

Freedom on the Net 2021 - Philippines

Partly Free

65
/ 100

A [Obstacles to Access](#) 17 / 25

B [Limits on Content](#) 26 / 35

C [Violations of User Rights](#) 22 / 40

Last Year's Score & Status

64 / 100 Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free)

Overview

Internet freedom in the Philippines remained under threat during the coverage period, despite the government's removal of limits on free expression in a second set of emergency laws passed to combat the COVID-19 pandemic. Authorities bolstered their ability to criminalize online speech under the Anti-Terrorism Act, which expands the definition of terrorism, enables the government to detain individuals without a warrant, and extends the time limits on government surveillance. Red-tagging, a form of harassment whereby targets are accused of having links with local communist groups, and physical assaults on government critics continued, as did technical attacks against news outlets and civil society groups.

The Philippines' decline in internet freedom has occurred amidst an erosion of political and civil rights under President Rodrigo Duterte, whose war on drugs has led to thousands of extrajudicial killings since 2016. Although the Philippines transitioned from authoritarian rule in 1986, the rule of law and application of justice are haphazard and heavily favor political and economic elites. Impunity remains the norm for crimes against activists and journalists.

Key Developments, June 1, 2020 - May 31, 2021

- There were no reports of the government restricting internet or mobile services during the coverage period (see A3).
- In June 2020, the House of Representatives ordered the shutdown of the television and satellite services of one of the country's largest news networks, Alto Broadcasting System–Chronicle Broadcast Network (ABS-CBN), after Congress failed to renew its broadcast license. President Duterte has threatened to veto any congressional proposal to grant the network a new license (see B6).
- The government's emergency COVID-19 decree, the Bayanihan to Heal as One Act, which restricted free expression online and further criminalized certain forms of online speech, expired in June 2020. Subsequent emergency COVID-19 decrees did not include provisions to restrict expression online (see C1).
- Rappler chief executive Maria Ressa and former researcher Reynaldo Santos Jr. were found guilty of cyberlibel in June 2020 based on a complaint from Wilfredo Keng, about whom Santos had written a 2012 article in which he linked Keng to murder, drug trafficking, and other crimes. In February 2020, Keng filed a second cyberlibel case against Ressa, which he withdrew in June 2021 (see C3).
- The Anti-Terrorism Act of 2020 was enacted in July and includes broad language allowing the government to prosecute online speech, in addition to enabling law enforcement agencies and the military to conduct surveillance for longer periods of time (see C2 and C5).
- In September 2020, online journalist Jobert Bercasio was shot shortly after posting allegations on social media that trucks were operating in a nearby quarry without documentation (see C7).

A Obstacles to Access

A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections? 4 / 6

At the beginning of 2021, Hootsuite, a social media management platform, reported that the internet penetration rate in the Philippines was just over 67 percent of the country's total population of 110.3 million.¹ The Inclusive Internet Index 2021 report, written by the Economist Intelligence Unit, ranked the Philippines 60th out of 100 countries in terms of internet availability. Out of 27 Asian nations, the Philippines ranked 18th due to the weak market for wireless network operators and the country's outdated broadband infrastructure.² People in the Philippines access the internet through mobile devices far more than through fixed-line connections. According to the International Telecommunication Union (ITU), there were only 5.5 fixed broadband subscriptions and 154.76 mobile cellular subscriptions per 100 inhabitants in 2019.³ The two major telecommunications companies have also introduced fifth-generation (5G) technology for mobile networks nationwide. The 5G network from mobile service provider Smart Communication covers 2,300 sites nationwide,⁴ while Globe Telecom's 5G coverage is available in 848 locations in the Manila metropolitan area and Rizal, and 221 locations in Visayas and Mindanao.⁵

Based on a report relying on January 2021 data from the Ookla's Speedtest Global Index, the Philippines ranked 86th in mobile internet speed globally, an improvement from the previous year. The Philippines also improved its fixed broadband speed and, as of January 2021, ranked 81st among 177 countries.⁶ In the same month, mobile internet speeds reached 25.43 megabits per second (Mbps), while fixed broadband speed reached 46.25 Mbps. Still, speeds remain relatively low compared to global averages of 54.53 Mbps for mobile speeds and 105.15 Mbps for fixed broadband speeds.⁷

Internet usage and data traffic surged in parts of the country during the COVID-19 pandemic, with more people relying on the internet to keep informed and work from home.⁸ The Department of Information and Communications Technology (DICT) directed the National Telecommunications Commission (NTC) to ensure consistent and reliable telecommunications services in the country.⁹ Wi-Fi terminals were set up in designated quarantine areas, as well as in COVID-19 monitoring and control centers.¹⁰ However, the pandemic exposed the country's technology infrastructure weaknesses, including the need to build more cell sites and lay fiber-optic cables that will connect to homes.¹¹ To improve connectivity, the DICT, in February 2021, set a target to build 5,000 new cellular towers over the next three years.¹²

The government also has several other ongoing projects that would improve internet access. In 2015, a group within the Department of Science and Technology (DOST) that became the DICT launched a project to provide free Wi-Fi in some public places in the country. To institutionalize the project, President Duterte signed legislation in 2017 creating the Free Internet Access Program. The law requires public places such as transport terminals, hospitals, schools, and government offices to provide free Wi-Fi at major congregation points.¹³ In February 2019, Google Philippines partnered with Smart Communications to establish free Wi-Fi stations at heavily trafficked locations, including airports, malls, commercial centers, and universities as part of the Google Station project.¹⁴ By July 2019, Google had established 400 Wi-Fi sites, that would continue to be operated by Smart Communications even after Google's announcement of the project's conclusion in February 2020.¹⁵ In February 2020, the DICT announced plans to activate 10,000 additional Wi-Fi sites by the end of the year as part of the "Free Wi-Fi for All" program,¹⁶ allotting 7.7 billion pesos (\$159.8 million) in its 2021 proposed budget for their implementation.¹⁷ As of July 2021, 10,311 sites had been established,¹⁸ though the department expressed doubt that they would achieve the 120,000-site installation target by 2022. In May 2021, authorities ended their contract with the foreign service provider installing the Wi-Fi hotspots, announcing they would complete the project on their own.¹⁹ In May 2020, the DICT also released the Common Tower Policy, which allows the construction of shared towers for telecommunications companies to provide faster and cheaper internet service throughout the country.²⁰

In May 2021, former DICT undersecretary Eliseo Rio questioned the 466 million pesos (\$9.7 million) the government paid to four companies to provide free Wi-Fi in public places, noting the contract only provided for free Wi-Fi for 5 months.²¹ The DICT rejected the criticism.

During his State of the Nation Address in July 2020, President Duterte threatened to close the companies Smart Communications and Globe Telecoms if they did not improve their services by December, which they did.²² Smart announced 73 billion pesos (\$1.52 billion) of investments in 2019 and committed to investing between 88 and 92 billion pesos (\$1.83 billion to 1.92 billion) in 2021 to expand their fiber-optic and wireless coverage;²⁴ Globe promised to build 2,000 cell sites in 2021.²⁵

In 2017, the president approved the launch of the Government Satellite Network (GSN), as part of the Presidential Communications Operations Office (PCOO), to transmit government-created videos, photos, and audio.²⁶ The GSN is expected to provide internet connectivity to barangays, or local villages, that currently have none.²⁷ As of the end of the coverage period, the government had provided no updates on the GSN's progress.

In 2017, the DICT and the Bases Conversion and Development Authority (BCDA) signed a landing party agreement with Facebook for a project to build high-speed internet infrastructure that would improve the speed, affordability, and accessibility of broadband and internet access in the country.²⁸ In exchange for Facebook's Pacific Light Cable Network, which was set to connect to the Philippines by the fall of 2020, the government would receive 2 terabytes per second (Tbps) of international bandwidth, free of charge.²⁹ The DICT intended to use this bandwidth to support its free Wi-Fi program and provide inexpensive internet to small service providers. However, in March 2021, Facebook abandoned the project amid pressure from US national security officials.³⁰

A2 0-3 pts

Is access to the internet prohibitively expensive or beyond the reach of certain segments of the population for 1 / geographical, social, or other reasons? **3**

A digital divide exists in the Philippines, mainly due to the cost of network subscriptions and the geography of network coverage. Connectivity is most concentrated in densely populated urban areas, while many poor, rural areas remain largely underserved.³¹ To bridge this gap, the Duterte administration launched the National Broadband Plan (NBP) in 2017, to lower costs and improve broadband connectivity.³² In October 2018, the DICT began a pilot test of its fiber-optic cable backbone facility.³³ In February 2019, the department received a grant worth 23.8 million pesos (\$493,974) from the US government to support the implementation of the national broadband network.³⁴ In 2020, the DICT signed agreements with the provinces of Pangasinan, Zambales, Baguio and Negros Occidental to connect the provincial networks to the national fiber-optic backbone, as part of the first phase of the NBP.³⁵

According to the Inclusive Internet Index 2021 report, the Philippines ranks 79th out of 100 surveyed countries in terms of affordability, which is defined by cost of access relative to income and the level of competition in the internet marketplace.³⁶ The 2020 Affordability Report by the Alliance for Affordable Internet ranked the Philippines 37th out of 72 countries surveyed, nine points down the previous year.³⁷ The cost per 1 gigabyte (GB) of broadband data in the Philippines is \$4.23. This is 1.27 percent of gross national income (GNI) per capita.³⁸

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting 6 / connectivity? **6**

Score Change: The score increased from 5 to 6 because there were no reported internet and mobile shutdowns during religious events and festivals in the coverage period.

There were no reported internet and mobile network shutdowns during the coverage period.

During previous coverage periods, the government ordered the shutdown of mobile phone networks during major events in several cities. In January 2020, for the Black Nazarene procession, a widely attended Roman Catholic event in the Quiapo district of Manila held every January 9th, the NTC issued a memorandum to Globe Telecom and Smart Communications to temporarily cut network services in specific areas where the procession passed. The memorandum was issued on request of the National Capital Region Police Office.³⁹ That same month, mobile signals were restricted for two days in different parts of Cebu during the Sinulog-Santo Niño Festival, also for security reasons.⁴⁰

One provider, Philippine Long Distance Telephone Company (PLDT), plays an outsized role in the country's telecommunications infrastructure. The private entity⁴¹ owns the majority of fixed-line connections, as well as a 429,000-kilometer fiber-optic network that connects to several international networks,⁴² as well as a network of 16 international cable systems.⁴³ In line with its modernization plan, PLDT has invested \$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;⁴⁴ the cable is expected to become operational by the end of 2021.⁴⁵ In 2017, Globe Telecom, a private telecommunications company, launched a \$250 million submarine cable that links Davao and the United States.⁴⁶

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers? 4 / 6

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 of Congress. Second, they need to

apply for certification from the NTC. Globe has separately complained of needing to obtain 25 permits to build a single cell site, a process that can last eight months.⁴⁷

There were 400 internet service providers (ISPs) registered with the NTC in 2013, according to the most recent government data.⁴⁸ All of them connect to PLDT or Globe. At present, the telecommunications industry is dominated by two companies, PLDT and Globe Telecom, which each have acquired a number of minor players over the last two decades.⁴⁹⁵⁰ In 2020, PLDT reported an expansion of their mobile coverage to 96 percent of the country's population,⁵¹ while Globe reported a total mobile subscriber base of 76.6 million.⁵²

New service providers face legal obstacles in obtaining a congressional franchise, such as constitutional limitations on the people or companies that can operate a public utility.⁵³ However, a new provider, Dito Telecommunity Corporation, formerly known as Mislattel,⁵⁴ launched its commercial operations in March 2021 in the cities of Davao and Cebu.⁵⁵ In May, Dito Telecommunity's franchise was renewed for the next 25 years by President Duterte.⁵⁶ As of June, Dito had more than one million subscribers.⁵⁷ Dennis Uy, founder of Udenna Corporation and Chelsea Logistics, which own 60 percent of Dito, hails from Davao and was reportedly the biggest contributor to Duterte's 2016 presidential campaign.⁵⁸

The Philippine Competition Act was signed in 2015, 25 years after it was first filed,⁵⁹ to protect consumers and preserve commercial competition. The law established the Philippine Competition Commission (PCC),⁶⁰ but does not prohibit monopolies and will not prevent an entity from dominating a market so long as the company does not commit certain legally prohibited abuses.⁶¹

Since its establishment, the PCC has challenged the joint acquisition of the San Miguel Corporation's telecommunications assets by PLDT and Globe in 2017, a deal that resulted in the two companies controlling about 80 percent of all available cellular frequencies.⁶² The Court of Appeals subsequently affirmed the deal's validity.⁶³ However, the PCC later said that the NTC could reacquire wireless frequency from PLDT and Globe and redistribute the rights to a third provider if the companies did not improve their services.⁶⁴

In March 2020, the House of Representatives approved House Bill No. 78, amending the Public Services Act.⁶⁵ The bill proposes delisting telecommunications as a public utility. Under the existing Public Services Act, noncitizens may hold no more than a 40 percent stake in certain industries designated as a public utility, including telecommunications.⁶⁶ If the bill is passed, noncitizens would be able to be majority shareholders in telecommunication companies operating in the Philippines.

The Open Access in Data Transmission⁶⁷ Act, passed by the House of Representatives in March 2021, would liberalize the telecommunications industry and avoid a monopoly by a single provider. Under the law, the government would encourage more players to build and operate broadband networks, promote infrastructure sharing, and make spectrum management more transparent—which would likely lower the cost for users.⁶⁸ The legislation remained under discussion in the Senate at the end of the coverage period. The Faster Internet Services Act, introduced in 2019,⁶⁹ mandates the NTC to compel ISPs to only advertise and offer internet service download speeds they can consistently provide. The goal of the law is to bring the country's average internet connection speed above the global average.

A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner? 2 / 4

While national regulatory bodies that oversee service providers and digital technology generally operate independently, all heads of government agencies, including regulatory bodies, are appointed by the president. This framework has led to instances of political interference.⁷⁰

The DICT is responsible for planning, developing, and promoting the national information and communications technology (ICT) development agenda. There are three offices attached to the DICT: the National Privacy Commission (NPC), a regulatory and quasi-judicial body tasked with monitoring and ensuring the country's compliance with international standards for data protection; the Cybercrime Investigation and Coordination Center (CICC); and the NTC, which regulates the industry with quasi-judicial powers and supervises the provision of public telecommunications services.

In 2016, President Duterte appointed former Globe executive Rodolfo Salalima to serve as the DICT's secretary.⁷¹ However, Salalima resigned in 2017, citing corruption and interference in the department without providing further details.⁷² President Duterte, in turn, claimed he had requested Salalima's resignation because he had favored Globe and failed to facilitate the entry of other telecommunications players in the country.⁷³ In November 2018, Duterte appointed incumbent senator Gregorio Honasan, a former military officer and longtime friend of the president,⁷⁴ to lead the DICT.⁷⁵ In July 2019, Honasan was sworn in.⁷⁶

How the DICT has allocated its funds raised concerns during the previous coverage period. In January 2020, undersecretary Eliseo Rio resigned, citing concerns over how the DICT spent 300 million pesos (\$6.23 million) from a confidential fund; Rio also raised concerns that Honasan had not informed him of the underlying disbursement process.⁷⁷ Rio and Honasan later issued a joint statement stating the payment was above board.⁷⁸ In the 2020 budget, the amount allotted to the confidential fund doubled from 400 million pesos (\$8.3 million) to 800 million pesos (\$16.6 million).⁷⁹

In May 2020, Duterte accepted Rio's resignation, replacing him with Ramon Jacinto. Jacinto, his adviser on entrepreneurship and ICT, is a known supporter of the president.⁸⁰ Rio and Jacinto have previously clashed over their positions on common cell towers. Jacinto was sworn in as undersecretary of the DICT in August 2020,⁸¹ but was later reappointed as the Presidential Adviser for Telecommunications, a position within the president's cabinet.⁸²

B Limits on Content

B1 0-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content, particularly material that is protected by international human rights standards? 6 / 6

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. Internet users freely access social networks and communication apps including YouTube, Facebook, Twitter, and international blog-hosting services.

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content, particularly material that is protected by international human rights standards? 3 / 4

The government does not systematically order the removal of online content, although there have been some instances of information being removed in recent years. Government authorities have reportedly forced people to publicly apologize for critical social media posts, including during the COVID-19 pandemic.⁸³

In February 2019, the *Philippine Star* removed from its website a 2002 article about Wilfredo Keng, a businessman who was suspected of involvement in the murder of a Manila councilman, after Keng threatened legal action against the outlet.⁸⁴ The takedown took place only a few days after Rappler chief executive Maria Ressa posted bail in connection with Keng's libel case against the site (see

C3).⁸⁵ Previously, in May 2018, Senate President Vicente Sotto wrote a letter to the *Philippine Daily Inquirer's* website, asking the publication to take down three articles from its website, published between 2014 and 2016, that linked him to the 1982 rape of an actress.⁸⁶ The *Philippine Daily Inquirer* complied with the request and removed the articles.

Google occasionally reports receiving content removal requests from the government or law enforcement agencies. Between January and June 2020, there were six requests from the government for removal related to regulated goods and services, and another six between July and December 2020.⁸⁷ Facebook received 35 requests for data from the government between January and June 2020, and another 32 requests between July and December 2020.⁸⁸ The government made 220 preservation requests to Facebook from January to December 2020 for 1,287 users and accounts, much higher than the 174 requests from last year.

B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an independent appeals process? 4 / 4

Restrictions on the internet are generally fair and proportional to the stated aims. Content blocking is allowed under a law that requires ISPs to prevent access to child sexual abuse imagery.⁸⁹ The police may request that ISPs block sites hosting such images, and ISPs typically comply with such orders.⁹⁰

In May 2020, lawmakers proposed the Digital Economy Taxation Act, which would allow the government to block online or digital platforms that do not comply with tax laws or pay the appropriate taxes.⁹¹⁹²

The proposed Magna Carta for Philippine Internet Freedom, introduced in 2012, provides for court proceedings in cases where websites or networks are to be taken down, and prohibits censorship of content without a court order.⁹³ Parts of this legislation were later absorbed into another bill creating a government ICT agency (see A5). Other provisions remain unaddressed in the Magna Carta bill, which Congress had not reintroduced as of June 2021.

Several draft bills relating to false information were filed during the 18th Congress, which runs between July 2019 and July 2022. The bills establish criminal penalties for those who violate its provisions⁹⁴ and would also allow authorities more latitude to issue takedown orders, to "correct" false or misleading content, or to block websites altogether with no judicial oversight and limited avenues of appeal (see C2).⁹⁵

B4 0-4 pts

Do online journalists, commentators, and ordinary users practice self-censorship? 2 / 4

Self-censorship remains a problem for those communicating online. Many journalists, for example, practice self-censorship due to the high level of violence against journalists and the increasing number of civil and criminal cases related to online activity. According to a June 2019 survey from pollster Social Weather Stations, 51 percent of Filipinos responded that it was "dangerous to print or broadcast anything critical of the administration even if it is true."⁹⁶ In August 2019, a former editor-in-chief of the news site *Inquirer.net* said that some stories remained unpublished under the Duterte administration due to fear of "pushback."⁹⁷

The Center for Media Freedom and Responsibility, a civil society organization, suggested in January 2019 that journalists may be self-censoring around issues related to corruption or illegal drugs.⁹⁸ The center also asserted that the president's criticism of the press and online harassment have led journalists to use caution when investigating and reporting. Following its mission to the country in April 2019, the Committee to Protect Journalists (CPJ) expressed similar concerns that the criminal cases against Rappler and a worsening environment of online harassment had heightened fear and exacerbated online self-censorship.⁹⁹

The *Philippine Star's* February 2019 removal of a 2002 article from its website illustrates how legal action and harassment cause greater self-censorship among entities that publish online (see B2).¹⁰⁰ The original *Philippine Star* article about Wilfredo Keng was quoted in a 2012 Rappler article that became the crux of Keng's 2017 libel case against Maria Ressa and a Rappler staff member (see C3). Fearing similar legal action, the *Philippine Star* chose to proactively censor itself.¹⁰¹

Some media groups claim that the government's revocation of ABS-CBN's license and the media group's subsequent closure was a form of censorship.¹⁰² They claim ABS-CBN's license revocation was a warning for other media groups against criticizing the government. Supreme Court Justice Marvic Leonen has also said that ABS-CBN's license issues and closure have had a chilling effect on expression.¹⁰³

The trolling and red-tagging of journalists, as well as the threats, arrests, and other forms of harassment and attacks on media personalities like Maria Ressa (see C3 and C7) has also deterred people from freely expressing themselves online. According to news anchor Karen Davila, many journalists double and triple check their stories before publishing to prevent negative consequences or offending the wrong person.¹⁰⁴ Vicente Corrales, associate editor of the *Mindanao Gold Star Daily*, along with his family, have been subjected to online attacks that label them as members of the Communist Party of the Philippines (see C7). Corrales said that the first time he was red-tagged, he avoided working on any reports and news stories related to the peace process, armed insurgents, or state forces.¹⁰⁵

B5 0-4 pts

Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political interest? 1 / 4

Online sources of information have been increasingly manipulated by the government and other actors, with commenters and trolls on social media distorting the information landscape online to shape political outcomes.

Hyperpartisan news outlets, including those on YouTube, have contributed to the growing preponderance of misleading and fraudulent content online.¹⁰⁶ Online media is also influenced by political actors and local celebrities.

According to documents from Twinmark Media, the agency banned by Facebook in 2019 for coordinated inauthentic behavior, local celebrities were paid to share content from Twinmark-owned websites to increase views and engagement. Some of the content celebrities shared contained government propaganda and false information.¹⁰⁷

Content manipulation was prevalent around the 2016 presidential election. Credible media reports found that commenters could earn at least 500 pesos (\$10) per day operating fake social media accounts supporting President Duterte or attacking his detractors.¹⁰⁸ Other reports found that purveyors of these accounts earned 2,000 to 3,000 pesos (\$41 to \$62) per day.¹⁰⁹ Automated accounts or bots were also reportedly used to spread political content.¹¹⁰

Many of the accounts that actively supported Duterte during the campaign have continued to operate since he took power, backing the president's agenda.¹¹¹ Some high-profile bloggers who supported Duterte's campaign were given positions in the government or hired as government consultants.¹¹²

The government has attempted to control the narrative around COVID-19 and in some instances, agencies have commanded employees to refrain posting critical commentary on social media.¹¹³

Research released in August 2019 by the Australian National University's New Mandala showed how online content manipulation was an important component of candidates' campaign strategies for the May 2019 midterm elections.¹¹⁴ Disinformation campaigns used "more insidious and camouflaged" tactics, focusing on micro- and nano targeting private social media groups with limited content moderation, as well as having nonpolitical accounts spread election-related content in an effort to make it seem more genuine. Campaigns hired short-term commentators charging relatively low fees, as well as large-scale public relations companies that charged as much as 5.2 million pesos (\$108,000) for their services.

In April 2019, the *Manila Times* published a matrix of news outlets, journalists, and advocacy groups allegedly plotting to overthrow the president. Maria Ressa, Rappler, Vera Files, the Philippine Center for Investigative Journalism (PCIJ), and the National Union of People's Lawyers (NUPL) were all mentioned as alleged conspirators in the "coup" and were accused of routinely publishing fraudulent information intended to incite readers. The information about the supposed plot, which had not been corroborated, was reportedly provided by Duterte himself, and the story was written by the chairman emeritus of the *Manila Times*, who had worked for the president.¹¹⁵ In May 2019, the presidential spokesperson released a new set of diagrams further elaborating on the list of alleged conspirators in the plot.¹¹⁶

Despite challenges in combatting the impact of disinformation, fact-checking initiatives by Rappler and Vera Files continue. In April 2020, the University of the Philippines' College of Mass Communications (UPCMC) launched FactRackers,¹¹⁷ a fact-checking initiative that focused on information related to the COVID-19 pandemic.¹¹⁸

Social media platforms have also attempted to respond to the increasing levels of online disinformation in the country.¹¹⁹ Facebook, for example, in September 2020 removed 155 Facebook accounts, 11 pages, 9 groups and 6 Instagram accounts for engaging in coordinated inauthentic behavior and violating community standards. It also removed 64 Facebook accounts, 32 pages, and 33 Instagram accounts for engaging in inauthentic behavior on behalf of a foreign or government organization. The company's investigations revealed that the removed accounts and pages were linked to the Philippine military and police. The accounts posted about domestic politics, military activities against terrorism, and criticisms of communism and opposition members.¹²⁰ In September 2020, as a result of the take down of sites linked to the military, President Duterte accused Facebook of inhibiting government efforts to fight communism and threatened to restrict the platform's operation in the country.¹²¹

In June 2020, thousands of Filipinos, including student activists and journalists, reported that dummy Facebook accounts were impersonating them.¹²² Some students also reported that they were subjected to harassment and death threats from those accounts (see C7). Jose Jaime "Nonoy" Espina, the former chairperson of the National Union of Journalists of the Philippines (NUJP), reported that "many of the threats are specific to opposition to the antiterror bill or to the current administration's governance."¹²³ The Justice Department, in coordination with the National Bureau of Investigation (NBI), the police, the NPC, and Facebook pledged to investigate the matter.¹²⁴ The NBI later claimed that a technical glitch likely created the accounts, but technology experts said that the scale of cloning suggested that their creation was an organized and coordinated act.¹²⁵

B6 0-3 pts

Are there economic or regulatory constraints that negatively affect users' ability to publish content online? 1 / 3

Some economic and regulatory constraints have impacted individuals' ability to publish content online, including instances of licenses being revoked for media outlets critical of the government.

In January 2018, Rappler—which had been critical of President Duterte and his violent war on drugs and had suggested that he had "weaponized" social media to discredit his political opponents—was ordered to close by the Securities and Exchange Commission (SEC) for violating a legal provision mandating full Philippine ownership and control of mass media. The SEC based its ruling on depository receipts issued by Rappler Holdings to the Omidyar Network Fund LLC, a fund created by eBay founder and US citizen Pierre Omidyar.¹²⁶ It was the first time that the SEC invoked the rule to order the closure of a Philippine media company. The move came after Duterte had called for an investigation into the outlet's ownership in 2017 and had repeatedly alleged its coverage was fake news.¹²⁷ Following the closure order, the accreditation of Rappler's reporter at the presidential palace was revoked in February 2019, and the reporter was banned from all official presidential events.¹²⁸ The outlet remained in operation during the coverage period while awaiting a ruling from the Court of Appeals on a petition contesting the closure.¹²⁹ Rappler, its executives, and its staff continue to face other administrative proceedings and court cases that could significantly hinder its ability to publish content online.¹³⁰

In May 2020, the NTC ordered ABS-CBN to close after Congress, dominated by supporters of President Duterte, failed to renew its broadcast license, despite several bills introduced to do so.¹³¹ The NTC's order apparently contradicted earlier expectations that ABS-CBN could continue to operate on a provisional basis while Congress considered the request to renew the network's license.¹³² For example, the speaker of the lower house reported that the NTC was "instructed" by Congress to allow the network to continue to broadcast, as Congress had "no intention to order their closure, to shut them down, or take advantage of the situation." In March 2020, the NTC originally announced that it would issue a provisional license for the network to operate until June 2022 while Congress continued its deliberations.¹³³ However, the Office of the Solicitor General's (OSG) warned the NTC that issuing such a provisional license would make the NTC liable for criminal prosecution, as only Congress can exercise licensing power.¹³⁴

Duterte had previously criticized the network several times, including, for example, after it did not air his paid political advertisements during the 2016 presidential campaign.¹³⁵ He has previously threatened to let the franchise agreement expire.¹³⁶ Critics have assailed ABS-CBN's closure as politically motivated and called it an attack on press freedom and democracy.¹³⁷

In June 2020, while deliberations for the network's franchise renewal continued in Congress, the NTC ordered the closure of its digital television and satellite services,¹³⁸ citing an OSG opinion that those services were dependent on the network's expired license.¹³⁹ The NTC's initial May cease-and-desist order did not include the network-operated Channel 43, and most ABS-CBN shows remained available through this channel. In July 2020, the House of Representatives voted to permanently shut the network's television and radio services down.

After the closure of ABS-CBN, there have been calls from legislators to revive the network. However, in February 2021, President Duterte suggested that he would prevent the revival of ABS-CBN through presidential veto, should Congress grant the network a new franchise.¹⁴⁰

In May 2020, the Digital Economy Taxation Act was filed in Congress (see B3).¹⁴¹ The legislation seeks to impose a 12 percent value-added tax (VAT) on digital advertisements, internet-based subscriptions, and transactions made on e-commerce platforms.¹⁴² Facebook and Google advertisements would be subject to the proposed tax. Platforms including Spotify and Netflix would also be affected.

The Open Access in Data Transmission Act was approved by the House of Representatives in March 2021 (see B3). The bill calls on providers of data transmission services to treat all internet traffic equally and without discrimination, restriction, or interference; it protects the rights of users of data transmission services; and it gives additional powers to the NTC, including the ability to impose a fine of 300,000 to 5 million pesos (\$6,230 to \$104,000) on those who fail to comply with the minimum service requirements. The law would also allow the NTC to remove providers who fail to comply with the data transmission industry's performance standards for three consecutive years.¹⁴³

With the issuance of the March 2020 COVID-19 lockdown in Luzon, media personnel were required to secure special media passes to travel through areas with high corona virus case numbers.¹⁴⁴ Reporters from the alternative media group Bulatlat were allegedly denied issuance of the special media passes and were later told that passes for mainstream media outlets were being prioritized. Authorities claimed the outlet's online status meant they should work remotely.¹⁴⁵

B7 0-4 pts

Does the online information landscape lack diversity and reliability? 3 / 4

Online platforms are regularly used to discuss politics, especially around elections. Generally, the Philippine blogosphere is rich and thriving. In January 2021, researchers focusing on information dystopia in the Philippines reported that Filipinos are shifting away from news organizations as their sources of information, and instead are increasingly relying on digital platforms, especially during the coronavirus pandemic.¹⁴⁶

However, several troubling developments threaten the diversity of the online information landscape, including the increase in disinformation, the impact of hyperpartisan content, continued harassment against independent outlets and journalists, online self-censorship, and distributed denial-of-service (DDoS) attacks against alternative media outlets (see B4, B5, C7, and C8). With the closure of ABS-CBN's television and radio stations, some of the network's content migrated to its digital television services, websites, and social media accounts, which were also impacted by the shutdown (see B6).¹⁴⁷

B8 0-6 pts

Do conditions impede users' ability to mobilize, form communities, and campaign, particularly on political and social issues? 6 / 6

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. Mobilization tools and websites are freely available for users.

The use of hashtags on social media is popular, both as a tool to draw attention to individual events and as a means of participating in broader social movements. After the NBI arrested Maria Ressa in February 2019 following a libel complaint, the hashtags #HoldTheLine and #DefendPressFreedom were employed in support of Ressa, Rappler, and freedom of expression. With the closure of ABS-CBN's television and radio stations, people flocked to social media to express their dismay over the network's closure, using the hashtags #DefendPressFreedom and #NoToABSCBNShutdown.¹⁴⁸

Citizens also frequently employ online petitions to call for action on matters relevant to the public. Several groups and individuals started online petitions to reopen ABS-CBN, for example.¹⁴⁹ A petition was launched in March 2019 demanding an apology from broadcaster Erwin Tulfo after he verbally berated and threatened Department of Social Welfare and Development (DSWD) Secretary Rolando Bautista for declining to be interviewed live by Tulfo. The campaign gathered more than 4,000 signatures, and Tulfo subsequently apologized.¹⁵⁰

Despite the coronavirus lockdown, during which outdoor gatherings were generally prohibited by the Inter-Agency Task Force on Emerging Infectious Diseases, rights groups held rallies and protests while trying to maintain physical distancing and other minimum health protocols. On May Day in 2021, workers held large protests in Manila; some protestors were arrested for violating quarantine protocols. Following the incident, police urged groups to hold online demonstrations instead, advice that some groups saw as a government attempt to deny free expression and assembly rights.¹⁵¹

C Violations of User Rights

C1 0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence? 3 / 6

Score Change: The score improved from 2 to 3 because the Bayanihan to Heal as One Act, passed to address the COVID-19 pandemic, expired and its replacement law did not renew free expression restrictions and criminalization of forms of online speech.

The Bill of Rights of the 1987 Constitution protects freedom of speech and expression, as well as press freedom, although these rights are not always upheld in practice. Under President Duterte's administration, judicial independence has deteriorated.¹⁵²

Several draft bills that would better protect users' rights were pending at the end of the coverage period. Three bills were filed in Congress that aim to amend the Cybercrime Prevention Act of 2012, two of which seek to repeal the act's cyberlibel provision.¹⁵³ A review of the Magna Carta for Philippine Internet Freedom remained pending in Congress until July 2019 (see B3). The newly elected Congress has yet to refile the bill as of the end of the coverage period.

Judicial independence has deteriorated during President Duterte's administration.¹⁵⁴ The constitution allows the president to fill vacancies in the Supreme Court and lower courts from a list provided by the Judicial and Bar Council, without a confirmation process (Art. VIII, Sec. 9).¹⁵⁵ As of December 2019, the 15-member Supreme Court was dominated by Duterte's 11 appointees.¹⁵⁶ Supreme Court Chief Justice Maria Lourdes Sereno, a sometimes vocal opponent of the Duterte government's policies, was ousted in May 2018 when the court narrowly granted a petition from the solicitor general to cancel Sereno's 2010 appointment, alleging she did not disclose all of her assets.¹⁵⁷ The UN's special rapporteur on the dependence of judges and lawyers expressed concern over the dismissal, calling it a threat to judicial independence.¹⁵⁸

To respond to the COVID-19 pandemic, the government passed the Republic Act (RA) 11469, also known as the Bayanihan to Heal as One Act, in March 2020. The legislation gave the president broad emergency powers and further criminalized online expression (see C2).¹⁵⁹ Various media and civil society groups warned that the law posed grave danger to freedom expression due to its failure to define false information.¹⁶⁰ Instead, law enforcement were able to apply the term broadly, potentially arresting people arbitrarily (See C2).¹⁶¹ A petition before the Supreme Court questioning the law's constitutionality was filed in May 2020, but was dismissed by the high court.¹⁶² However, the law expired in June 2020 and was replaced in September 2020 by RA 11494, or the Bayanihan to Recover as One Act. This replacement legislation extended the president's special powers to address the pandemic and provided funds to address the health crisis. The provision in the original law penalizing the spread of false information was not renewed.¹⁶³

C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected 2 / 4 under international human rights standards?

Some laws undermine free expression protections granted by the constitution. Users can face criminal charges for online activity under the libel law, which the Supreme Court upheld in 2014. 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,¹⁶⁴ which is almost double the maximum penalty for the offense when it is perpetrated offline.¹⁶⁵

The Penal Code also criminalizes online speech. Inciting sedition by means of "speeches, proclamations, emblems, cartoons, banners or other representations" is a crime under Article 142.¹⁶⁶ Article 154 penalizes a range of online speech categories, notably "printing, lithography, or any other means of publication" that result in the spread of allegedly false news, which "may endanger the public

order, or cause damage to the interest or credit of the state.”¹⁶⁷ Individuals prosecuted under these provisions face prison terms varying from one month and one day to six months, or fines ranging from 200 pesos (\$4) to 1,000 pesos (\$20.76). The law is applied to online activities.¹⁶⁸

Section 6 (f) of the Bayanihan to Heal as One Act, which expired in June 2020, penalized individuals and groups for “creating, perpetuating, or spreading false information regarding the COVID-19 crisis on social media and other platforms,” especially those that are “clearly geared to promote chaos, panic, anarchy, fear, or confusion.”¹⁶⁹ Those who were convicted faced prison terms of up to two months, fines ranging from 10,000 pesos (\$208) to 1 million pesos (\$20,755), or both (see C1).

In June 2019, the government introduced the Anti-False Content Act, which would criminalize those who “know” or have “a reasonable belief” that they are sharing false or misleading information, use a “fictitious” account to do so, or are “offering or providing one’s service” to spread such information.¹⁷⁰ Authors of allegedly false or misleading content could face fines and up to six years in prison, while financing the spread of such content could result in up to 20 years’ imprisonment and significant fines.¹⁷¹

The Anti-Terrorism Act of 2020 was signed into law in July 2020 (see C5). Section 9 of the law criminalizes incitement to terrorism, which is broadly defined as “any person who, without taking any direct part in the commission of terrorism,” incites others to commit terrorist acts “by means of speeches, proclamations, writings, emblems, banners and other representations.” Those who are convicted could face 12-year prison terms.¹⁷² Those suspected of terrorism can be detained for 14 days without warrant or charge; their detention can also be extended for another 10 days. Civil society groups have objected that the law is dangerously broad, providing the administration with another legal tool to use against its critics¹⁷³ and stifle legitimate advocacy, protest, and requests for redress of grievances.¹⁷⁴ Multiple petitions have been filed before the Supreme Court questioning the law’s constitutionality and for it to be struck down.¹⁷⁵

In August 2020, the chief of the Armed Forces of the Philippines (AFP) proposed using the Anti-Terrorism Act to regulate social media. By using the implementation section of the law, he claimed authorities could prevent terrorists from organizing and planning attacks and remain “one step ahead of terror groups.”¹⁷⁶ After the proposal was harshly criticized, he clarified that he only wanted social media companies to implement more mechanisms to ensure their platforms are not being used for terrorist purposes.¹⁷⁷

C3 0-6 pts

Are individuals penalized for online activities, particularly those that are protected under international human rights standards? 3 / 6

Journalists and ordinary users continued to face criminal and civil penalties for their online activities, most often under libel laws, a trend that has deepened since Duterte took power in 2016. Over the coverage period, people were arrested, and spurious charges have been brought in what presents as forms of intimidation and harassment (see C7).

A number of libel cases have targeted news site Rappler.¹⁷⁸ In February 2019, the Regional Trial Court issued an arrest order for Rappler chief executive Maria Ressa and former researcher Reynaldo Santos Jr. on charges of cyberlibel, under the 2012 Cybercrime Prevention Act.¹⁷⁹ The charges stem from a complaint filed by businessman Wilfredo Keng against the outlet in late 2017, regarding a 2012 story by Santos that suggested Keng’s involvement in murder, human trafficking, and drug smuggling.¹⁸⁰ According to a lawyer from the Philippine Internet Freedom Alliance (PIFA), since the Cybercrime Prevention Act was passed after the story’s publication, the law should not apply to Rappler and its story about Keng. The NBI, however, claimed that the article falls under the theory of “continuous publication,” where it can be assumed that Keng saw the story only after the law was passed.¹⁸¹ In June 2020, a Manila court found Ressa and Santos guilty, specifying that their sentence could include imprisonment ranging from six months and one day to six years, as well as fines.¹⁸² The two appealed the verdict later that month.¹⁸³ In February 2020, Keng filed a second cyberlibel suit against Ressa over a social media post she had made earlier that month that included screenshots of the 2002 *Philippine Star* article that originally linked him to a murder case (see B2).¹⁸⁴ In June 2021, Keng withdrew the second suit.¹⁸⁵ A third libel case was filed against Maria Ressa and Rappler reporter Rambo Talabong in January 2021 over an investigative story on alleged corruption at a university. Rappler’s legal counsel observed that “cyber libel is now the first option in case of disagreement on reporting.”¹⁸⁶

Several users were arrested for offenses related to their online activities during the COVID-19 pandemic. In April 2020, film writer Maria Victoria Beltran was arrested without a warrant and charged with inciting sedition for posting a satirical remark on her social media account. Mayor Edgardo Labella accused the artist of spreading false news and instilling fear among people.¹⁸⁷ Beltran, who was released on bail, sued Labella and police officers for violating her rights during her arrest and detention.¹⁸⁸ Beltran was charged under the Cybercrime Law, RA 11469, and the Mandatory Reporting of Notifiable Diseases law; Though the court dismissed her charges in September 2020, she could have faced 18 years’ imprisonment and a 1 million peso (\$20,755) fine.¹⁸⁹

Between March and April 2020, the police arrested at least 32 people for allegedly spreading false information related to the coronavirus.¹⁹⁰ In early April, over 12 individuals received NBI subpoenas for their social media activities.¹⁹¹ In March 2020, police charged Latigo News TV owner Mario Batuhigas and online reporter Amor Virata for allegedly spreading false information, after they shared a local mayor’s social media posts about COVID-19.¹⁹²

In February 2020, an optometrist from Cebu was charged with violating Article 154 of the Revised Penal Code for allegedly spreading false news on social media about a COVID-19-related death.¹⁹³ In March 2020, a teacher and her son were arrested for inciting sedition and disobeying authorities, respectively, after the teacher criticized the local government for its food aid distribution policies and allowing residents of General Santos City to go hungry during the COVID-19 lockdown.¹⁹⁴

Politicians have filed online libel cases against journalists, bloggers, and ordinary internet users. In February 2021, the Mayor of Caloocan City filed cyber libel cases against five city councilors because they posted a series of videos online in which they claimed that the digital tablets procured by the government for the city were substandard.¹⁹⁵ In January 2021, a businessman from Cebu City was arrested for allegedly circulating malicious statements about the Cristina Lee Dino Foundation.¹⁹⁶ During the same month, a police officer from the Cordillera region filed a cyber libel suit against the secretary general of the Cordillera Peoples Alliance, an Indigenous peoples group, for blaming the officer for dismantling a Dulag memorial during a press conferences that was streamed via Facebook.¹⁹⁷

In July 2018, blogger Eduardo “Cocoy” Dayao was charged with cyberlibel under the Cybercrime Prevention Act after a complaint was filed by Senate President Vicente Sotto. The complaint came after Dayao posted an article that criticized seven senators for not signing a resolution calling for the government to end the killing of minors.¹⁹⁸ The case against Dayao was ongoing at the end of the coverage period.

Then senator Antonio Trillanes, a vocal critic of Duterte, filed a libel complaint against Duterte supporter and blogger RJ Nieto for posting “false and derogatory” statements on his Facebook account in 2017, which accused Trillanes of being a drug dealer.¹⁹⁹ In July 2018, Nieto was indicted in the case.²⁰⁰ Hearings were scheduled for December 2019 and January 2020, but no updates on the case were available at the end of the coverage period.

C4 0-4 pts

Does the government place restrictions on anonymous communication or encryption? 4 / 4

There are no restrictions on anonymous communication or encryption 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. There are legislative initiatives in both houses of Congress aimed at preventing mobile phone-aided terrorism and criminal activities that seek

SIM card registration systems.²⁰¹ A Senate bill, filed in July 2019, called for a limit on the number of prepaid SIM cards an individual can register in the system. Another bill, also filed in July 2019, would require registered owners of SIM cards to be at least 15 years of age.²⁰² One of the authors of the Senate bill said having a name and face behind prepaid SIM cards was important, especially for the purpose of contact-tracing during the COVID-19 pandemic.²⁰³ The police and several legislators support the bill's passage, though it has not been prioritized by the 18th Congress.

C5 0-6 pts

Does state surveillance of internet activities infringe on users' right to privacy? 3 / 6

Despite constitutional protections to ensure the privacy of communications, surveillance is a growing concern in the Philippines.

Documents leaked during the coverage period include evidence that the government intends to procure hardware and software for communications surveillance.²⁰⁴ In January 2021, Bloomberg reported that the Philippines bought surveillance technology from Sandvine, a technology company based in Canada.²⁰⁵ In February 2018, reports revealed that the British government sold high-tech spying equipment worth £150,000 (\$200,000) to the Philippines, including tools to listen in on telephone conversations like international mobile subscriber identity (IMSI)-catchers—also known by the product name Stingrays—and surveillance tools to monitor internet activity.²⁰⁶ In 2014, the Philippine government reportedly acquired radio frequency test equipment (RFTE) from an electronic surveillance company based in Germany.²⁰⁷ The Department of National Defense (DND) claimed the acquisition was not unusual and was necessary to protect national security.

Concerns about surveillance grew when, during a visit to Marawi in 2017, President Duterte admitted to wiretapping politicians allegedly involved in the drug trade.²⁰⁸ He implied that the government possessed wiretapping or interception capabilities again in February 2018, when he said he knew in advance that the International Criminal Court (ICC) would undertake an initial review of allegations that he had committed crimes against humanity while conducting the brutal war on drugs.²⁰⁹ Human rights groups and those opposed to the war on drugs, such as Catholic priests, have suspected that their communications are vulnerable to government surveillance.²¹⁰

The Human Security Act of 2007 allows for law enforcement to “listen to, intercept and record, with the use of any mode, form, kind or type of electronic or other surveillance equipment or intercepting and tracking devices” the conversations of those who are charged with or suspected of terrorism.²¹¹ Under the act, law enforcement officials must obtain a court order to carry out such surveillance activities.²¹² However, the law includes a broad definition of terrorism and critics argue that it is susceptible to abuse.²¹³

The Anti-Terrorism Act of 2020,²¹⁴ which amended the Human Security Act of 2007, was signed by the president and entered into force in July (see C2).²¹⁵ The law expands the definition of terrorism and allows law enforcement and the military to conduct surveillance of any form on an individual suspected of a terrorist act for 60 days, with a potential extension for another 30 days.²¹⁶ Those suspected of supporting a terrorist organization can also be subjected to surveillance. Civil society groups and critics fear that the law could be used to surveil critics of the government, including left-wing groups that are often tagged as terrorists (see C7).²¹⁷ Former Supreme Court Justice Renato Puno, acting as impartial critic, expressed concerns that a person “already charged with terrorism can still be the subject of surveillance.”²¹⁸

A total of 37 petitions were filed before the Supreme Court questioning the constitutionality of the Anti-Terrorism Act.²¹⁹ In January 2021, one of the lawyers chosen to petition the constitutionality of the law reported that she had spotted men taking photos of her residence and had received anonymous, silent phone calls.²²⁰ Attorney Angelo Karlo Guillen, a lawyer for a red-tagged tribal group in the province of Iloilo and legal counsel for one of the 37 petitions to the Supreme Court, was stabbed on his head with a screwdriver and neck by unknown assailants.²²¹

Authorities have increased their capacity to monitor social media platforms. In January 2019, the DICT contracted local company Integrated Computer Systems, Inc. and Israeli-American company Verint Systems, Ltd. for the department's Cybersecurity Management System (CMS), which includes a social media monitoring component. Monitoring is conducted in “near real time” to identify misinformation and other threats, including during election periods.²²² Similarly, the AFP created a social media monitoring cell in October 2018, receiving training from the US military on how to monitor platforms to “counter misinformation by violent extremism organizations.”²²³

In February 2020, the deputy chief for operations of the Philippine National Police (PNP) encouraged police officers to be more active on social media to aid in crime prevention efforts. The statement followed an earlier order by the PNP's chief to monitor crimes and abuses on social media.²²⁴ The police also monitor social media posts that spread false information.²²⁵

In November 2018, the Department of the Interior and Local Government (DILG) contracted the China International Telecommunication Construction Corporation (CITCC) to implement the Safe Philippines Project and install 12,000 surveillance cameras in the Manila metropolitan area and Davao.²²⁶ Huawei was supposed to provide technology to support the project. In January 2019, Senator Ralph Recto filed a resolution calling for a probe of the project over concerns about Chinese companies' alleged espionage and hacking.²²⁷ In February 2019, lawmakers declined to provide the necessary funding to the project—\$400 million—due to these concerns.²²⁸ However, Duterte later vetoed the lawmakers' decision to block the funding in May 2019 and placed the project under “conditional implementation.”²²⁹ The Safe Philippines Project was then launched by the DILG in November 2019 in Marikina.²³⁰ In January 2020, Senator Leila de Lima of the opposition filed a resolution calling for an inquiry into China's involvement in the project.²³¹

C6 0-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users' right to privacy? 4 / 6

In general, technology companies are not required to aid the government in monitoring the communications of their users, although there are some data retention requirements.

In 2015, the government issued rules under the Cybercrime Prevention Act, clarifying some sections of the law that pertain to surveillance. Under its provisions, ISPs must collect and preserve data for up to six months on request. Law enforcement authorities tasked with investigating cybercrime—the NBI and the PNP's cybercrime unit—require a court order to access computer data.²³²

The Data Privacy Act of 2012 established parameters for the collection of personal financial information, as well as an independent privacy regulator.²³³ Other laws with implications for user privacy include the Anti-Child Pornography Act of 2009, which explicitly states that it does not “require an ISP to engage in the monitoring of any user,”²³⁴ though it does require them to “obtain” and “preserve” evidence of violations, threatening to revoke the licenses of noncompliant ISPs. The law also authorizes local government units to oversee and regulate commercial establishments that provide internet services.

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in relation to their online activities? 2 / 5

Score Change: The score declined from 3 to 2 due to the increased harassment online in the form of red-tagging, as well as the shooting of online journalist Jobert Bercasio shortly after he posted on Facebook about alleged illegal activity.

Journalists and rights activists, especially women, have been increasingly targeted with online intimidation and harassment in recent years.²³⁵ Authorities' use of red tagging, a form of harassment whereby targets are accused of having links with local communist groups, increased during the coverage period.

In September 2020, Jobert Bercasio, a journalist and commentator for the privately run broadcasting site, Balangibog, was shot and killed while riding his motorcycle. In his last broadcast streamed via Facebook before he was killed, Bercasio had criticized a local politician. According to the NUJP, Bercasio used his personal Facebook page an hour before he was killed to claim that trucks were operating in a local quarry without proper documentation. The NUJP maintains that Bercasio was killed due to his work.²³⁶

Independent and critical online outlets and journalists experience sustained harassment from both progovernment social media accounts and the authorities. Days after Maria Ressa was arrested in February 2019, two supporters of the president livestreamed themselves on Facebook sneaking into Rappler's office and unfurling a sign that condemned the outlet for allegedly destroying the Philippines' reputation. The video was widely shared by Duterte supporters as well as by groups supporting government-friendly senatorial candidates. Some viewers of the video also posted disturbing comments, including calls for the Rappler office to be bombed and for Ressa to be sexually assaulted.²³⁷ Similarly, online attacks against the fact-checking outlet Vera Files escalated after it partnered with Facebook in its fact-checking project in April 2018.²³⁸ In June 2019, Margarita "Gingging" Valle, a journalist for the online news outlet Davao Today, was arrested on charges that included murder, was not allowed to contact a lawyer or her family for 8 hours, and was detained for a total of 12 hours. Police then released her, claiming they had mistaken her for someone else.²³⁹

The Duterte administration has increasingly employed the tactic of red-tagging to intimidate government critics. Authorities frequently conduct raids against groups or individuals who are tagged as communists or allies of communist groups, planting evidence that can be used to bring charges against them. In December 2020, police arrested Lady Ann Salem, editor of the news website Manila Today, for alleged illegal possession of weapons. The criminal cases filed against Salem were dismissed by the Mandaluyong Regional Trial Court. However, she remained incarcerated because government prosecutors refused to accept her release, claiming that the outcome of the case was not yet finalized.²⁴⁰ The Mandaluyong Trial Court finally released Salem in March 2021. After freeing Salem, the judge who tried the case was red-tagged; cloth posters with the judge's face were hung from footbridges along a major road.²⁴¹

Journalists and ordinary citizens also get red-tagged publicly on social media.²⁴² In March 2021, Presidential Communications Undersecretary Lorraine Badoy, who is also a spokesperson of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), accused Rappler of being "an ally and mouthpiece" of the Communist Party of the Philippines, New People's Army (NPA), and the National Democratic Front of the Philippines (NDFP) in a post on Facebook.²⁴³ In February 2021, Lieutenant General Antonio Parlade, another spokesperson of the NTF-ELCAC, threatened an Inquirer.net reporter, Tetch Torres-Tupas, on social media for allegedly supporting terrorists by spreading lies. Tupas had reported on allegations that the military had tortured members of the Aetas community, a group of Indigenous peoples living in Luzon, for six days to make them admit that they were members of the New People's Army.²⁴⁴ Reporters covering this story denounced Parlade for his remarks and demanded an apology.²⁴⁵

In January 2021, the AFP posted a list of alumni of the University of the Philippines on Facebook, claiming they had joined the NPA and were later killed or captured as a result of their links to the group. Some of those named revealed that they are alive, and that while they participated in rallies during while they were students, they had never joined the NPA. The AFP has since taken down the post, though it was shared with other Facebook pages.²⁴⁶ In a statement, the NUJP claimed the AFP resorted to falsifying this information in order to push the narrative that the University of the Philippines is a breeding ground of enemies of the state.²⁴⁷

In April 2020, a 2013 photo of female journalists conducting a media safety-training session surfaced on social media. The posts description claims that one of the photographed women, who works with ABS-CBN, had links with local communist groups.²⁴⁸ Separately, police in Butuan City posted a photo that named several organizations as communist groups on Facebook, while police in Baguio named several left-wing groups as terrorists on Twitter.²⁴⁹

Celebrities who have publicly expressed opinions on sensitive social issues have also been red-tagged by the military. Lieutenant General Parlade threatened a celebrity of working with the left-leaning organization, Gabriela Youth, suggesting that the celebrity could end up killed like the organization's namesake, who died from an armed encounter with the military.²⁵⁰ Parlade denied, in a social media post, having red-tagged the actress. Lawmakers have called for an inquiry on the matter.

In June 2020, hundreds and potentially thousands of dummy Facebook accounts were found to impersonate student activists and journalists (see B5). Some of the targets reported receiving death threats and messages threatening sexual violence from the dummy accounts, as well as other incendiary and violent messages. While the motive behind the accounts' creation remained unclear, some have suggested they were created to intimidate and harass those critical of the government.²⁵¹

Those criticizing Duterte's war on drugs have also faced harassment and intimidation. In February 2019, Bishop Pablo Virgilio David of Caloocan, an outspoken critic of the drug war and its abuses, reportedly received text messages that he "was next in line for execution."²⁵²

Violence against journalists and activists is a significant problem in the Philippines, although it is not always directly related to their online activity. In August 2019, Brandon Lee, an American journalist for the English-language newspaper and website *Nordis*, was shot and severely wounded by unidentified assailants in the town of Lagawe. In the past, Lee reported on government corruption and rights violations, was allegedly surveilled and harassed by the military, and was labelled an "enemy of the state" on social media.²⁵³ The CPJ reported that 86 Philippine journalists were killed in relation to their work—most covering political issues like corruption—between 1992 and 2021.²⁵⁴ Attackers generally go unpunished.

C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking 1 / and other forms of cyberattack? 3

Technical attacks targeting media groups continued during the coverage period. Swedish nonprofit media foundation Qurium reported that the alternative online media sources, Bulatlat and Altermidya, faced distributed denial-of-service (DDoS) attacks in May 2021. During the same month, left-wing nongovernmental organization (NGO) and human rights alliance Karapatan was also the target of a DDoS attack.²⁵⁵ *Nordis*, the news outlet that shooting victim Brandon Lee worked with (see C7), and the Philippine Human Rights Information Center (PHRIC) were targeted with DDoS attacks in April 2020.²⁵⁶ In February 2020, at the height of ABS-CBN franchise-renewal discussion, employees of the network reported receiving a Google alert warning them of possible government-backed hacking attempts.²⁵⁷

Between December 2018 and March 2019, Bulatlat, Kodao Productions, Pinoy Weekly, AlterMidya, and the Alipato Media Center all experienced DDoS attacks, following their publication of content that criticized the government or supported dissidents.²⁵⁸ In March 2019, four of the groups filed a case before the Quezon City Regional Trial Court against two companies they believed were responsible, but ultimately withdrew the charges after the companies agreed to support press freedom and establish mechanisms to prevent similar incidents in the future.²⁵⁹

In September 2020, the ABS-CBN News website was temporarily inaccessible for 39 hours due to alleged technical problems. In November 2020, the YouTube channels of ABS-CBN News and ANC News were inaccessible for nine hours due to a hacking incident.²⁶⁰ YouTube confirmed the hack.²⁶¹

Government accounts and websites also experience technical attacks. In August 2020, the government's central online portal was hacked.²⁶² In December 2020, the online portal of the Office of the Solicitor General (OSG) was hacked, compromising the personal information of several individuals²⁶³ and exposing some 345,000 legal documents online.²⁶⁴ The hackers called on the OSG to stop blackmailing the NTC and give ABS-CBN provisional authority, alluding to the role the OSG played in the closure of the network. After the killing of nine activists in March 2021, a group called CyberPH for Human rights claimed responsibility for a second hacking of the government's central portal, claiming that they had stolen data.²⁶⁵

Footnotes

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