



Freedom on the Net 2018 - Philippines

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Status: Partly Free
Total Score: 31/100 (0 = Best, 100 = Worst)
Population: 105 million
Internet Penetration: 56%
Freedom in the World Status: Partly Free

Key Developments, June 1, 2017 – May 31, 2018

- The government ordered the shutdown of mobile phone networks during major events in several cities, citing public security reasons (see Restrictions on Connectivity).
- In January 2018, the online news network *Rappler* – which had been critical of Duterte – was ordered closed by the Securities and Exchange Commission for failing to comply with a rule limiting media ownership to Filipinos (see Media, Diversity, and Content Manipulation).
- A number of journalists and individuals were charged with libel for online criticisms, increasing from previous years (see Prosecutions and Arrests for Online Activities).
- Surveillance became a growing concern following reports that the government had purchased sophisticated equipment, including IMSI-catchers (see Surveillance, Privacy, and Anonymity).
- At least two cases of technical attacks targeting independent media groups were reported (see Technical Attacks).

Introduction:

Internet freedom in the Philippines declined and became Partly Free in 2018 due to a growing number of libel cases filed against online journalists for their critical reporting and increasing surveillance concerns. In addition, mobile service shutdowns were implemented in major cities and content manipulation and cyberattacks threatened to distort online information.

President Rodrigo Duterte, who was elected in May 2016, said that corrupt journalists deserved to be assassinated in his first press conference, a troubling omen for freedom of expression and press freedom. One online media – the online news network *Rappler* – was ordered closed for being critical of the administration and reporting that it has "weaponized" social media to discredit and sow online hate against vocal critics of the President. At least two organizations known for providing critical news were reported to have had their websites hacked.

A number of journalists and individuals were charged with libel for online criticisms, increasing from previous years. *Rappler* was a frequent target with at least two libel charges filed related to the outlet's critical reporting of government officials and powerful business people. Libel complaints were also slapped on individuals for their critical Facebook posts.

Surveillance of mobile and internet communications became a growing concern in the past year after leaked documents suggested the government's intentions to procure hardware and software for communications surveillance. The government had reportedly purchased high-tech spying equipment such as IMSI-catchers and

surveillance tools to monitor internet activity from the British government. Duterte has also on occasion openly admitted to wiretapping opposition officials, exacerbating surveillance concerns.

Obstacles to Access:

Internet penetration and average connection speeds improved during the coverage period. The Department of Information and Communications Technology (DICT) launched the National Broadband Plan in June 2017 and began an effort to introduce a third telecommunications entity to the market, in the hopes of fostering more robust competition in the industry and improving service. The government also signed an agreement with Facebook to build high-speed internet infrastructure in the northern part of the country. However, authorities also ordered the shutdown of mobile phone networks during major events in a handful of cities in 2018.

Availability and Ease of Access

Internet penetration in the Philippines was reported at 63 percent of the country's total 105 million population in 2018. This translates to about 67 million Filipinos, with almost all of them active on social media.^[1] However, connectivity is concentrated mainly in urban areas, while rural areas remain largely underserved.^[2] To bridge this gap, the administration of President Rodrigo Duterte approved and launched through DICT the National Broadband Plan (NBP) in June 2017, which aims to bring affordable internet to communities and improve broadband connectivity in the country.^[3] Alongside the launch of the NBP was the launch of the National Government Portal,^[4] which is designed to allow more efficient delivery of public services.

Mobile phones remain the most widely used wireless communication tool, though mobile internet usage has been slow to take off. There were 109.2 mobile cellular subscriptions per 100 inhabitants in 2016, compared to 46.3 active mobile broadband subscriptions per 100 inhabitants. There were 5.5 fixed broadband subscriptions per 100 inhabitants.^[5]

The slow uptake of broadband internet in the country is largely due to steep subscription fees. Meanwhile, both mobile and fixed broadband speed in the Philippines are low – at 14.07 and 17.57 Mbps respectively – compared to global averages of 22.99 and 47.83 Mbps.^[6]

In 2015, the then ICT Office of the Department of Science and Technology – now the DICT – launched a project that aimed to provide free Wi-Fi in selected public places in the country. To institutionalize the project, President Duterte in August 2017 signed legislation creating the Free Internet Access Program. The law requires public places like transport terminals, hospitals, schools, and government offices to provide free Wi-Fi in main congregation points.^[7] To date, the DICT claims that it has provided free Wi-Fi access in more than 12,000 public locations.^[8]

In December 2017, the president approved the launch of the Government Satellite Network (GSN), to be implemented by the Presidential Communications Operations Office (PCOO), to transmit government-created videos, photos, and audio.^[9] The GSN is expected to provide internet connectivity to barangays, or local villages, that currently have none. Authorities have indicated that it at the same time will be used by government to fight the spread of disinformation, misinformation, and fake news, raising concerns that it could function as a government mouthpiece (see Media, Diversity, and Content Manipulation).^[10]

The DICT and the Bases Conversion and Development Authority have signed a landing party agreement with Facebook for a project to build high-speed internet infrastructure that will improve the speed, affordability, and accessibility of broadband and internet access in the country.^[11] In exchange for using the facility, which is set to open toward the end of 2019, the Philippine government will get 2 terabits per second (Tbps) of international bandwidth free of charge. The DICT hopes to use this bandwidth to support its free Wi-Fi program, and provide inexpensive internet to small service providers.

The Open Access in Data Transmission Act has been filed in the upper and lower houses of Congress. The bill calls on providers of data transmission services to treat all traffic equally and without discrimination, restriction, or interference; offers protections for the rights of users of data transmission services; and gives additional powers to the National Telecommunications Commission (NTC).^[12] Public hearings on the measure are being conducted.

Restrictions on Connectivity

The government ordered the shutdown of mobile phone networks during major events in several cities during the coverage period. Critics are wary that internet and mobile network shutdowns are becoming normalized and have

called for a clearer policy that outlines the circumstances in which they may be implemented.^[13]

The industry regulator, the National Telecommunication Commission (NTC), upon request from the Philippine National Police (PNP), ordered shutdowns for large festival gatherings, such as the MassKara festival in Bacolod in October 2017, citing security threats including that of remotely detonated bombs.^[14] A mobile shutdown was also implemented during the Feast of the Black Nazarene in Quiapo, Manila, in January 2018, also on grounds of security threats.^[15] Mobile network shutdowns were also carried out at the Sinulog and Dinagyang festivals in Cebu and Iloilo respectively, in January 2018, again for security reasons.

One provider, PLDT, plays an outsized role in the country's infrastructure. The company^[16] owns the majority of fixed-line connections, as well as a 100,000-kilometer fiber-optic network that connects to several international networks;^[17] it additionally fully or partly owns five out of nine international cable landing stations.^[18] In line with its modernization plan, PLDT is investing US\$136.7 million in a new Trans-Pacific cable system that will link its landing stations in Camarines Norte in the Philippines to Maruyama and Shima in Japan, and Los Angeles in the United States; the cable is expected to be operational in 2020.^[19] Meanwhile, in August 2017, Globe Telecom launched a US\$250 million submarine cable that links Davao and the United States.^[20]

ICT Market

The telecommunications market is dominated by PLDT and Globe, which each have acquired a number of minor players over the last two decades.^[21] As of 2016, PLDT held the majority of fixed-line internet subscriptions. The market for mobile services is mostly split between the two telecoms.^[22] PLDT reported 58.29 million mobile phone subscribers as of December 31, 2017, while Globe had 60.68 million.^[23]

There were 400 ISPs registered with the NTC in 2013, according to most recent government data.^[24] All of them connect to PLDT or Globe. Internet service is currently classified as a value-added service and is therefore subject to fewer regulatory requirements than mobile and fixed-phone services. Companies entering the market go through a two-stage process. First, they must obtain a congressional license that involves parliamentary hearings and the approval of both the upper and lower houses. Second, they need to apply for certification from the NTC. Globe Telecommunications has separately complained of needing to obtain 25 permits to build a single cell site, a process that can last 8 months.^[25]

The Philippine Competition Act was signed in 2015, 25 years after it was first filed.^[26] The Act seeks to protect consumers and preserve commercial competition, and established the Philippine Competition Commission (PCC).^[27] The law, however, does not prohibit monopolies, and will not stop an entity from maintaining its dominance in the market as long as it does not commit certain legally prohibited abuses.^[28]

Since its establishment, the PCC has challenged the joint acquisition of the San Miguel Corporation's (SMC) telecommunications unit by PLDT and Globe Telecom, a deal that resulted in the two companies controlling about 80 percent of all available frequencies. In October 2017, the Court of Appeals affirmed the deal's validity.^[29] However, the DICT has held consultations to set the criteria for the selection of a third major telecommunications entity,^[30] which could boost competition in the industry and improve network services.

Under the Public Services Act, foreigners may hold no more than a 40 percent stake in certain industries, including telecommunications.^[31]

Regulatory Bodies

The Department of Information and Communications Technology is in charge of planning, developing and promoting the national ICT development agenda. There are three offices attached to the DICT: the National Telecommunications Commission, which regulates the industry with quasi-judicial powers; the National Privacy Commission, a regulatory and quasi-judicial body tasked with monitoring and ensuring the country's compliance with international standards set for data protection; and the Cybercrime Investigation and Coordination Center.

On June 2016, President Rodrigo Duterte appointed former Globe Telecom executive Rodolfo Salalima to serve as DICT's secretary.^[32] However, Salalima quit his post in September 2017, citing corruption and interference as the reasons for his resignation.^[33] President Duterte, in turn, said he had asked Salalima to resign because he was favoring Globe, and because he had failed to act on the entry of other telecommunication players in the country.^[34]

To date, the president has not named a new DICT secretary to replace Salalima. A departmental undersecretary is running the department on an interim basis.

Limits on Content:

Content is not subject to significant government control, but reports of commenters being paid to post political content persisted during the coverage period. In January 2018, the online news network Rappler – which had been critical of Duterte – was ordered closed by the Securities and Exchange Commission for failing to comply with a rule limiting media ownership to Filipinos, though it remained in operation while awaiting appeal. Digital activism is common, and several online campaigns for women's rights emerged during the coverage period.

Blocking and Filtering

No systematic government censorship of online content has been documented in the Philippines, and internet users enjoyed unrestricted access to both domestic and international sources of information during the coverage period of this report. Internet users freely access social networks and communication apps including YouTube, Facebook, Twitter, and international blog-hosting services.

Although rare, content blocking is allowed under a law that requires ISPs to prevent access to pornographic sites.^[35] The police may request that ISPs block sites hosting child sexual abuse images, and ISPs typically comply with such orders.^[36]

Content Removal

The government does not usually order removal of online content. However, in May 2018, Senate President Vicente Sotto wrote a letter to Inquirer.net, the Philippine *Daily Inquirer's* website, asking them to take down three articles published between 2014 and 2016 that linked him to the 1982 rape of an actress.^[37] As of this reporting period, the three articles have been removed from the website.

The proposed Magna Carta for Philippine Internet Freedom contains a provision that provides for court proceedings in cases where websites or networks are to be taken down, and prohibits censorship of content without a court order.^[38] This legislation was later absorbed into another bill creating a government agency for ICTs (see Regulatory Bodies). The original bill has been refiled, but is pending in House and Senate committees.

Google occasionally reports receiving content removal requests from the Philippine government or law enforcement agencies. For this reporting period, there was only one such request, related to purportedly obscene content.^[39]

Media, Diversity, and Content Manipulation

Many journalists whose work appears online practice self-censorship due to the high level of violence against journalists in the Philippines. Generally, though, the Philippine blogosphere is rich and thriving.

However, reports of commenters paid to manipulate the online information landscape continued during the coverage period. News reports citing individuals involved said the commenters could earn at least PHP 500 (US\$10) a day operating fake social media accounts supporting President Rodrigo Duterte, or attacking his detractors.^[40] Other reports put the figure at PHP 2,000-3,000 (\$40-60) a day.^[41] Some reports noted the use of automated accounts or bots to spread political content.^[42] Similar content was also posted by volunteers.

Both state and nonstate actors actively use the internet as a platform to discuss politics, especially during elections, and the phenomenon of manipulation is not new. One commenter admitted being active in political campaigns dating back to 2010.^[43] But reports published in the last two years provided the clearest evidence to date of widespread online campaigning with undeclared sponsorship.

Even after the 2016 election, many of the accounts that actively supported Duterte during the campaign "continue to spread and amplify messages of support of [Duterte's] policies now he's in power."^[44] Some high-profile bloggers who supported Duterte during the campaign were given positions in government or hired as government consultants.^[45]

In January 2018, the online news network Rappler – which had been critical of Duterte and his violent war on drugs, and had suggested that he had "weaponized" social media to discredit his political opponents – was ordered closed by the Securities and Exchange Commission (SEC) for violating a legal provision mandating 100 percent Filipino

ownership and control of mass media. The SEC based its ruling on depository receipts issued by Rappler Holdings to Omidyar Network Fund LLC, a fund created by eBay founder Pierre Omidyar, a U.S. citizen.^[46] It was the first time that the SEC has invoked the closure of a Philippine media company, and the move came after Duterte had called for the investigation of the outlet's ownership in 2017, and had repeatedly called its coverage fake news.^[47] Following the closure order, the accreditation of Rappler's reporter to Malacanang Palace was also revoked.^[48] Additionally, the Bureau of Internal Revenue has also filed tax evasion charges against Rappler.^[49] The outlet remains in operation while awaiting its petition against the closure at the Court of Appeals.^[50]

Separately, following a controversy in which an assistant secretary with the PCOO was accused of repeatedly spreading fake news on her Facebook page, the DICT drafted an Administrative Order that set guidelines for social media use by government agencies. It has not yet been signed by Duterte.^[51]

Authorities have indicated that the planned Government Satellite Network (GSN), which will transmit government-created videos, photos, and audio and establish better connectivity infrastructure in rural areas, will be used to fight disinformation and fake news, raising concerns that it could be used as a government mouthpiece.^[52]

Digital Activism

Digital activism in the Philippines has had a significant impact in the past, making national and international headlines and at times prompting positive action from the government.

The use of hashtags on social media is popular, both as a way to draw attention to individual events and as a means of participating in broader social movements. During the coverage period, the global hashtag #MeToo was adopted by local advocacy groups to strengthen campaigns against sexual abuse and violence. In 2018, women's rights group #EveryWoman launched the #BantayBastos campaign on March 8 – International Women's Day – which aims to hold elected public officials accountable for sexist or misogynistic comments.^[53] The #BabaeAko (#IAmWoman) campaign was launched in May by women using social media to condemn a pattern of sexist and misogynistic remarks by Duterte.^[54]

Citizens also frequently employ online petitions to call for action on matters that are relevant to the public. One such petition, launched in late 2017, called for the ouster of the PCOO assistant secretary Mocha Uson, whom the petitioner claimed was a purveyor of fake news. By the fall of 2018 it had collected over 70,000 signatures, and in October 2018 – after this report's coverage period – she resigned.^[55]

Violations of User Rights:

Lawmakers debated draft laws that would require telecommunications providers to register prepaid SIM card owners and impose stringent penalties for the dissemination of fake news. A number of libel cases were filed against journalists during the coverage period, many of them involving the Rappler. Technical attacks targeting media groups were also reported. Duterte admitted to several instances of apparently extralegal wiretapping.

Legal Environment

The Bill of Rights of the 1987 constitution protects freedom of expression (Section 4) and privacy of communication (Section 1).^[56] However, some laws undermine those protections. Section 4c (4) of the 2012 Cybercrime Prevention Act classifies libel as a cybercrime. Section 6 prescribes prison terms of up to eight years for online libel,^[57] which is almost double the maximum penalty for the identical offense perpetrated offline.^[58]

There are several pieces of pending legislation that could improve users' rights if approved. A measure filed at the House of Representatives in late 2017 seeks to repeal libel provisions in the Cybercrime Prevention Act and the Electronic Commerce Act.^[59] In July 2016, the Crowdsourcing Act was introduced; the bill would allow citizens to participate in the legislative process through the use of ICTs, and require lawmakers to include citizens' comments in committee reports concerning pending bills.^[60] The Magna Carta for Philippine Internet Freedom has been refiled as a stand-alone measure, after the original was incorporated into an ICT law.

A bill penalizing those who spread fake news was introduced in June 2017 and is also pending.^[61] The bill, which applies to online or offline communications, would penalize any person found to be disseminating false news or information that incites panic or hate, or which is deemed propaganda intended to tarnish someone's reputation. Those convicted under its provisions can be assigned fines ranging from PHP 100,000 to PHP 5,000,000 (US\$1,800

to US\$93,000) and imprisonment from 1 to 5 years. If the offender is a public official, he or she will be made to pay twice the standard fine, serve twice the standard period of imprisonment, and be disqualified from holding any public office. Domestic and international rights advocates have expressed concern about the bill, with one Southeast Asian lawyers' association saying that if passed, it will abridge freedom of speech and expression in direct contravention with the Philippine Constitution.^[62]

Prosecutions and Detentions for Online Activities

Users can face criminal charges for online activity under the libel law, which the Supreme Court upheld in 2014. The number of journalists and individuals charged with libel for online criticisms increased from previous years.

Several cases have been filed against journalists since Duterte took power in 2016. One of the cases involves *Rappler*, an online news source that has been critical of the administration. In October 2017, a businessman filed a complaint against *Rappler* for a May 2012 story suggesting he had given favors to impeached Supreme Court Justice Renato Corona. In January 2018, the National Bureau of Investigation (NBI) issued a subpoena against *Rappler* CEO Maria Ressa and two others for violating the online libel provision of the anticypbercrime prevention act in connection with the complaint. According to a lawyer from the Philippine Internet Freedom Alliance, since the Cybercrime Prevention Act was not passed until September 2012, the law does not apply to *Rappler*, which published the story in May 2012. The NBI, however, claims that the article falls under the theory of "continuous publication" where it can be assumed that the businessman saw the story only after the law was passed.^[63]

In another case involving *Rappler*, John Castriciones, an undersecretary of the Department of the Interior and Local Government (DLIG) in November 2017 sued reporter Rambo Talabong for a series of reports Talabong had published on *Rappler* claiming that DILG officials had petitioned Duterte for Castriciones's dismissal.^[64]

Separately, Agriculture Secretary Manny Piñol filed an online libel complaint against reporter Frank Cimatu in September 2017 for alleging in a Facebook post that the secretary had somehow accrued PHP 21 million (US\$390,000) in six months.^[65]

Senator Antonio Trillanes, a vocal critic of Duterte, in September 2017 filed three libel cases against PCOO Assistant Secretary Mocha Uson for alleged violation of the Cybercrime Prevention Act. The charges stemmed from Uson's shared post on her Facebook account accusing the senator of hiding ill-gotten wealth in several bank accounts.^[66] Trillanes has also filed libel charges against Duterte supporter and blogger RJ Nieto for "false and derogatory" statements on his Facebook account.^[67]

Surveillance, Privacy, and Anonymity

Surveillance of mobile and internet communications became a growing concern in the past year after leaked documents suggested the government's intentions to procure hardware and software for communications surveillance.^[68] In early 2018, the British government was reported to have sold high-tech spying equipment worth GBP 150,000 (US\$200,000) to the Philippines, including IMSI-catchers, which are used to eavesdrop on telephone conversations, and surveillance tools to monitor internet activity.^[69] In 2014, the Philippine government reportedly acquired a Radio Frequency Test Equipment (RFTE) from an electronic surveillance company based in Germany.^[70] The Department of National Defense claimed that there was nothing unusual with the acquisition of an RFTE, which officials described as necessary to protect national security.

Concerns were exacerbated when Duterte admitted to wiretapping politicians allegedly involved in the drug trade during his visit to Marawi in 2017.^[71] Duterte implied possessing wiretapping or interception capabilities again in February 2018, when he said he knew in advance that the International Criminal Court was going to do an initial review of allegations against crimes against humanity that he committed.^[72]

There are no restrictions on anonymous communication in the Philippines. The government does not require user registration for internet and mobile access, and prepaid services are widely available, even in small neighborhood stores. However, there are legislative initiatives in both houses aimed at preventing mobile phone-aided terrorism and criminal activities that seek SIM card registration systems.^[73] The Senate bill calls for a limit on the number of pre-paid SIM cards an individual can register in the system, and requires registered owners to be at least 15 years of age.^[74]

In 2015, the government issued rules under the Cybercrime Prevention Act, clarifying some sections of the law that pertain to surveillance (see Legal Environment). Under its provisions, ISPs must collect and preserve data for up to

six months on request. Law enforcement authorities tasked with investigating cybercrime – the National Bureau of Investigation and the Philippine National Police cybercrime unit – require a court order to access computer data.^[75]

The Data Privacy Act of 2012 established parameters for the collection of personal financial information, as well as an independent privacy regulator.^[76] Other laws implications for user privacy include the Anti-Child Pornography Act of 2009, which explicitly states that its section on ISPs may not be "construed to require an ISP to engage in the monitoring of any user,"^[77] though it does require them to "obtain" and "preserve" evidence of violations, and threatens to revoke their license for noncompliance. The law also authorizes local government units to oversee and regulate commercial establishments that provide internet services. Under the Human Security Act of 2007, law enforcement officials must obtain a court order to intercept communications or conduct surveillance activities against individuals or organizations suspected of terrorist activity.^[78]

Intimidation and Violence

Journalists and rights activists, especially women, were targets of increasing online attacks in the past few years. In March 2017, a bomb threat posted on Facebook by an account purporting to belong to Lyn Ouvrier, a Duterte critic, went viral. The post prompted severe online harassment of Ouvrier, who claimed that her account had been cloned and that she had not posted the threat.^[79] She is now facing a criminal complaint filed by the Philippine National Police over the incident.^[80]

Another critic of the present administration, Jover Laurio, had to hire bodyguards due to harassment that followed her outing by Duterte's social media team as the person behind the *Pinoy Ako Blog*, which chronicles extrajudicial killings and dissects false claims by the president and his supporters.^[81]

Violence against journalists is a significant problem in the Philippines. As of early 2018, the Committee to Protect Journalists reported that at least 79 Philippine journalists had been killed in relation to their work – most covering political issues like corruption – since 1992, including 2 in 2017.^[82] Attackers generally enjoy impunity.

Technical Attacks

At least two cases of technical attacks targeting media groups were reported during the coverage period of this report.^[83] The website of Vera Files, a nonprofit online news resource, was put down by hackers in January 2018 through a distributed denial of service (DDoS) attack, which followed a story they published on undisclosed financial holdings of Duterte and his daughter, Davao City Mayor Sara Carpio.^[84]

In February 2018, the website of Kodao Productions, which in addition to indigenous rights and environmental issues, also covers the peace process between the Philippine government and the National Democratic Front of the Philippines, experienced a code injection attack that prevented its website technicians from logging in. The National Union of Journalists of the Philippines blamed the government for the attack, saying it was "part of the Duterte government's efforts to silence critical media."^[85]

The hacking of Uber in 2016 compromised the personal information of 57 million Uber users worldwide, including in the Philippines.^[86] Government websites have also reportedly been hacked.^[87] According to Facebook, information of 1.175 million Filipinos may have been improperly shared with Cambridge Analytica, the British consulting firm that is said to be behind the harvesting of millions of Facebook data for the Trump campaign.^[88] The National Privacy Commission said it is looking into all these data breaches and leaks.

Notes:

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