Malaysia

	2015	2016
Internet Freedom Status	Partly Free	Partly Free
Obstacles to Access (0-25)	8	9
Limits on Content (0-35)	14	16
Violations of User Rights (0-40)	21	20
TOTAL* (0-100)	**43**	**45**

* 0=most free, 100=least free

Population:	30.3 million
Internet Penetration 2015 (ITU):	71 percent
Social Media/ICT Apps Blocked:	Yes
Political/Social Content Blocked:	Yes
Bloggers/ICT Users Arrested:	Yes
Press Freedom 2016 Status:	Not Free

Key Developments: June 2015 – May 2016

- For the first time, the government reneged on pledges never to censor the internet and blocked websites that had reported on a billion dollar corruption scandal implicating Prime Minister Najib Razak, including the UK-based *Sarawak Report,* news websites*,* and the publishing platform Medium (see **Blocking and Filtering**).

- *The Malaysian Insider,* an online news outlet in operation for eight years, went out of business as an indirect result of government blocking (see **Media, Diversity, and Content Manipulation**).

- Politicians, journalists and Facebook users were investigated for online speech, including former Prime Minister Mahathir Mohamad, who criticized the government in a blog post (see **Prosecutions and Detentions for Online Activities**).

- In April 2016, a 19-year-old laborer was arrested for posting comments considered insulting to the crown prince of the southern state of Johor on Facebook; in June, he was sentenced to one year in prison (see **Prosecutions and Detentions for Online Activities**).

Introduction

Internet freedom declined amid corruption allegations, as the government implemented political censorship for the first time and prosecuted critics for online speech.

Internet access continued to improve in 2015 and 2016. The Barisan Nasional coalition government has promoted internet use through policies to develop cheaper community internet access and affordable mobile phones in rural areas. Yet this investment has also fueled popular political mobilization and a challenge to the government's decades-long rule.[1] In response, officials have increasingly used legal measures to control online criticism.

During this coverage period, the government implemented political censorship for the first time, and blocked access to popular websites and blogs, including *Sarawak Report, Malaysia Chronicle,* and *The Malaysian Insider* among others, for publishing "unverified contents" which could "create unrest." Among other reports, the sites had published allegations that money linked to a state investment fund had ended up in Prime Minister Najib Razak's bank accounts.[2] Najib denied receiving money for personal use. Digital media outlets reporting on corruption allegations implicating Najib and other officials faced defamation suits and criminal investigations. These measures heightened economic constraints online internet-based media organizations. *The Malaysian Insider* went out of business in March 2016, in part because of the block.

Police interrogated, arrested, or charged multiple bloggers and Facebook users under the Sedition Act and the Communications and Multimedia Act (CMA) for online comments about sensitive issues in 2015 and 2016. In 2016, the government said it was amending the CMA to address social media "misuse" and "false news." Other officials proposed revisiting an old plan to register bloggers and social media users to ensure they do not "abuse the internet."

Obstacles to Access

Internet access in Malaysia is considered excellent for the region, despite a digital divide between rural and urban areas. Government policies that promote access are reducing this gap. Mobile phone access is increasing, providing internet service for many young and rural users. An open market allows fierce competition among providers, resulting in attractive pricing and high quality service.

Availability and Ease of Access

In October 2015, the government reported more that 20 million internet users in Malaysia, with nearly 17 million active on social media.[3] The International Telecommunication Union reported 71

---

1   In 1973, the Barisan Nasional, which translates as National Front, absorbed the Alliance Party coalition which had governed Malaysia since 1957.

2   Beh Lih Yi, "Sarawak Report whistleblowing website blocked by Malaysia after PM allegations," *The Guardian*, July 20, 2015, http://bit.ly/1CLd2rU; Tom Wright, "Fund Controversy Threatens Malaysia's Leader," *Wall Street Journal,* June 18, 2015, http://www.wsj.com/articles/fund-controversy-threatens-malaysias-leader-1434681241

3   "Malaysia has over 20.1m internet users," The Sun Daily, October 28, 2015, http://bit.ly/1TffRZa.

percent penetration in 2015, citing the Department of Statistics.[4] The ambitious official pledge in 2012 was to increase it to 80 percent.[5]

Internet penetration is concentrated in developed or urban areas. Government statistics show that the highest internet penetration in 2015 was in the highly developed Klang Valley area, which comprises the capital city Kuala Lumpur (80 percent), the nation's most developed state of Selangor (73 percent), and at the administrative capital Putrajaya (99 percent). Penetration remained low in the less populated states of Sabah (52 percent) and Sarawak (54 percent), situated in East Malaysia where most residents belong to indigenous groups. [6] That distribution remained largely unchanged in 2016.

The most recently available government statistics from 2012 showed a slight gender imbalance in access rates, with men representing 56 percent of both internet and mobile users. The most prolific users were aged 20 to 29 (21 percent).

The introduction of wireless WiMax technology in 2008 helped bring broadband to regions that are difficult to reach via cable; four WiMax providers were in operation as of 2016. Cybercafes also play an important role in providing access outside cities. Free Wi-Fi connections are available in many urban spaces, including malls, restaurants, hotels and tourist destinations.

A 2010 National Broadband Initiative expedited broadband and mobile expansion.[7] Around 250 community centers offering broadband internet were established nationwide and nearly 500,000 netbooks were distributed to students and low income citizens in rural and suburban areas in 2011.[8] In 2012, the "1Malaysia" affordable broadband package offered decent broadband speeds for under MYR 38 (US$12) per month in five states with lower penetration rates.[9] By 2013, internet centers were expanding to cities,[10] and the government and local councils had introduced schemes to provide free or inexpensive Wi-Fi nationwide.[11] The average monthly cost of fixed internet access is MYR 99 (US$30) per month.[12] As of June 2015, there were 562 1Malaysia internet centers nationwide with 471,855 registered users; 120 mini community broadband centers located at Information Departments in underserved areas nationwide; 44 community broadband libraries in rural areas, and 5,860 1Malaysia wireless villages, which bring access to small, remote communities. Internet access was available in a total of 30,959 hotspot locations.[13]

The average internet speed is still comparatively slow, however. The government responded to complaints of slow internet speed in September 2015, saying that Malaysians were choosing not to

---

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

5   Performance Management and Delivery Unit, *Economic Transformation Programme Annual Report 2012*, 188, http://bit.ly/1Ojrifj.

6   Malaysian Communications and Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics Q2 2015,* http://bit.ly/1QEHrIs

7   Sira Habu and Shaun Ho, "RM1bil initiative to promote high-speed broadband usage," *The Star Online*, March 25, 2010, http://bit.ly/1ANKARp.

8   Roshda Md Yunan, "Rural Broadband Initiatives in Malaysia" Ministry of Information Communication and Culture Malaysia, (The ASEAN Rural Connectivity Conference for Education and Development, Hanoi, Vietnam, September 21-23, 2011), http://bit.ly/1iUMuvf.

9   "1Malaysia Broadband Affordable Packages for 5 States," *Malaysian Wireless*, September 8, 2012, http://bit.ly/17B08xE.

10   *New Straits Times*, "1Malaysia Internet Centre Comes to KL," *World News,* March 26, 2013, http://bit.ly/1NI1vxB.

11   Choong Mek Zhin, "DBKL to make it a requirement for restaurants to provide Wi-Fi services," *The Star Online*, January 9, 2012, http://bit.ly/1AvwYeE.

12   Author's market survey.

13   Malaysian Communications & Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics Q2 2015.*

spend more for fast, more reliable connections, since 71 percent of internet users preferred slower broadband packages offering speeds between 384 Kbps and 1 Mbps.[14] In 2016, the fastest broadband service was offered by Time, which advertised connections as fast as 100 Mbps. Other internet service providers such as TM UniFi offer speeds as high as 20 Mbps. Faster fiber connections are also offered by Maxis, Celcom, and P1.[15]

Mobile internet access is easily available, affordable, and popular among young people. Mobile penetration surpassed the country's total population in 2011 and was approaching 150 percent in 2015, indicating that some individuals have multiple phone lines.[16] The government has incentivized smartphone adoption, including a MYR200 smartphone rebate for young adults aged 21-30 with a monthly income of MYR 3,000 or less.[17] The boom in social networking sites such as Facebook, Twitter and Instagram, and data messaging applications such as WhatsApp, WeChat, Viber, LINE, and others, have also increased smartphone usage.

In 2013, mobile operators such as Celcom and Maxis introduced 4G LTE wireless broadband service, which is faster than some fiber broadband services, with download speeds up to 75 Mbps. Older 3G and 3.5G connections offer speeds of up to 384 Kbps and up to 7.2 Mbps, respectively.

Those already connected to the internet are consuming more bandwidth. According to the Malaysian Internet Exchange (MyIX), Malaysia's internet traffic showed the biggest annual percentage increase in more than a decade in 2013—a 51 percent jump to 349,277 Mbps from 230,631 Mbps. Usage is expected to continue to rise.[18]

Restrictions on Connectivity

The primary options for broadband internet connectivity in Malaysia are fiber, ADSL, and wireless. Telekom Malaysia, the country's largest – and formerly state-owned – telecommunications company, retains a monopoly over the fixed-line network. The government continues to hold a 29 percent share in Telekom Malaysia.[19]

Malaysia's internet backbone was operated by TMNet during the coverage period, a responsibility previous shared with Jaring.[20] Formerly owned by the ministry of finance, Jaring was Malaysia's first internet service provider, installing its first international satellite leased-circuit at 64 Kbps, connecting Kuala Lumpur to Stockton in the United States. Jaring became a private entity in 2014, but went into liquidation in 2015.[21] TMNet is a subsidiary of the now-privatized Telekom Malaysia, Malaysia's largest internet service provider, and the owner of the nation's last mile connections. Since there is

14   "Most Malaysians choose slower, cheaper Internet, says Salleh Said Keruak," *The Star Online*, Sept 28, 2015, http://bit.ly/1WRyRei.

15   Nick Davison, "What is the Fastest Broadband Internet Service in Malaysia?," *Expat Go Malaysia*, Aug 6, 2014, http://bit.ly/1x3W1VA.

16   Malaysian Communications & Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics Q3 2014;* Malaysian Communications and Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics 2013*, http://bit.ly/1NI2cqt ; ITU, "Mobile cellular Telephone Subscriptions, 2000-2012," http://bit.ly/1cblxxY.

17   "Malaysia's Internet usage rises 51% in 2013, says industry body".

18   "Malaysia's Internet usage rises 51% in 2013, says industry body," *The Malaysian Insider,* April 7, 2014, http://bit.ly/1GxtusV.

19   Summary of shareholding in Telekom Malaysia, http://bit.ly/290zliY

20   "The Internet Backbone and Service Markets in Malaysia," http://studentsrepo.um.edu.my/1937/7/CHAP4.pdf

21   Steven Patrick, "Jaring, the first Malaysian ISP, winds up," *The Star Online,* May 4, 2015, http://www.thestar.com.my/Tech/Tech-News/2015/05/04/Jaring-the-first-Malaysian-ISP-winds-up/.

no local loop unbundling, TMNet enjoys a virtual monopoly of the broadband market (see "ICT Market").[22]

There were no reported cases of government-imposed restrictions on access to the internet for political reasons during this coverage period. In the past there were reports of mobile phone jammers being used by the authorities during political rallies, though this was denied by the government.[23] In recent years, some local authorities have introduced restrictions on cybercafes to curb illegal online activities, particularly gambling, which can result in closure if detected on cafe premises. Select states have capped the number of cybercafe licenses available, making it difficult for legitimate new venues to open.[24]

In 2015, the government issued 171 licenses to network facilities providers (up from 161 in 2014).[25]

ICT Market

The government issued 159 internet service provider licences in 2015 (up from 158 in 2014).[26] TMNet was the largest ISP during the coverage period. The largest mobile provider, Maxis Communications, was founded by Ananda Krishnan, who also owns Malaysia's biggest satellite broadcaster and enjoys close ties to former Prime Minister Mahathir Mohamad.[27] Two new mobile phone providers, YTL Communications and Umobile, have joined the market since 2008. Though ostensibly unrelated to the government, observers believe they benefit from political connections.

Fiber connections are the standard for the fastest household internet connectivity. Fiber home broadband connection in Malaysia is provided by Astro IPTV. Other providers of broadband and mobile internet connections include Celcom, DiGi, Maxis, Time Internet, Telekom Malaysia, Tune Talk, U Mobile and Yes, which is a wireless 4G provider.[28]

Regulatory Bodies

Regulation of the internet falls under the purview of the Malaysian Communications and Multimedia Commission (MCMC), which is overseen by the Minister of Information, Communications, and Culture. The 1998 Communication and Multimedia Act (CMA) gives the information minister a range of powers, including licensing the ownership and operation of network facilities. Similar rules serve as a means of controlling the traditional media,[29] though this has not been documented among internet companies.

The CMA provides for the ministry to appoint the MCMC chairman and three government commissioners, plus two to five commissioners from nongovernmental entities.[30] The current three are all from the private sector. Since 2008, the process for appointing members of the MCMC advisory

---

22   Telekom Malaysia website, http://www.123helpme.com/telekom-malaysia-expansion-view.asp?id=159596.

23   Patrick Lee, "Rais: We did not jam networks during Bersih, "*Free Malaysia Today*, June 14, 2012, http://bit.ly/1vBS8HM.

24   Peter Boon, "Cyber cafe licences not issued anymore—Ministry," *Borneo Post Online*, Oct 15, 2012, http://bit.ly/1wj3DiD.

25   Malaysian Communications & Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics Q3 2014.*

26   Malaysian Communications & Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics Q3 2014.*

27   Colin Kruger, "Billionaire eyes Australian media," *The Sydney Morning Herald*, May 28, 2011, http://bit.ly/1DZAsJk.

28   Malaysian internet and mobile providers, http://bit.ly/28QSfcB

29   "Malaysa," in *Freedom of the Press 2016*, https://freedomhouse.org/report/freedom-press/2016/malaysia.

30   Malaysian Communications & Multimedia Commission Act 1998, http://www.agc.gov.my/Akta/Vol.%2012/Act%20589.pdf.

board has become more transparent and participatory, involving consultations with diverse stake-holders and the inclusion of civil society members on the board. Yet the MCMC remains a driving force in efforts to curtail online speech, including investigations into online portals and bloggers.

Limits on Content

Facing a high profile corruption scandal, the government started to block popular news sites and blogs perceived as critical for the first time. The prime minister and one of his ministers have also filed defamation suits against news portals. Some news sites have been excluded from government press conferences, and some downsized or went under, due to financial pressures exacerbated in a worsening media climate.

Blocking and Filtering

A provision of the CMA explicitly states that none of its wording "shall be construed as permitting the censorship of the internet." The Multimedia Super Corridor, an information technology development project, includes a 10-point Bill of Guarantees that promises no censorship to member ICT businesses.[31]

In July 2015, however, the MCMC ordered service providers to block access to the UK-based whistleblower site *Sarawak Report* over articles on the misallocation of resources from the 1Malaysia Development Berhad (1MDB) state investment fund, which the government called detrimental to national security.[32]

Local content providers were subsequently singled out for similar reasons. Two news portals, *Malaysia Chronicle* and *The Malaysian Insider,* were blocked in October 2015 and February 2016 respectively, both for publishing articles about 1MDB deemed to be critical of the government and the prime minister.[33] Officials described the content as "obscene, indecent, false, menacing or offensive," and a threat to national security.[34] Two editors with *The Malaysian Insider* were questioned by police in relation to reports (see "Prosecutions and Detentions for Online Activities"); the website closed down in March (see "Media, Diversity, and Content Manipulation"). The government also blocked a handful of prominent blogs which were critical of the government, such as *Syed Outsyed The Box,* a blog whose owner reported having reposted content from *Sarawak Report,* and *Din Turtle*, which publishes socio-political commentary.[35]

The government also blocked access to more international content. The Hong Kong-based commentary site *Asia Sentinel* was blocked in Malaysia on January 21, 2016, for "violating national laws" after it published an article on Prime Minister Najib.[36] The blog-publishing platform Medium was blocked

---

31   Malaysia National ICT Initiative, "MSC Malaysia 10-Point Bill of Guarantees," accessed August 2013, http://bit.ly/1UZZ6xb; Malaysian Communications and Multimedia Commission, "Communications and Multimedia Act 1998," accessed August 2013, http://bit.ly/1zKzZ7k.

32   Human Rights Watch, "Malaysia: End Website Blocking, Politicized Investigations," July 22, 2015, http://bit.ly/1EoEOFL.

33   "Malaysia Chronicle website blocked in Malaysia," FreeMalaysiaToday, Oct 24, 2015, http://bit.ly/1TKUUVN; "The Malaysian Insider news portal blocked by government," Channel News Asia, Feb 25, 2016, http://bit.ly/1T935LQ.

34   "Salleh Said Keruak: TMI breached Communications Act," The Star Online, Feb 26, 2016, http://bit.ly/1LNKhtD.

35   "Several blogs blocked for alleged violation of the laws," The Mole, Jan 28, 2016, http://bit.ly/1TfgYIo.

36   "Putrajaya blocks access to Asia Sentinel, says portal," FreeMalaysiaToday, Jan 21, 2016, http://bit.ly/1RcLOex.

on January 22, after it refused to take down articles posted by the banned *Sarawak Report*.[37] Both remained inaccessible in mid-2016.

The government has not systematically targeted political content in the past. Until recently, there were no restrictions on websites except for those which violate national laws governing pornography.[38] In 2013, officials said a total 6,640 sites had been blocked since 2008.[39] In October 2014, the government said the Malaysian Communication and Multimedia Commission (MCMC) had shut down or blocked at least another 1,400 websites that were deemed inappropriate.[40] The Commission blocked 1,263 websites in 2015,[41] and another 399 in the first two months of 2016.[42] No list of affected content is available, but site owners can appeal if mistakenly blocked. Many government-linked companies and public universities restrict access to the *Malaysiakini* news website and others perceived as politically sensitive.

Content Removal

The MCMC periodically instructs websites to remove content, including some perceived as critical of the government,[43] although no such instructions were made publicly in the review period. Requests are generally nontransparent and lack judicial oversight or avenues for appeal. Medium was blocked during the coverage period after refusing a government request to remove content (see "Blocking and Filtering").

Some blog owners and Facebook users have been told to remove their contents by the MCMC, especially when the contents touch on sensitive issues involving race, religion and royalty. Religion is particularly sensitive. In 2009, the MCMC directed *Malaysiakini* to take down two videos containing sensitive religious and political content. When *Malaysiakini* Editor-in-Chief Steven Gan refused, the MCMC urged the attorney general to prosecute him, though the case was never pursued.[44]

Media, Diversity, and Content Manipulation

During this review period, the government blocked a number of news portals (see "Blocking and Filtering"). As a result, the eight-year-old outlet *The Malaysian Insider* was forced to shut down, citing commercial reasons, laying off 59 staff.[45] Other news portals downsized during the same period, but as a result of economic challenges rather than censorship. *The Rakyat Post* went offline temporarily

---

37   "Spurned by Medium, MCMC strikes back, users suffer," Digital News Asia, Jan 27, 2016, http://bit.ly/1TLbYuG; https://medium.com/medium-legal/the-post-stays-up-d222e34cb7e7#.z1yom7jzk.

38   "Internet providers need time to block porn site RedTube, says MCMC", *The Malaysian Insider*, December 22, 2014, http://bit.ly/1LIWqiG.

39   Bernama, "More than 6,000 websites blocked for violations since 2008," *Malay Mail Online*, July 5, 2013, http://bit.ly/181FR-RQ.

40   Elizabeth Zachariah, "Malaysia has blocked 1,400 'inappropriate' websites, says Ahmad Shabery," *The Malaysian Insider*, Oct 14, 2014,http://bit.ly/1ANQFNX.

41   'Investigations against authors of online postings worrying,' BeritaDaily, May 27, 2016, http://bit.ly/28Vcjeh.

42   '399 websites blocked by MCMC this year', Hakam website, March 8, 2016, http://bit.ly/28VV7B3.

43   The Malaysians Communications and Multimedia Content Code, http://bit.ly/1DWt2Vm.

44   One showed Muslim demonstrators desecrating the head of a cow—an animal Hindus consider sacred—to protest the relocation of a Hindu temple; the second showed a political speech. See Reporters Without Borders, "Malaysiakini Website Refuses to Bow to Censorship," September 24, 2009, http://bit.ly/1DZHRbB.

45   'Independent Malaysian news site closes amid government clampdown on media', The Guardian, March 15, 2016, http://bit.ly/28VLqbs.

before coming back with a smaller team of staff.[46] At the end of this coverage period, *The Ant Daily* was no longer in operation.

However the influence of online news portals remains robust, with several among the nation's most popular websites.[47] More established news portals such as *Malaysiakini* and *Malay Mail Online* have been joined by relative newcomers such as *FreeMalaysiaToday* and *Berita Daily*. Many other, much smaller news portals continue to contribute to diversity of information online,[48] and online news outlets represent an increasingly serious challenge to traditional media.

In 2013, a judge ordered the home ministry to grant *Malaysiakini* the right to reapply for a print license.[49] The ministry had repeatedly refused to grant the license, and challenged a 2012 appeals court ruling which characterized *Malaysiakini's* right to publish a newspaper as fundamental.[50]

Combative political reporting online may have caused the government or its supporters to try to censor a handful of news websites in the lead-up to 2013 elections. The sites were simultaneously targeted by hackers, and the exact nature of the interference remains unclear.[51] At least two outlets filed a complaint with the MCMC, which never responded.

While cyberattacks on news portals have declined, some digital journalists were subjected to informal, inconsistent bans from select government press conferences in the past two years.[52] An uptick in police reports filed against journalists contributed to a sense of official harassment.[53] In 2014, Prime Minister Najib and his party Umno sued *Malaysiakini* for defamation, followed by three additional news websites in 2015 (see "Prosecutions and Detentions for Online Activities").[54] Following in the prime minister's footsteps, another minister filed a defamation suit against *Malaysiakini* in December 2015, saying he had failed to receive a satisfactory reply over its report he said had misquoted him. Minister Abdul Rahman Dahlan said that his legal action against *Malaysiakini* was "not to curb media freedom but to remind news portals to be more careful and to not compromise on facts."[55]

YouTube, Facebook, Twitter, and international blog-hosting services, as well as other social media platforms, were freely available during the coverage period, with the exception of Medium, which was blocked in January 2016. In 2014, the government briefly considered proposals to ban Facebook to curb online abuse. However, the proposal was shot down following complaints from civil society. [56] Expanded internet access has led to the emergence of a vibrant blogosphere. English and Malay

---

46   'The Rakyat Post closes shop,' The Star Online, Feb 29, 2016, http://bit.ly/299eoAg.

47   Akil Yunus, "The Star Online ranks as top news portal in Malaysia," *The Star Online* , December 22, 2014, http://bit.ly/1J-Ga6gb; "Top Sites in Malaysia," Alexa Web Information Company, accessed January 29, 2013, http://bit.ly/1JQCKOt.

48   List of newsportals in Malaysia, http://bit.ly/294nuQ7.

49   Reporters Without Borders, "Court Rejects Government Appeal Against Print Version For News Website," October 31, 2013, http://bit.ly/1wjDgJm.

50   Hafiz Yatim, "Malaysiakini wins court battle over print licence," *Malaysiakini*, October 1, 2012, http://bit.ly/V5bcKG; Human Rights Watch, "Malaysia," in *World Report 2013*, January 31, 2013, http://bit.ly/ZbdTes.

51   Oiwan Lam and Leila Nachawati, "Malaysia: News Sites Face Attacks on Eve of Elections," *Global Voices Advocacy*, May 4, 2013, http://bit.ly/1AvO2kY.

52   "Malaysiakini & The Malaysian Insider banned from covering PMO," *Selangor Kini*, July 8, 2014, http://bit.ly/1De24Fa; Nigel Aw, "Mkini barred from PM's office twice in two weeks," *Malaysiakini*, July 8, 2014, http://bit.ly/1wjpy9c.

53   Mohamad Fadli, "Police report against FMT columnist," *Free Malaysia Today*, January 26, 2015, http://bit.ly/181MWC4.

54   "Najib and Umno sue Malaysiakini," *The Star Online*, June 4, 2014, http://bit.ly/1EuzNOR.

55   "Minister to sue Malaysiakini over 'reverse migration' report," Malaysiakini, Dec 8, 2015, http://bit.ly/1n7IDfO.

56   Karen Arukesamy and Bernard Cheah, "Govt not in favour of Facebook ban," *The Sun Daily*, October 1, 2014, http://bit.ly/ZrAS8H.

are the dominant languages, and many civil society groups, including those representing ethnic minorities, have a dynamic online presence.

Prime Minister Najib has his own blog and almost six million followers on both Facebook and Twitter.[57] Other government representatives are embracing ICTs, including Communications and Multimedia Minister Salleh Said Keruak, who uses his blog to counter criticism against the government and the prime minister.[58] The police force has Facebook and Twitter accounts where officers provide updates on policing activities and occasionally respond to accusations of abuse from members of the public.[59] The police chief came under fire in 2014 for warning government critics on Twitter,[60] though the practice continued during the coverage period, when an artist was threatened for launching memes representing the prime minister as a clown (see "Digital Activism").[61]

Some of this engagement is manipulative in nature. Both government and opposition figures are known to pay online commentators, known as cybertroopers, to generate favorable content and denigrate their opponents.[62] Since traditional media restrictions caused opposition groups to embrace online platforms relatively early, the government has struggled to catch up. The Barisan Nasional's dedicated bloggers, Unit Media Baru, deny accepting payment for their efforts.[63] The ruling party, Umno, maintains paid bloggers, but in December 2014, Prime Minister Najib expressed his disappointment when some of them publicly criticized government policies.[64]

In 2012, the government admitted paying international public relations firm FBC Media MYR 83.8 million (US$26.5 million) between 2008 and 2010 to boost Prime Minister Najib's image abroad.[65] *Sarawak Report* also said Abdul Taib Mahmud, the then chief minister in the state of Sarawak, had separately contracted FBC Media for online publicity campaigns.[66] FBC Media, which denied wrongdoing, collapsed in 2011.[67] In 2015, *Sarawak Report* said that at least one former FBC media expert was still in the government's employment.[68]

Issues considered potentially sensitive online include Islam's official status, race, royalty, and the special rights enjoyed by Bumiputera, who are ethnic Malays and other indigenous people, as opposed

57   Najib Razak, Facebook page, accessed Feb 28, 2016, http://on.fb.me/1CSMPmi; *NajibRazak* (blog), accessed Feb 28, 2016, http://bit.ly/1FxF5Hi

58   Salleh Said Keruak, http://sskeruak.blogspot.my/.

59   Polis Diraja, Facebook page, http://on.fb.me/1yWkBtd.

60   V Shuman, "PDRM, why not change your name to Polis Raja di Social Media (PRdSM)?" *The Ant Daily*, February 12, 2015, http://bit.ly/1LMd9Um; "Top cop's use of Twitter to issue sedition warnings raises eyebrows," *The Malaysian Insider*, February 12, 2015, http://bit.ly/1wjwzHc.

61   "Malaysian police threaten internet users for sharing clown memes of prime minister," Global Voices, Feb 13, 2016, http://bit.ly/1KUpMkf.

62   Joanna Yap, "PRS' Cyber-Troopers Ready for Coming Polls," *Borneo Post Online*, March 22, 2012, http://bit.ly/1EuCcsR; Lim Guan Eng, "Najib's new army of cyber troopers with a history of dirty tricks is proof that the 13th general election will be the dirtiest election yet," *DapMalaysia*, November 21, 2011, http://bit.ly/1MUPtib.

63   Yu Ji, "Taking the battle online," *The Star* Online, February 8, 2012, http://bit.ly/1FYNhEn.

64   Hasbullah Awang Chik, "Umno bloggers defend 'friendly fire' after Najib's 'bangang' label," *The Malaysian Insider*, December 1, 2014, http://bit.ly/1AO0QlF.

65   Mariam Mokhtar, "Sorry no cure, BBC," *Free Malaysia Today*, February 17, 2012, http://bit.ly/1vCc51h; *Harakah Daily,* "BBC's Worldwide Apology Exposes Malaysian Govt's Image," *Malaysia* Today, February 13, 2012, http://bit.ly/1Ducumz.

66   "New Revelations Link FBC Media to BN's Dirty Tricks Blogging Campaigns—Latest Expose!" *Sarawak Report*, August 7, 2011, http://bit.ly/1zhPRgo.

67   Ian Burrell, "TV company at centre of global news fixing row goes into administration," October 28, 2011, http://ind.pn/1FYNTd8.

68   "Too Much Partying By Najib's PR Guru Paul Stadlen?" *Sarawak Report*, Feb 11, 2015, http://bit.ly/1z8M6e4.

to the ethnic Chinese and Indian minorities. Discussing these topics can lead to prosecution, and some internet users exercise self-censorship.

Digital Activism

Online tools have been effective for political mobilization and exposing the government's grip on traditional media. Opposition supporters used social media to mobilize following the jailing of opposition leader Anwar Ibrahim for five years in February 2015 for sodomy, a charge his supporters say was politically motivated.[69]

The Coalition for Free and Fair Elections, which organizes for political reform, leveraged online platforms to bring tens of thousands of supporters to the streets during the Bersih 2.0 and Bersih 3.0 political rallies in 2011 and 2012, respectively. During the 2013 general election, digital campaigns to get out the vote contributed to a record 80 percent turnout of registered voters, in what observers described as the most closely fought election since independence.[70] Social media continued to be used to gather supporters for opposition rallies during the coverage period, including Bersih 4 in August 2015, when the MCMC threatened to block websites used to publicize the event,[71] and a march in the capital demanding Prime Minister Najib's resignation in January 2016.[72]

In February, after police used an official Twitter account to warn a graphic artist who uploaded an image of Prime Minister Najib as a clown, internet users shared clown images of the prime minister under a hashtag meaning "we are all seditious."[73] The artist was subsequently prosecuted (see "Prosecution and Detentions for Online Activities").

Violations of User Rights

The government continued to charge social media users, civil society activists and politicians for online remarks, though a sedition case against a prominent academic involving online speech was dropped. A teenage laborer was sentenced to 12 months' imprisonment for insulting a member of the Malaysian royal family on Facebook. At the same time, the government is also amending the Communications and Multimedia Act to punish social media "misuse," and threatened to require internet users to register in order to publish blogs.

Legal Environment

Malaysia's constitution provides citizens with "the right to freedom of speech and expression," but allows for limitations on that right. While some court decisions have disappointed freedom of expression advocates,[74] others show more independence. The government exercises tight control over

---

69   Elizabeth Zachariah, "Hundreds join Nurul Izzah for Pakatan solidarity rally in KL," *The Malaysian Insider*, February 14, 2015, http://bit.ly/1DWBe87.

70   Jonathan Head, "Malaysia election sees record turnout," *BBC News*, May 5, 2013, http://bbc.in/1JQFTxN.

71   https://www.ifex.org/malaysia/2015/08/27/protest_websites_blocked/

72   http://www.thejakartapost.com/news/2016/01/08/ngos-fume-after-malaysia-kicks-out-indonesian-activist.html

73   https://advox.globalvoices.org/2016/02/13/malaysian-police-threaten-internet-users-for-sharing-clown-memes-of-prime-minister/

74   Reporters Without Borders, "Court's Ruling on Cartoonist's Suit Sets Disturbing Precedent for Media Freedom," July 31, 2012, http://bit.ly/1EVNG6M.

online as well as print and broadcast media through laws like the Official Secrets Act and the Sedition Act, which dates from 1948. Violations are punishable by fines and several years in prison. An official mooted increasing penalties under the Official Secrets Act to life imprisonment and judicial caning in February 2016.[75] No formal proposal was made during the coverage period, though civil society groups were prepared to campaign against the change.[76]

In 2014, Prime Minister Najib reneged on vows made in 2013 to abolish the Sedition Act. In fact, new amendments in April 2015 widened the scope of the sedition law, allowing the government to block electronic content considered seditious.[77] Under the amended law, the penalty for sedition is now seven years in prison, up from three years previously. A new provision allows for up to 20 years for seditious activities that result in physical harm or destruction of property.[78]

In October 2015, the Malaysian Federal Court rejected a constitutional challenge to the Sedition Act filed by Dr Azmi Sharom, an academic charged under the law in September 2014 in connection with an online news article.[79] That charge was dropped in February 2016 (see "Prosecutions and Detentions for Online Activities").

Defamation is a criminal offence under Sections 499 to 520 of Malaysia's penal code. Media outlets benefit from stronger privileges under the Defamation Act 1957 if they can prove allegedly libelous content is accurate and was published without malice;[80] lacking this protection, bloggers risk punitive damages.

In 2012, parliament passed an amendment to the 1950 Evidence Act that holds intermediaries liable for seditious content posted anonymously on their networks or websites.[81] This would include hosts of online forums, news outlets, and blogging services, as well as businesses providing Wi-Fi services.[82] The amendment also holds someone liable if their name is attributed to the content or if the computer it was sent from belongs to them, whether or not they were the author.[83] The legal change was pushed through hurriedly, but garnered significant public backlash after its passage, which failed to prevent it going into effect.[84] No implementation has been reported.

75   'Malaysia ponders stricter punishments for whistleblowers, journalists', ifex, Feb 9, 2016, http://bit.ly/28UoIhb.

76   'Groups to educate public on info rights to counter planned OSA amendments', Malay Mail Online, May 12, 2016, http://bit.ly/28TTKDa.

77   Anisah Shukry and Eileen Ng, "Sedition Act stays, says Najib," November 27, 2014, http://bit.ly/1uKsQQF; Trinna Leong and Al-Zaquan Amer Hamzah, "Malaysia toughens sedition law to include online media ban, mandatory jail," ed. Paul Tait, *Reuters*, April 10, 2015, http://reut.rs/1Ykub33, "Amendments to Sedition Act passed with several changes", *New Straits Times*, April 10, 2015, http://bit.ly/1acd664; Marie Harf, "Malaysia's Sedition Act Amendments", US Department of State, press statement, April 14, 2015, http://1.usa.gov/1OQB6ii.

78   Mong Palatino, "Malaysia strengthens Sedition Act," *The Diplomat*, April 13, 2015, http://bit.ly/1IJCBJg.

79   Human Rights Watch, "Space for public debate and free speech is rapidly narrowing in Malaysia, says new report," via IFEX, October 28, 2015, https://www.ifex.org/malaysia/2015/10/28/report_criticism_crime/ ; Article 19, "Malaysia: Sedition Act upheld in further blow to free expression," via IFEX, October 13, 2015, https://www.ifex.org/malaysia/2015/10/13/court_ruling_sedition_act/.

80   Abdul Latiff Ahmad et al., "Regulating Blogs in Malaysia," *The Innovation Journal: The Public Sector Innovation Journal* 16, no. 3 (2011) http://bit.ly/1BMUO8r.

81   Eva Galperin and Katrina Kaiser, "This Week in Internet Censorship: Points system for Weibo, Activist Released in Bahrain, Censorship in Malaysia, Ethiopia, and More," Electronic Frontier Foundation, May 31, 2012, http://bit.ly/1C8CXIG.

82   Teoh El Sen, "Pakatan seeks to halt new evidence act," *Free Malaysia Today*, June 28, 2012, http://bit.ly/1JZ9sxc.

83   Laws of Malaysia, "Evidence (Amendment) (no. 2) Act 2012," http://www.federalgazette.agc.gov.my/outputaktap/20120622_A1432_BI_Act%20A1432%20BI-evidence%20(amendment)%20(no.%202).pdf.

84   A. Asohan, "Govt Stealthily Gazettes Evidence Act Amendment, Law is Now in Operation," *Digital News Asia*, August 8, 2012, http://bit.ly/1JZ9KUF.

The government has also pursued prosecutions for online content based on the Communications and Multimedia Act 1998 (CMA). The Act's broadly worded Section 211 bans content deemed "indecent, obscene, false, threatening, or offensive;" Section 233 punishes the "improper use of network facilities or network service," when such content is shared via the internet.[85] Amendments to the CMA and the related Communications and Multimedia Commission Act (CMCA) 1998 were expected to be tabled in late 2016,[86] including measures to curb "social media misuse, that infringe, among others, on religious and racial sensitivities, or for recruitment of terrorists."[87] Critics say the intention is to stop online criticism of the government.[88] A minister said the amendments were not designed to curb free speech, but to "create a mechanism to detect irresponsible individuals who cause false news and slanderous allegations."[89]

Prosecutions and Detentions for Online Activities

In 2015 and 2016, police arrested and prosecuted internet users for remarks against the government and its policies, royalty, or Islam, continuing a trend which started in the last review period.[90] The government said it had registered 34 complaints regarding the abuse of social media between January 1 and February 4, 2016 alone, bringing at least two to court and 12 more under investigation.[91]

Several arrests were made for sedition or for violating the Communications and Multimedia Act (CMA). Police charged an activist for his social media comments;[92] arrested a woman for insulting the police on Facebook;[93] and charged a construction consultant for insulting the prime minister on Facebook.[94] Those arrested were all released on bail, but their cases were ongoing at the end of the reporting period.

One case was particularly high profile. In January 2016, artist and activist Fahmi Reza published a caricature of Prime Minister Najib Razak as a clown on Facebook with a comment on the use of sedition charges to suppress free expression (see Digital Activism). In March, opposition lawmaker Nurul Izzah Anwar was investigated under the CMA and Section 504 of the Penal Code for sharing the same clown caricature on Instagram, though no further action had been taken in mid-2016.[95] In June, Fahmi Reza was charged under Section 233 of the CMA for "improper use of network facilities or network service" in relation to the image. He faces a maximum fine of MYR 50,000 (US$11,900) and prison sentences up to one year.[96]

On April 28, 2016, 19-year-old laborer Muhammad Amirul Azwan Mohd Shakri was arrested for posting Facebook comments considered insulting to the crown prince of the southern state of Johor

85   OpenNet Initiative, "Malaysia," in *Country Profiles*, https://opennet.net/research/profiles/malaysia.

86   "Regulation for social media in proposed amendments to communication acts," *The Malaysian Insider*, June 8, 2015, http://bit.ly/1TsbtkR.

87   S. Neishasa, "Proposal to control social media desperate," *Berita Daily*, August 3, 2015, http://bit.ly/1Emnhyb.

88   S. Neishasa, "Proposal to register online news portals ridiculous," *Berita Daily*, August 6, 2015, http://bit.ly/1N2cCkb.

89   "We are not planning to censor free speech," *Berita Daily*, Aug 14, 2015, http://bit.ly/1TgO1fh.

90   "Malaysian government must stop ongoing crackdown and honour its pledge to repeal the Sedition Act," *Suaram*, Sept 12, 2014, http://bit.ly/1EzqaOW.

91   "Cases of social media abuse rising," *The Star Online*, Feb 23, 2016, http://bit.ly/1Rx9yNd.

92   "Malaysia: Activist charged over Facebook posts needs support," *Green Left Weekly*, October 31, 2015, http://bit.ly/1TJtzC4.

93   "Woman arrested after Facebook posting on cops' treatment of son," *The Malaysian Insider*, December 25, 2015, http://bit.ly/1QFQ0To.

94   "Malaysian consultant claims trial to insulting Najib on Facebook," Asiaone, February 19, 2016, http://bit.ly/215hZSp.

95   'Police record Nurul Izzah's statement over Instagram post,' *New Straits Times*, March 7, 2016, http://bit.ly/28QRgZW.

96   'Malaysia: Ongoing crackdown on social media;, Amnesty International, June 7, 2016, http://bit.ly/28WohB9.

(Sultans constitutionally rule nine of the country's sixteen states and federal territories).[97] He was also charged under Section 233 of the CMA. In June, outside the coverage period of this report, he was convicted on 14 counts of posting insulting comments with the intention of hurting the prince's feelings and sentenced to one year in prison, starting from the date of his arrest. News reports said he was unrepresented in court. His family filed an appeal.[98] At least three others were reported to be under investigation for insulting the prince on Facebook in 2016.[99]

Two prominent politicians who oppose Prime Minister Najib Razak are also being investigated over their social media comments. Former Prime Minister Mahathir Mohamad, now a fierce critic of the current administration, was questioned by police over a blog post accusing the attorney general of protecting the prime minister from prosecution for corruption.[100] As of mid-2016, the police were transferring the investigation to the attorney general for possible prosecution.[101] Zaid Ibrahim, a former law minister, is also being investigated for sedition over a blog post in which he criticized the judiciary.[102]

Some prominent investigations under the Sedition Act were still pending during this review period.[103] A handful of political leaders are still awaiting trial over tweets criticizing opposition leader Anwar Ibrahim's five year jail sentence on sodomy charges in February 2015.[104] Lawyer and activist Eric Paulsen's trial is pending following his February 2015 arrest over a tweet stating that the Malaysian Islamic Development Department (Jakim) was spreading extremism through their Friday sermons; he was released on bail.[105] Popular cartoonist Zunar was arrested and charged with sedition in early 2015 over his pro-Anwar tweet which questioned the Malaysian judiciary. He was released on bail.[106]

One trial also concluded. The Facebook user known as "Man Namblast" was found guilty of sedition for posting remarks about Hindus in June 2014,[107] and fined MYR 4,000 (US$910) by the Sessions Court in Kuala Lumpur on November 18, 2015.[108] The man, a teacher, faced a maximum fine of MYR 5,000 or a jail term of up to three years, or both.

Legal actions against digital journalists intensified during the coverage period. Police questioned *The Malaysian Insider* editors on February 26, 2016, over an article which quoted unnamed sources as saying that an independent anticorruption panel had recommended charging Prime Minister Na-

---

97   "Teenager gets one-year jail sentence for insulting TMJ," *Malaysiakini,* June 7, 2016, https://www.malaysiakini.com/news/344372; "Maximum jail for insult of Johor prince 'excessive', says lawyer," *Malay Mail*, June 8, 2016, http://bit.ly/28NuRKr.

98   'Family of youth appeals against jail sentence for Facebook insult', *Star Online*, June 13, 2016, http://bit.ly/28QcLvI.

99   'Malaysia: Ongoing crackdown on social media;, Amnesty International, June 7, 2016, http://bit.ly/28WohB9; 'Man held for allegedly insulting Johor Crown Prince', Star Online, June 17, 2016, http://bit.ly/28Nv0O7.

100   "Police question Mahathir again over criticism of Najib," *Straits Times*, February 25, 2016, http://bit.ly/1oROg3L

101   "Police almost done with probe into Mahathir blog post," *Free Malaysia Today*, February 27, 2016, http://bit.ly/1TJwXNh

102   "After police quizzing, Zaid expects sedition charge over article critical of judiciary," Malay Mail Online, January 12, 2016, http://bit.ly/1QmwuQ8.

103   "Unprecedented crackdown on freedom of expression a threat to democratic government," Centre for Independent Journalism, February 13, 2015, http://bit.ly/1wxanz5.

104   "Cops to quiz Rafizi, Nga in sedition probe over Anwar verdict remarks," *The Malay Mail Online*, February 23, 2015, http://bit.ly/1BpZOhv.

105   Jennifer Gomez, "Human rights lawyer Eric Paulsen charged with sedition," *The Malaysian Insider*, February 5, 2015, http://bit.ly/1v5jNkb.

106   Diyana Ibrahim, "Cartoonist Zunar hauled up for sedition after tweet criticising Malaysian judiciary," February 11, 2015, *The Malaysian Insider*, http://bit.ly/1Bq03ZQ.

107   "FB user held over seditious remarks", *The Star Online*, February 12, 2014, http://bit.ly/1LVXjES.

108   "Teacher fined RM4,000 for seditious posting on Facebook," *The Malaysian Insider*, Nov 18, 2015, http://bit.ly/1VMmWxU.

jib.[109] The government said the story was fake.[110] No court action was taken, but the MCMC blocked the website (see "Blocking and Filtering"), and it closed down in March (see "Media, Diversity, and Content Manipulation"). The same editors were previously arrested in March 2015 over a report on Islamic criminal laws,[111] which was attributed to an unnamed source.[112]

Police raided *Malaysiakini* offices on November 6 and November 9, questioning staff about the source of a story on political corruption, threatening defamation charges, and seizing equipment. The law minister had confirmed the story. Police also raided offices belonging to *The Star* on November 6 regarding an article on the same topic.[113] Separately, Minister Abdul Rahman Dahlan also filed a defamation suit against *Malaysiankini* in December 2015 (see "Media, Diversity, and Content Manipulation").[114] In June 2014, Prime Minister Najib filed a suit against *Malaysiakini* for two allegedly defamatory articles that compiled readers' comments.[115] That case was ongoing in 2016. In 2015, Najib also filed a suit against two other news portals, the opposition party organ *Harakah Online* and the pro-opposition *Media Rakyat*, claiming that they had defamed him. Two charges against *Media Rakyat* also name two opposition lawmakers.[116] If defeated, the websites could be required to pay significant damages.

Journalist Aisyah Tajuddin and independent radio station BFM were hauled up for mocking Islam in a video posted in YouTube in March 2015. BFM Radio removed the video from its YouTube page, but Aisyah was subsequently investigated by police for blasphemy, and could face up to a year in jail if convicted. She also received death and rape threats over the video. There were no developments in the investigation in early 2016.[117]

Some outstanding investigations were discontinued. The authorities dropped a September 2014 sedition charge against academic Dr Azmi Sharom on February 12, 2016.[118] He was charged over an article in an online news portal and faced a jail term of up to seven years or a maximum fine of MYR 5,000 (US$1,040), or both if found guilty.[119] The attorney general also withdrew a May 2014 sedition charge against opposition politician Teresa Kok.[120] Kok was charged with insulting Islam and the

109   "Police probe five TMI editors over report on MACC," Astro Awani, February 26, 2016, http://bit.ly/1VLxXzB.

110   "MACC panel denies Malaysian Insider report," Astro Awani, February 25, 2016, http://bit.ly/1n9VqyA.

111   Austin Ramzy, "Editors and Executives of News Website Malaysian Insider Are Arrested," *The New York Times*, March 31, 2015, http://nyti.ms/1IMvYVw; and "Police arrest Edge, TMI executives for sedition," *The Malaysian Insider*, March 31, 2015, http://bit.ly/1yumAQi; 'Editors and Executives of News Website Malaysian Insider Are Arrested', *New York Times*, March 31, 2015, http://nyti.ms/1IMvYVw.

112   "Clarification and apology," *The Malaysian Insider*, April 4, 2015, http://bit.ly/1I7vxYQ.

113   John Berthelsen "Malaysian Police Raid Independent Website," *Asia Sentinel,* November 9, 2015, http://www.asiasentinel.com/blog/malaysian-police-raid-independent-website/.

114   "Rahman Dahlan to sue news portal," The Star Online, Dec 8, 2015, http://bit.ly/1QcUUdp; "Minister to sue Malaysiakini over 'reverse migration' report," Malaysiakini, Dec 8, 2015, http://bit.ly/1n7IDfO.

115   "Najib, Umno sue Mkini over readers' comments," *Malaysiakini,* June 3, 2014, http://bit.ly/1AUi1BP.

116   V Anbalagan, "Najib, Rosmah sue Rafizi, portal owner over diamond ring remark," *The Malaysian Insider*, April 17, 2015, http://bit.ly/1GS1t2Q; M Mageswari, "Najib sues Tony Pua, portal owner for defamation," *The Star Online*, March 6, 2015, http://bit.ly/1E6lTy; Maizatul Nazlina, "Najib sues Harakahdaily for defamation," *The Star Online*, March 20, 2015, http://bit.ly/1OQDuWl.

117   Tse Yin Lee, "The perils of speaking out against Islamic law in Malaysia, "*BBC News*, March 29, 2015, http://bbc.in/1aaM-JhU; Boo Su-Lyn, "BFM journalist gets death, rape threats over video questioning hudud," *The Malay Mail Online*, March 20, 2015,http://bit.ly/1I7udF9.

118   "Freed from sedition charge, Azmi Sharom says 'common sense' won," Malay Mail Online, Feb 12, 2016, http://bit.ly/1T3qTk1.

119   V Anbalagan, "Azmi Sharom's Sedition Act challenge referred to Federal Court," *The Malaysian Insider,* November 5, 2014, http://bit.ly/18xIADG.

120   "Sedition charge against Teresa Kok dropped," The Star Online, Nov 20, 2015, http://bit.ly/1WRTI0R.

nation's leaders four months after sharing an 11-minute video that used invented Chinese New Year predictions to satirize government policies.[121]

Surveillance, Privacy, and Anonymity

Real-name registration is not required for participation in Malaysia's blogosphere, nor is it required to use a cybercafe. Beginning in 2007, all mobile phone owners, including roughly 18 million customers using prepaid service at the time, were required to register as part of an effort to decrease rumor mongering.[122] The rule appears to have been weakly enforced.

The government, however, is revisiting an old proposal to make it compulsory for bloggers to register with the Communications and Multimedia Ministry, supposedly to curb defamatory and irresponsible writing. Nur Jazlan Mohamed, the deputy home minister, said the proposal was aimed at ensuring that articles on blogs or social networks "were accurate, valid, ethical and did not abuse the internet."[123] In mid-2016, the proposal had yet to be brought to parliament.[124]

The extent of government surveillance of ICT content is not known, but privacy protections are generally poor.[125] In 2008, the MCMC formed a panel composed of representatives from the police, the attorney general's office, and the home ministry to monitor websites and blogs. Although it still appears to be active, it has not publicly intervened in internet freedom issues. Court documents indicate that police regularly gain access to the content of text messages from telecommunications companies, sometimes without judicial oversight. The Security Offenses (Special Measures) Act (SOSMA), granted wide-ranging powers for the public prosecutor—and in emergency situations, the police—to intercept communications without the need for a court order in cases involving security offenses.[126]

The Malaysian Personal Data Protection Act 2010, which regulates the processing of personal data in commercial transactions, came into effect in November 2013. The law makes it illegal for commercial organizations to sell personal information or allow third parties to use it, with penalties up to MYR 100,000 (US$27,400) or one year imprisonment. Federal and state governments are exempted from the law, as is data processed outside Malaysia.[127] But the act requires that information about Malaysians be stored locally, and limits conditions under which the data can be transferred abroad, though it is not clear how far that requirement is enforced.[128]

In 2013, the University of Toronto-based research group Citizen Lab reported detecting software known as FinFisher, described by its distributor Gamma International as "governmental IT intrusion and remote monitoring solutions," on 36 servers worldwide, including one in Malaysia.[129] The soft-

---

121   P. Ramani, "Teresa Kok charged with sedition over CNY video," *Free Malaysia Today,* May 6, 2014, http://bit.ly/188NUMT.

122   "Dec 15 Registration Deadline Stays: MCMC," Bernama, August 18, 2006, http://bit.ly/1zq73QJ.

123   "Bloggers registration can prevent defamation, disunity – experts," Bernama, Feb 22, 2016, http://bit.ly/1WFGPHj.

124   "Registration of blogs, a draconian move," The Malaysian Insider, February 23, 2016, http://bit.ly/1WRTirg.

125   Privacy International, *Final Report for "Privacy in Asia" Scoping Project,* November 2009, https://idl-bnc.idrc.ca/dspace/handle/10625/40000.

126   Mickey Spiegel, "Smoke and Mirrors: Malaysia's "New" Internal Security Act," *Asia Pacific Bulletin,* no. 167, (June 2012), http://bit.ly/1Amz9N8.

127   Barry Ooi, "How the Personal Data Protection Act Impacts the Market Research Industry," December 29, 2012.

128   Anupam Chander and Uyen P. Le, "Breaking the Web: Data Localization vs. the Global Internet,"(UC Davis Legal Studies Research Paper No. 378, *Emory Law Journal*, April 2014) http://bit.ly/1Bq2KuA.

129   Morgan Marquis-Boire et al., "You Only Click Twice: FinFisher's Global Proliferation," Citizen Lab, March 13, 2013, http://bit.ly/1grgVFd.

ware potentially allows the server to steal passwords, tap Skype calls, or record audio and video without permission from other computers, according to Citizen Lab. *The Malaysian Insider* subsequently documented FinFisher's presence in Malaysia based on a *New York Times* report.[130] The MCMC threatened *The Malaysian Insider* with criminal charges, though none were filed. However, Citizen Lab later reported they had further identified "a Malaysian election-related document" they characterized as a "booby-trapped candidate list" containing surveillance spyware.[131] Because the spyware is only marketed to governments, "it is reasonable to assume that some government actor is responsible," the group concluded. A separate Citizen Lab report published in 2014 said a Malaysian government agency was a "current or former user" of Remote Control System spyware marketed by the Milan-based Hacking Team.[132]

During this review period, the Prime Minister's Office again denied having purchased spyware to surveil citizens. On January 1, 2016, Minister Azalina Othman Said disputed a fresh claim by a technology blogger that such purchases were made in September 2013 and July 2014, based on internal Hacking Team documents leaked by hackers in 2015. The minister could not confirm if other government agencies had made such purchases.[133]

Intimidation and Violence

Physical violence sporadically affects traditional and online journalists in Malaysia.[134] On July 12, 2015, two photographers and a reporter were assaulted while covering a racially-motivated fracas at a shopping mall.[135] Government officials responded to the assault by calling for deeper regulation of social media, on the grounds that digital platforms were responsible for inflaming tensions around the incident.[136] No similar incidents affecting digital media practitioners were reported.

Technical Attacks

In the past, independent online news outlets and some opposition-related websites have faced intense distributed denial-of-service (DDoS) attacks, often at moments of political importance. The attacks force sites to crash by overloading the host server with requests for content. Some observers believe such attacks are either sponsored or condoned by Malaysian security agencies, since they often align with government priorities. *Malaysiakini* was one of many sites reporting on the opposition which were subjected to an apparently coordinated assault before the 2013 elections.[137] No severe or crippling incidents were reported by news portals or opposition websites during this review period.

---

130   Boo Su-Lyn, "Malaysia uses spyware against own citizens, NYT reports," *The Malaysian Insider,* March 14, 2013,http://bit.ly/1E52SSf. The original *New York Times* article: Nicole Perlroth, "Researchers Find 25 Countries Using Surveillance Software," *The Business of Technology* (blog), *The New York Times* March 13, 2013, http://nyti.ms/1G2XSOv.

131   "Short Background: Citizen Lab Research on FinFisher Presence in Malaysia," Citizen Lab, May 2013, http://bit.ly/1zNT7Bo.

132   Bill Marczak et al, "Mapping Hacking Team's "Untraceable" Spyware," Citizen Lab, February 17, 2014, http://bit.ly/1kPDo0Y.

133   "No, PMO did not buy spyware, reiterates Azalina," Berita Daily, January 1, 2016, http://bit.ly/1Qd9ceg.

134   Committee to Protect Journalists, "Journalists assaulted, detained during rally in Malaysia," April 30, 2012, http://cpj.org/x-/4b4a.

135   "NUJ condemns assault on journalists at Low Yat Plaza," FreeMalaysiaToday, July 13, 2015, http://bit.ly/215q5uf.

136   Center for Independent Journalism, "Regulating social media not the answer to recent violence in Malaysia," via IFEX, July 16, 2015, https://www.ifex.org/malaysia/2015/07/16/social_media_violence/.

137   Human Rights Watch, "Malaysia: Violence, Cyber Attacks Threaten Elections," May 1, 2013, http://bit.ly/1Ezugqi; Shawn Crispin, "In Asia, Three Nations Clip Once-Budding Online Freedom," in *Attacks on the Press*, Committee to Protect Journalists (New York: Wiley, February 2013), http://bit.ly/1wxdabx.