've just had India so far, and you can --

>> SADAF KHAN: Okay. It's really nice to be able to join this remotely. I was just listening to the presentation from India and once again drawing parallels on how India and Pakistan are so similar. For Pakistan, some of the research that we're doing, I will start with defining the three different ways in which speech is being criminalized. First, it's being criminalized on sections of the Pakistan Penal Code like section 294A that deal with sedition and section 295A and C that deal with blasphemy, then there are counterterrorism and related laws that have been extensively used and they're not laws that primarily deal with speech, but they always contain a clause or a section that deal with the necessity of cracking down on speech that either promotes violence or hate speech or glamorizes terrorism or glamorizes and glorifies terrorism of some kind. And finally, there are industrial related laws like the cybercrime bill and PDA act and telegraph act which technically are designed to deal with regulation licensing of the industry, but some clauses have been either sneakily or deliberately put in to ensure that there are -- that the authorities, the regulatory authorities have some control over the content that is being shared online. The law that has been most often used online and that on this weekend we actually see some case law being developed is the blasphemy law that's applied to section 295A and C of the Pakistan Penal Code. Section 295A deals with

deliberate and malicious acts to trades, religious feeling. It's been one of the most used and abused laws. And the problem with using this law is that it obviously, there are a number of cases that are going on against people who have been charged conducting blasphemy online through the different social media platforms. We have had a recent conviction in which the convent was given -- the case is in appeal right now, but in addition to the -- under the judicial system, every time there are accusations of blasphemy, especially in the online spaces, we have seen more violence, a form of vigilante justice, obviously misinformed, and that has been done with impunity. There has been no crackdown against people who have actually reached out to perpetuate violence against people accused of blasphemy online.

In addition, there has been a demonstrated lack of political will to even move towards a system where people who just kill and torture and maim on mere accusations are convicted. We had a very unfortunate case this year when a young student, Michelle Han was brutally murdered by his fellow students in the University. The murder was not just brutal. The mob was highly agitated. They even tried to mutilate his remains. He was accused of blasphemy and later it turned out that not only were the implications false but they were actually due to his position that some corruption at University administration was involved in. And later, what happened was there were all these posts being circulated allegedly from Mishal Haan's account, but it was never proven. It was never actually properly investigated who was behind spreading of this false information. Another section that has been used often is the section 11W of the antiterrorism act.

The section basically criminalizes speech through any, basically any medium, which can incite religious or ethnic hatred. While, given Pakistan's context, it's really, really important to have mechanisms in place with incitement to direct violence, through which incitement to direct violence and religiously moderated violence can be tackled. What had happened in application is that this section has not really stood up to the test of necessity and we still see a difference in the way the majority and minority side speech is being tackled.

So, you see a lot of band, prescribed terrorist organizations openly running Twitter and Facebook pages, issuing posts that directly call for the killing of the minority site and doing so with impunity while the majority

of cases that have been instigated for online speech that's in any way linked to religious speech have been --  
(lost audio)

Against posters. So, we see moving on to the third way through which laws, speech is being criminalized, specifically the latest bill that was passed. The cybercrime bill, it's industry related bill. When PEKA, the prevention of electronic crime act, was being debated a lot of international organizations like ABC raised concerns, the UNSR, issued a statement to the government expressing concerns about the impact on speech online. And what we've seen in the almost one year, not one year, nine months of this act being implemented is a complete misuse of the law.

The Patsar has been in the middle of a controversy that started at Twitter when the program refuted a government statement to a tweet which various leaders, including cabinet members, giving public statements against Twitter itself and basically designating Twitter as one of the key causes of political instability in Pakistan. This led to the interior Ministry announcing a sustained crack down on social media, particularly against people who talk or criticize the Army. Following that statement, we have seen a lot of activists, bloggers, journalists, not formally arrested but brought in for investigations and interrogation by the FIA. There have been reports that they were voluntarily asked to submit their devices for search and the FIA got them to sign a form saying that they were doing so voluntarily which obviously was against the law which requires them to have a warrant to even touch anybody's devices.

The section that has been used to bring charges against some of these bloggers is section 21 of the PECA and it's very strange because this section actually deals with the dignity and modesty of natural persons. So far, we have had no clear indication of how this action actually applies to speech against Army or Army personnel, but that's how the FIA has been operating so far. One of the sections that were of key concern was section 37 that deals with blocking of online content, and the issue with that action was that it borrows line directly from Article 19 of the Constitution, giving PT and executive authority the power to interpret Constitutional provisions which technically should be demanded of the mandate of the Supreme Court. The government was supposed to submit a six-month report in the parliament defining how, exactly, that section was

used. That report is due yet and opposition Senators have actually submitted requests asking to follow up on this with more transparency of how the section has been particularly implemented.

In addition, the last trend that has been really dangerous is the, basically the disappearances and we have had five bloggers who had gone missing in the year. They were later recovered. One of them eventually went to the UN and accused the state of picking him up and putting him under torture. There also will be arrests of political party workers without any formal charges being brought out against them. The agency that was involved in that was the FIA, the Federal Investigation Agency, so we're assuming that they're doing so somehow by abusing the electronic crime bill. All of this has led to a lot of self-censorship online, particularly when it comes to political speech. So, yeah, these are the major trends we are seeing in Pakistan these days with regards to criminalization of speech online.

>> GAYATRI KHANDHADAI: Thank you, so much, Sadaf. I think it's so clear that there are so many parallels of the work we're doing, the propensity for mob violence, people taking justice into their own hands, being left with impunity. Not acting as bad as the government doing something terrible. The chilling effects that are happening, the lack of data. The impossibility of even untangling some of this from the political angles and the use of international institutions to bolster what's going on internally. And I think it's a really clear case of how the heckler's veto is so alive and well in this region where you create exceptions that allow the government to intervene and then suppress speech and then you create conditions very cynically and intentionally to create a state of emergency such that you're justified in going in and curbing speech. So, these are really disturbing trends that we're seeing across the region so I'm also really happy we have Ed to talk about the impact on journalists because they're the first line of defense here but they're also the ones most exposed and vulnerable when they try to call truth to power in these situations so really looking forward to hearing Ed tell us about the media angle in this. Thank you, Sadaf. Are you going to stay online so we can ask you questions or would you prefer that we take a few questions now?

>> SADAF KHAN: Yes, yes, I'm here.

>> GAYATRI KHANDHADAI: Okay. Great. Thanks. So we'll just turn to Pat now to continue about Cambodia.

>> PAT: Okay. Thank you. Yeah, as I was about to say before, so it's important to frame recent developments and trends around criminalization of expression online in Cambodia in its peculiar kind of legal and social context. So up until just a couple of years ago, traditional media, all media outlets were very heavily controlled by members of the ruling party and their friends and cronies so television, news, and media. Internet subscriptions were exceptionally low. In 2008, there were only 40,000 subscriptions. In 2016, it's up to 60 percent, so . That has had a real affect around a young and somewhat agitated population around demanding reform for Democracy. So, in 2013 there was an election in Cambodia. Elections, which have been typically characterized as not being free and fair as happening but in being preordained in returning the ruling CRB to power. This one was a bit of a shock in that they allowed the opposition leader, Som Ramsey to return on the eve of election expecting a victory with just enough legitimacy to receive funds. It was a shock for everybody that the opposition almost won that election. They came within a hair, a few seats, and one of the main factors around that was this digital revolution which had taken place in Cambodia under the noses of a complacent ruling elite.

And the organization around that results had happened a lot online. Not only online, but a huge amount of it. So youth, workers, trade unionists, human rights activists and other opposition forces kind of united, organized assemblies, meetings, protests online. And that led in large part to this surprise result. So the context since 2013 and 2014 has been shaped by that event and we've seen a string of legislative moves, prosecution, and other actions by the government aiming to restrict freedom of expression, especially online, to ensure that at the next election, which is happening next year, that they're not leaving so much to chance.

So, that's the very recent context. The beginning of this crackdown. And again, before going into the details of those legal changes, prosecutions, et cetera. I would just mention as Geetha briefly alluded to in her introduction that the Cambodian legal system because of its history is very unique. So in the early 1990s at the end of a long, drawn-out period of civil war and conflict in Cambodia, the United Nations kind of ran the Cambodian government, the United Nations transitional authority for Cambodia for over a year and conducted elections. But at that time, a new

Constitution was introduced and with heavy UN and international participation, it led to international legal norms and human rights being incorporated directly into the Cambodian Constitution so Article 31 of the Cambodian Constitution states that Cambodia shall respect international treaties related to human rights including the universal declaration of human rights. So it's really something to have that directly applicable because those even more expansive than the treaties itself.

So, that itself is quite a starting point. Then in 2007, fast forward a bit, the Constitutional council of Cambodia, the body charged with interpreting the Constitution, found that this should be the direct applicability. So it doesn't need to be litigated to be applicable. So the government should be applying these norms in their law making and law enforcement. However, Cambodia is also very much characterized by the absence of rule of law, and exceptionally partial judiciary. Generally it comes bottom in the rankings in Asia for rule of law and in the bottom five or ten globally, annually. So as well as the lack of independence, it's a weakened nations judicial and legal system. The development of norms is quite lacking. So from an advocate perspective, it's good because we can rely on these legal norms outlined in the general comments in the international treaties as our starting point for advocacy. Unfortunately, the Court system despite this Constitutional provision and decision of the Constitutional council rarely, or never applies those standards.

So, that's the context. And recently, as I said, there's been a concerted effort legislatively and also from a policing perspective to curb freedom of expression online. In 2016, we saw the passage of a telecommunications law, and that was the first kind of sectoral specific law looking at the internet space and that was, as I think was mentioned in respective India, characterized like a lot of laws in Cambodia, especially controversial laws characterized by exceptionally broad provision which will give enormous power subjective to interpretation by the Cambodian government. So E for example, the telecommunications law bans unauthorized surveillance of networks including telecommunications, internet, all forms, unless there is approval from a legitimate authority. And it's not defined.

So, basically, it gives carte blanche full power to the Cambodian government without oversight because the legitimate authority could be a minister. So that was

potentially already in practice, but then it became law. So an exceptionally broad provision and no protections for privacy in there. I mean, lip service, yes, but that's it. And it also didn't nationalize the telecommunications sector but it gave an enormous at least political access and control to telecommunications provider for the Cambodian government. So it mandates all the private Telco operators, internet service providers in Cambodia must share all their data, basically, with the Ministry of post and telecommunications and it created that regulatory body which has enormous powers to access all the communications. So, legally, there's very little protection and huge access to data for the government but we're still not sure of the level of technological capability. There's a level, but it's uncertain as of yet.

But as I mentioned, there's been a lot of leaks and hacks targeting opposition so we can imagine there is some technical capacity there already. Aside from the communications law, one of the main trends which I think is really worth highlighting in Cambodia, in this period, the period post the last election is that rather than directly criminalizing or introducing amendments to the criminal law to target expression online, we've seen a huge assault on freedom of association. Within these pieces of legislation targeting freedom of association, provisions which go to expression and they're obviously completely interlinked anyway. So the main forces, organizing forces behind the opposition surge and the protests which followed that election were the trade union movement, Civil Society, kind of human rights activists, and then obviously political opposition, so three main forces and since then we've seen three major pieces which target those three groups. So firstly a law on association NGOs, highly restricted and way out of step with international standards. We've seen a trade union law. Very similar provisions. We've also seen law in political parties amounted very recently. So these three sectoral laws targeting organization of dissent and organizing, say, dissent in expression, have been targeted. So, for example the law on NGO and associations, the LANGO, states that associations must maintain political neutrality at all times but again, this is not defined. We've seen the government, again, threatening to apply that Article 24 against NGOs for simply stating that someone, X, is a political prisoner. That is seen as politically partial. And obviously, this applies online as well.

Similarly, the law is very current, it might become law

today, another amendment to the law on political parties states that any convicted person, if they express support for a political party, that political party may face dissolution by the ruling party unless they actively announce that expression of support. So, the tacit acceptance of the support of anyone convicted of a passenger's door or fell any anywhere in the country could lead to the dissolution of a political party and almost the elimination of Democracy. The trade union law has sanctions, similarly, for various types of expression can lead to the dissolution of the trade union law and each of these laws have exceptionally broad provisions and we can see that they're technically administrative sanctions but exceptionally broad administrative sanctions and they often can be coupled with criminal actions against individuals. So, just a couple of examples to finish. So, we've seen another trend in general, not just online, but especially pronounced online is that there's been little indication of political will on the part of the Cambodian government and authorities to enforce these provisions which criminalize expression en masse or systematically to target everyone online. Whether, the favored tactic is to go after high profile individuals and the chilling effect, and that's proven to be very effective.

So maybe some of you if you have any familiarity with Cambodia -- sorry, I'll wrap up. Kim Lei was a much loved political analyst and commentator, one of the most beloved public figures in the country. He was assassinated on the tenth of July last year in broad daylight in Punan Pen and most observers would conclude that it's a likely government-sponsored hit. But since then, there have been, and this is illustrative, I think, of the dynamics at play. There's been at least four high profile prosecutions of individuals who have linked the government to that murder. And two of them are involving politicians, the leader of the opposition and an opposition Senator. Both have had to go into self-imposed exile because of the criminal charges of incitement and defamation which were brought against them.

Another political analyst who commented on it on the radio was also imprisoned. He's still in pretrial detention. Kim Sak. And yeah, so, that's -- sorry, that's three main ones. And then the other case I wanted to mention was another opposition Senator who posted on Facebook a doctored order treaty with Viet Nam. It's a very sensitive issue, the border between the two issues. So he posted a

fake one, a silly post. Posted on the page of the leader of the opposition party. The one who posted was convicted of incitement and forgery. The leader of the opposition whose Facebook it was posted on was convicted of accomplice to that crime and two staff members who happened to be on staff were also convicted so three of them now in exile and one in prison. So the chilling effect.

Just to highlight, CCSR did a report that found that 82 percent of Civil Society and trade union leaders report self-imposed exile. So sorry if I've gone on for too long. But that's Cambodia. Thank you.

>> GAYATRI KHANDHADAI: Super depressing. Oh, my God. It's almost like this medieval thing where you had heads on stakes at the entrance to the city as a deterrent. It's like the online equivalent of this, saying this is what's going to happen to you if you go along this path. Really scary. We're move to Malaysia. Do you have more cheerful news for us?

>> DAVI: Well, not for the country but for the people here, yes. We have one Article in our federal Constitution that gives freedom of expression, assembly, and association. There's like three lines, and about ten exceptions to it. So there's no international convention that applies to rights in Malaysia. We sign on to the CDO, the child rights convention. They are ratified but have no application in Malaysia. It's not applied anywhere. Judiciary say, no, we do not follow international conventions, even in principle. No. So they have a case that comes up to it, they say, hey, we have ratified a national law and this is how the UN has interpreted it. The judge will say, no, not in Malaysia so that makes things very easy. And when it comes to internet, things are even more easy. Our judge will say, internet, offline, online, no difference. The law applies equally. This applies civil, in terms of contracts. It also applies in terms of criminal law. So here's a little bit of a slightly more depressing or entertaining part, I guess. freedom of expression in Malaysia was traditionally curtailed not through laws like the sedition act, even though it has been around since 1948. It was not curtailed to defamation like Singapore, but curtailed to security laws. So in the 70's -- sorry, let me side track. In Malaysia, we have this law that has been in 2012 that allows the prime minister of Malaysia the power to retain someone for 12 days and can renew indefinitely. We have had people retained for 16 years, I think, for false

accusation of being member of the communist party. In the 70s, this was used to detain labor party activist, labor party politician, which effectively destroyed the party. In the 80s, it was used by our current leader, Mohammed, a dictator for years that has now become our savior. I guess that's the good news. He detained about 160 activist leaders and in 2008, used it to detain a pretty well-known blogger and a member of parliament and journalist. So we have no qualms with using our security laws against Civil Society and opposition members of parliament and whatnot. So, one thing has changed in Malaysia. When internet came to us in the late 90s, it drove the movement, it started off which challenged the news which has been strictly controlled by the government either to direct ownership or censorship. So the government was not fast to react to it aged it was only in 2008 when they realized their power and control, the control of freedom of expression, has been shaken to the point that people are not afraid anymore, in a sense. Because when I was growing up in the 90s, my parents would literally look at news or politics on TV and hop up and whisper, we shouldn't be talking about this. We might get detained. And you'd be like, who are you to get detained? But it's the kind of sentiment there. Not just in my family but a thing where you go out to other families, you talk to them, and there's always a hush style when it comes to politics. That kind of fear. Not even touching on racial issues. I'll leave that out for today. So transitions on more discussion, more power to opposition, more room to discuss, the government, in 2008 used the security law like they used to against a blogger, a member of parliament and journalist. It backfired really badly on them. Our current prime minister sits on his throne -- sorry, he sometimes acts like a king. So when they used that, it backfired on them so in 2012 they actually repealed the act but not because they decided to comply with human rights standard but because they found it was counterproductive. This was the speech when he mentioned using the law against opposition leaders makes them stronger. It makes them efficient for us, because that's why we're repealing it. So in 2012, the law was repealed and the user sedition act went from maybe a dozen cases up to 200 cases within a year. And then after two years of strong campaigning, lobbying and whatnot, the use of sedition act fell from about 200 to 12 or 18 last year, I think. But our new other law, the communication multimedia act has been there

since about 1998 went from about ten cases to 30 cases and now it's reported by government to be 600 cases of social media abuse in a year.

So you see the trend where you defeat one law, another law comes in in Malaysia and we don't really discriminate how we use it. We tend to use any law crisscrossing it. The executive act and editor in chief was charged under multimedia act for posting a video of a press conference of a former government politician who criticized the prime minister, so they were charged for that. We have punk rock artists that posted a very interesting photo of the prime minister with a vampire face charged in court. A satirical post where he made fun of our governments. They just say, this website is blocked, for more information, the guy made a suit out of that image and was charged and caught. What is a bit worrying is sedition act in the past was used to target politician. The internal security act was used to target politician but the communication act is targeting the general population. People that it's impossible to identify because you have no idea who they are.

It's just a Facebook post or a Twitter post and in Malaysia, having your name on Facebook and Twitter is quite well. You always have a very strange name. Case point example, there was this, at one point, there was this football-related arrest. Yes. Related to football. I know in the UK, people get very angry about football anyway. So what happened was one of our -- sorry, one of our crown prince in Malaysia, I'm not going to point out who is it in case I get lynched back home. No, lynched. Not charged. He is kind of the manager of a football club in one of the states in Malaysia. Their team had a game with another team from another state and they won the game, so he very graciously posted a photo of him feasting upon the other team's emblem, which was an elephant.

So obviously any football fan that sees that will take offense to it, start lashing on it saying, this is not nice. This doesn't make you guys the king of the world because you won, kind of thing. So next thing you know, there were 11 people that were arrested, detained for 13 days, and one of them was actually a fisherman that was somehow fishing off the coast of Malaysia and somehow the police found him and grabbed him. And he doesn't even have a Facebook account. And the post was allegedly made on Facebook. So, you had this head scratching moment, why was he arrested? Or better question is, how did they actually find him off the coast of Malaysia and arrest him? He was

on a boat, for crying out loud. But it's this kind of thing that's worrying but hard to pinpoint how. Describes local extradition.

So, in Malaysia, you can post something but somehow the arrest will not be done by the police there. It will be done by the police in the southern state. Imagine from the southern border of Thailand to the border of Singapore. That's how far they'll bring you. Literally. We had some friend who was arrested that way. He went missing for about 12 hours when they bring him south and halfway through, when they crossed over to the southern state the police had pulled out their automatic weapons. It would obviously freak you out because you're in for something relatively minor, and there are guns. You ask what the gun is for, and they tell you, in Malay, you know who's going to attack us. You're like, what? So that's going on. Police tend to attribute a lot of arrests on online posting to the southern state because they seem to have a cyber division there.

So at one point, the police state headquarter realized they can use this thing, take direct pressure off the headquarter so they sent their boys to arrest a journalist that made a comment that supposedly insulted us lamb. Somehow. Not even close to Islam but insulted anyway. They sent in to arrest him but the moment they arrested, they didn't send him to headquarter. They sent him south. So everybody is jumping the gun wondering why the police are taking him south then we find out the police wasn't from south. He was from headquarters. Oh, I see what they're doing. So, criminal procedure code dictates that you must have -- you're still arrested and charged there. So it brings about another extra burden on people but so far not a prosecution case going to trial. Most people plead guilty and get a small fine of about \$500, and in cases where they say it's activist and they challenge it, most of the time there is no evidence to push over it so they kind of just drag on the case. I have a friend that has been detained for about three weeks and his case has been on hold for the past year or so.

So that's things that are going on. So, yeah, that's the case of it. If there's any questions, I can always answer it after this, I guess.

>> GAYATRI KHANDHADAI: Okay. Thank you, Davi. We're going to spend to Ed, and then we have one additional speaker as well. We want to talk a little bit about the sexual expression of things because that's also coming under

attack when we're talking about criminalization of speech and how it's used, so Ed from journalism and then the sexual expression angle.

>> EDGARDO LEGASPI: Thank you. Thank you, also, Davi and Patrick making my job easier. Now you know what's happening on the ground in Malaysia and Cambodia. I'm afraid in the rest of southeast Asia where our work is centered on, the picture is not that good. Just for context, for example, all ten Asian member nations, you know the reporter shoot out border annual ranking on press freedom, right? 182 countries. Number one is the most free. Number 182 is the least free. All ten are in the least third, so it's that bad. You have many countries with a culture of illegal prepress on the media, to name them. We had in Malaysia and now increasingly Thailand. There's a threat. So that kind of an environment where media is self-censoring. Yeah. And now, from our observation, the governments in the region are trying to shift that culture of censorship and self-censorship to online expression. The problem is, you're not just talking about PJ. You're talking about citizens. The capability of ordinary people to express themselves against political or other views, so there's that increasing oppression. So in the region, more or less in 2012, except for Cambodia, every region now has a cybercrime law. Every country in the region now has a cybercrime law. Yeah.

so and many of the restrictions that have been criminally nature have been most of them. Most of them have put these restrictions online. Even the supposedly free Philippines there's a Constitutional provision that you cannot have legal restriction on freedom of expression and freedom of the press. So, what's the impact on the media? So, like I said, moving from the culture of self-censorship and censorship. The governments want to do this now to the people who are now suddenly having this unprecedented ability to express their views publicly, yeah? Yeah. For example, I'll just name one more country where the situation is quite bad, Myanmar, which has transitioned from a semi military regime to a supposedly Democratically led government, but specifically I want to focus on Article 66D of the telecommunications law which has a number of prohibitions about what you can do online.

So, presently, there are more than 80 persons who are being charged under Article 66D. And these like minor crimes, relatively. Although criminal. It's not about the penalties five years but the law says, violations. So once

you are charged with this, you are detained and among these 80 or so charged, there are about ten journalists charged under the telecommunications law. The problem here is that in Myanmar, Facebook is the internet, yeah? And most journalists, most newspapers have online accounts and if they hear the news there, and if you offend someone, you can easily be charged with a cybercrime law so it's that bad. So you have this new law, supposedly, the Myanmar press, legal environment, has become freer but then they have these booby traps of laws that they can easily ensnare journalists. Yeah? So, the final point I want to make is that I probably alluded to by Patrick and Davi the impact that all this is happening. The criminalization of free speech depends on the political regime. Patrick said about the prime minister of Cambodia. For example, three weeks ago, he said he threatened there's a threat of civil war in Cambodia.

So, that kind of speech has led the police to crack down people who are posting in support of the opposition to monitor the Facebook posters. So the political announcement, political leaders have made the job easier and it's ridiculous to crack down. It's basically the enemies of the regime. Like, for example, in the Philippines where I come from, we have a cybercrime law where supposedly Penal Code provisions are implemented but the administration has launched a campaign of hate and violence and threats including identity threats in many cases and that's technically legal but they're using it. And no one is being charged. There are double standards. So that's it. Thank you.

>> GAYATRI KHANDHADAI: Thank you, Ed. I think it's so important that the point that Ed made which reminds us that net neutrality is not over and it's something that's still very, very relevant to all our issues we're discussing in this case where people think there's freedom of the internet. On one hand they're providing expression and enabling assembly but modern, we really have to think about, on the other hand, we really have to think about the power that platforms have and sort of that dual nature of platforms in this space and the extent to which they actually work with governments and oppressive regimes. So I'm just going to talk to Pishaka and Smitha for point of view. I think there's so much for discussion and we'd love to hear from all of you.

>> Super, thank you. We'll try and be brief because we know there's a lot of questions waiting in the audience.

So both Smitha and I are from India and I want to start by saying in the last few years we've seen unprecedented levels of censorship in India both online and offline. So, for instance, if we look at films, we see that a number of words which we would not ordinarily consider sort of sensible, including gay, lesbian, intercourse, et cetera, have been struck down by the censor board, and this is something we see as censorship of legitimate sexual expression, these kinds of words.

Similarly, if we move into the digital domain, we see very much a similar trend continuing and I just want to start by saying three sort of framing things. One is, I think it's very important for us to, when we talk about sexual expression, to think of it as a valid and legitimate form of expression, a political form of expression, like more conventional and political and religious speech. Not to think of it as the ill legitimate sibling of free expression. It's as valid as any other, particularly when it's consensual. Imagined harms and actual harms. When we think about obscenity, or obscenity laws in India, which is what we are going to talk about, how those have been used not just so stifle sexual expression but also to stifle other forms of expression and criminalize them. I think it's useful to think about, is obscenity, to begin with, as an offense, an actual harm or is it an imagined harm? And by imagined harm, what I mean is, obscenity is something that we think of as a public harm, a moral harm, and I would say also a preemptive harm because often publications and content is pulled down before it can actually harm so it's somewhat futuristic, actually. In contrast, if we look at the actual harms, these have occurred in the past and need redress and there is no doubt whatsoever that this is a harm that can be converted. It's not a speculative sort of situation.

That says, there are three laws in the information and technology act in India, which we've been studying for a while. One is section 67 which directly regulates obscenity through the use of four words, deprave and corrupt, which again, somebody was talking about colonial leader legislation. It's the same here. We also have section 66E which prohibits the capture or transmission of image of private parts without consent and which is most directly related to privacy as a right and looking at consent being violated, even though we don't have a Constitutional right to privacy as of yet. And the third one, which is very interesting, is section 67A which

actually regulates sexually explicit practices or acts. And I think the question, there, again, is that when we already have obscenity legislation, is there a real need for something that also prohibits that which is sexually explicit or are we sort of thinking that naked bodies are inherently harmful when we think of legislation of this kind, right?

So going forward, I will hand over to Smitha just so that we can demonstrate both how this is used to stifle, say, the kind of speech, one example, which is you can have a situation where you have, say, two consenting adults, whether they are a man and a woman, a woman and a woman, whatever. Let's say they exchange intimate images with each other, right? This can often, even though it's consensual, this exchange of images, can also get criminalized and treated as obscenity. So that is a huge problem. But even more disturbingly.

>> Hi, so, as a part of the research we looked at media reports of 99 cases and analyzed it as part of the research and there were about 67 trends which emerged from the analysis. One of the biggest things -- Just to clarify, these were media reports from 2016, and 2017 as of now. And some trends which emerged got progressively stronger. One of the main things is that section 67 which is being aimed at obscenity is being used more and more as a political actually and tool for censorship. A very recent example is that the prime minister, someone added a snap chat picture of dog ears to his photo. A comedy group in India. And they put it up on Twitter and they were immediately charged under section 67. Now, is a dog obscene? Is Modi's face obscene? You never know what they're aiming at here.

And another example of this is, we live in a state called Mal Astra and the chief minister there had put up a photo on Twitter where he and his family are on a yacht. Just to clarify, they're fully clothed and just lying about. Someone tweeted a photo saying there's a drought in the state and the chief minister is lolling about on a yacht. He was charged. Again, what is obscene here? Nobody knows.

>> The cost of the yacht.

>> Probably, yes.

(laughter)

Another trend with the use of 67 is how a lot of people are using it to online harassment. Again, 66's aim was used to be addressing cyberbullying and online harassment. In its

absence, because 67 is being used for a dump for everything, it's also being used to address online harassment. Which I guess is good compared to everything, but then you're only focusing on obscene bullying but what about those harms that are not obscene? You're only addressing the sexually explicit ones, not the other harms which come with online harassment. What Michelle was talking about, how consent is ignored in-laws like 67. A very interesting case which came out during or analysis involved a man and woman who were in an extra marital affair. They planned to attack the woman's married family, the family she was married into. They planned the thing and assaulted her mother-in-law and husband and all of that. And when the police filed the cases, they filed the cases of murder, assault, et cetera. They also charged them under section 67 because they found messages on both their phones of them exchanges images. Now, how that is relevant to the murder, I have no idea, but because it existed they ignored issues of consent and filed them under 67 anyway. I think this is very dangerous in any country, to use, one, obscenity, which is not defined, and to use it for censor ship in these forms. That's all I want to say.

>> Thank you so much. We'll just take a couple of really quick questions because we're running out of time. So anyone else? Yeah. Okay. Okay. So we'll take these three questions, one in a row. Can you make it really quick so we can also get responses?

>> Are you seeing anything of this type in your research? First is, real name policies as a deterrent to expression? Second, is, I don't know, you referred to earlier as a heckler's veto. I'm referring to mobs, digital mobs, trolls, et cetera S. whatever, propagators of propaganda, et cetera. Whether they're humans or bots and the chilling effect that they create. And the auxiliary problems of takedowns that result from these social media wars. And the third, also pick up from Malavika's net neutrality comment. Are you seeing in your countries that they are cooperating, complicit, for example, in takedowns? Or are they fighting back the way -- I was just reading an Article about Apple refusing to give the FBI personal information. So what's the situation of the relationship between the third party intermediaries, the instances where a state is demanding complicity.

>> I was just a little curious. We heard about India, Pakistan, Philippines, Malaysia and Cambodia. Any representative from Thailand? We'd like to know the case

of Thailand. Okay. Is there anybody who can say a few words on Thailand?

>> We do have research, but yeah --

>> Okay. Thanks.

>> GAYATRI KHANDHADAI: We'll just take the final question here and get a couple of quick responses.

>> This is really for Ed. First, even mere liking, sharing, or tagging, which is very relevant in the context of Thailand. So what do you think is the most effective way to deal with very strict intermediary liability.

Second question is, there's also a common thread in these cybercrime laws is that false information that threatens national security is criminal and there's also the rise of fake news which sometimes is even promoted by governments so how can we effectively address fake news vis a vis the cybercrime laws and freedom of expression. Thank you.

>> GAYATRI KHANDHADAI: Great. Thank you. Vika?

>> MALAVIKA JEYARAM: I shared this yesterday but just the recommendation of how to move forward with the research is actually thinking about the source of funds because usually when you have a trend of, you know, legislating these laws, you also see why this is happening. And actually, in the case of the Philippines and other countries in Asia, we've seen EU funding initiatives like these. Like, there are projects like the JLACY of, I think you are the account of, I shared it on my Twitter. It actually is funding or increasing the capacity of, you know, the judicial system or judiciary to be able to address violations online. So sometimes when they

In the process of addressing these laws, they legislate laws which are also oppressive.

>> Remote participation. Is the Cambodian law that penalizes political parties for support shown by awaiting any Constitution? If so, has it been shown yet?

>> GAYATRI KHANDHADAI: Great. Go ahead, quickly.

>> So just to make a comment about Sri Lanka, in the recent news that was mentioned by the government that they hoped to restrict social media in a certain way. We're not sure, as yet, how that is done. But most recent elections is when we saw everyone taking up social media to express themselves. Politicians, women, men, everyone. I mean, we even saw female politicians from the grassroots who put up videos of themselves and commented on the situation. So the Constitution guarantees freedom of expression, but this does not apply to the internet, and there's no implication that it does. So, now, we're a little concerned as to how

these restrictions that the government is hoping to impose on social media is going to take place. Thank you for sharing your comments. I was wondering if there's any ways in which you're trying to counter these measures and if you could tell us a bit about it.

>> GAYATRI KHANDHADAI: Okay. Great. We'll keep going over unless someone stops us. Oh, it is. Yeah. Minor acts of subversion. Okay. Geetha, do you want to just sort of answer the questions about real name policies and heckler's veto and vigilante since you're doing the methodology?

>> GEETHA HARIHARAN: There's just one bit that I want to answer, actually. Which is that these sorts of situations is where the international standards become particularly relevant. In the framework, for instance, there is eight sort of issues that he looks at, arbitrary blocking of content, cyberattacks, criminalization of legitimate expression and situations like that which are particularly relevant when we look at current issues in these countries. So, that's actually the only thing that I wanted to share right now.

>> GAYATRI KHANDHADAI: Ed, do you want to answer the question about Thailand and also the gentleman who asked you about the media?

>> EDGARDO LEGASPI: Actually, Thailand is a good case study to answer all those questions about real name policy, intermediary liability, except fake news. We're still trying to wrap our heads around how to address that although there are a few issues that are already coming up. Okay. Thailand. Thailand is a bit famous around internet circles about -- who was charged in Court for intermediate liability. And they have failed us in the case that the editor was charges for not deleting an illegal comment fast enough. He deleted, but it's not fast enough. They said as an educated person, she should be responsible enough to see that when she saw it, deleted it immediately, but it stayed in their forum for five days and then, that wasn't fast enough. So, in the end she was convicted with a suspended sentence. The online comments section of the online newspaper has been deleted permanently, so that's how it happens. The good news is, in Thailand, that law on intermediary liability has been softened a little so there's now room for appeal so you can argue however you want to argue. But, it is not that harsh anymore. So, that brings us to intermediaries like Facebook and Google. Now, there's the trend, especially in Thailand of these social media giants, which are quite alarming to

follow national loss as a basis for censoring content. And if you're in a country with a good freedom of expression, traditionally, that's good. But this is southeast Asia. You can go to jail for insulting a dog, yeah? So I think that's really something we must put forward to these internet giants. What do you do about this? So five years ago, their platforms are refuge spaces where people who are censored in the main stream media are able to express. Now, that's not possible anymore. So, I guess that's work that we need to do. And then real name policy. You see our tags, right? You have a unique identifier. That means you're, as users, you're registered in Thailand. Everyone is required to use actually, expats like me who live here, we are asked to share our Facebook accounts, all social media accounts. So, that kind of actually very real surveillance and threats that's pushing all people here in Thailand, so you should be careful in what websites you visit, right? Especially using this one.

(laughter)

Okay. So that's Thailand. And the recent developments, especially this year, are quite disturbing. Broadcast media, print media, online, social media, everything is being restricted.

>> GAYATRI KHANDHADAI: Talking about double standards, I really wish we could put governments, you know, we could hold them accountable for the same thing. You haven't deleted the ridiculous laws you've had on the books for a long time. Like you haven't deleted it fast enough in an alternate universe somewhere. Geetha wanted to make a point about intermediary responsibility and then I'll ask pat to answer the remote question we had from Cambodia.

>> GEETHA HARIHARAN: I just wanted to mention India. Prior to 2016, India had a situation where intermediaries, if individuals sent out complaint to intermediary they were required to respond within 36 hours and in many cases in order to avoid action to the government, the intermediaries would just take the information down, take the page down or comment down or situations like that. However, in a positive move after 2015, there was Supreme Court judgment, the same one that Nayathara was talking about which struck down the Draconian section 66A. Now the situation is where now private censorship is limited to the intermediaries which I think is a positive step.

>> I just want to add responding to the question about whether intermediaries actually reply. In one case, judicial case, there is a preference about male or female

kids. It was a case about sexual determination in kids and the Supreme Court directed for all search engines to ban ads that sold sex determination kids so 32 key words were banned on all search engines.

>> Just again, a quick add. I think it's great that, as you said, private censorship has come down due to judicial intervention but on the other hand private censorship is very much alive and kicking in terms of their own interests. So we run a blog of sexuality and disability and we have women of disability blogging about their experience with love and marriage and so on. We face huge problems on Facebook. It keeps getting taken off. We run another site looking at the issues of gender, sexuality. Again, we're a small non-profit. To get readers, we have to use social media platforms but again, it keeps getting taken off so every second of the day we are going back and forth to figure this out so some forms of it are alive and kicking.

>> PAT: Yeah. Just to respond. I barely touched on the recent provisions to political parties but there are many, many ludicrous ones. You can't use any image of an individual, religious or national symbol in any posters advertising or public communications of the political advertisement and then the banning of associations with convicts for even the most minor crimes. Then the cabinet of interior to indefinitely suspend political parties based on their interpretation with no limit. They could suspend it for 99 years. So there are huge issues. We, a coalition of Civil Society hub produced a legal draft first to the Senate to ask them to reject the law. We submitted it. They rejected it for administrative procedural reasons. We then sent it to all members of the council for their consideration. They again said we as Civil Society have no legitimacy in interpretation of Constitutional norms. They also rejected it. Then we had drafted a letter to the king of Cambodia to request him not to send the law. But the king went to a medical check-up in the China as he has for highly suspect reasons in the past. So that's where he is now and in those cases the bill reverts to the president of the Senate who is a stalwart of the ruling party. So he is expected to sign it today and he has no veto power. We did our best. In the end, we had to release a joint press statement along with the legal analysis and email it to all these actors but officially we were ignored despite trying to access every single channel.

Before I give up, I just wanted to mention as well, Ed mentioned every country in southeast Asia thus far except Cambodia has a cybercrime law. Not wanting to be outdone by their neighbors. Cambodia actually has a draft of the cybercrime bill. We've seen two iterations, actually both not in line with international standards and unduly restrictive.

Around the second law in Cambodia it was announced that technical assistance will be provided by the U.S. department of state. Which we found interesting. Potentially a good thing. It should be a good thing. We would expect a higher human rights standard and norms to go into the drafting process with the technical assistance of the U.S. government. That being said, it's still been opaque. Despite their involvement, it has not been a transparent legislative process and that has not been improved by their participation. So, yeah. It's an interesting question you raise. Why are these major international powers involved and what are the full motivations behind that?

>> GAYATRI KHANDHADAI: So Ed wanted to just make a quick follow-up point about Thailand and then would any of you like to answer the question about Sri Lanka.

>> EDGARDO LEGASPI: Okay. Before you conclude that Thailand's intermediary liability law is much improved, the administrative instructions are actually under threat. And this is not like legislation we can lobby before. This is about content, no? The pressure actually for Facebook and YouTube to ban content began with an order about, hey, what are you about this illegal content that is being done before they sort of resisted and then put the -- explained to the government how this works so the government then started to pressure Facebook and YouTube and submitting why these contents should be illegal. Second, there is also a plan to restrict more control. Thailand has introduced the idea of one gateway for the entire country to channel all traffic the government control channel. There's a very successful campaign against this. It's unprecedented in Thailand's online campaign. 200,000 signatures. But it's still there. It still might be happening. But the point is to have the illegal content coming from outside Thailand to prevent them from reaching the local shore.

So, yeah there's a gain in the intermediary liability law but elsewhere, it's really much worse. There's also the new takedown clause of the digital economy Ministry, which doesn't have to be justified by the Court order.

>> GAYATRI KHANDHADAI: On the point about Sri Lanka, I think that's exactly why this research project even exists because of the fact that online and offline are treated so differently in a lot of regimes and certain rights and protections don't apply whether in the Constitution or elsewhere. We're going to wrap up. I'm just going to ask everybody on the panel, Sadaf, as well, if you're still around, to give us your one solution. If you had a wish list. If you could be king of free expression for one day, what's the one position you would like to see in your particular jurisdiction. We'll go with Sadaf first, if you're still there? Unmute, if you are. Okay. She's not online? No. Okay. Okay. We'll go this way. Nayathara, do you want to kick it off?

>> NAYATHARA: Yeah, I guess an opportunity to engage with any draft law that comes out because many times when there has been engagement, they've revoked it right back. So for all drafts of laws to be public.

>> PAT: An independent judiciary to monitor consistent enforcement of those laws rather than arbitrary interpretation.

>> We just finished our research project for it.

>> EDGARDO LEGASPI: I think cybercrime laws are clumsily worded because they provide ready weapons for incumbent political parties to crack down against their enemies.

>> I have no idea. Because if I want to say, it's repealing a law that's about a dozen laws that needs appealing or amending. If I wanted to say a mass movement change, that's going to take years if not decades. No, no, not giving up. But just, yeah.

>> And this is the new generation that's going to inherit this fight from us. Damn it. Okay. Thank you so much for sticking around through the break. You've been great, and thank you to all our wonderful panelists.

(Session was concluded at 10:45 PM CST)

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