

Malaysia

	2016	2017		
Internet Freedom Status	Partly Free	Partly Free	Population:	31.2 million
Obstacles to Access (0-25)	9	8	Internet Penetration 2016 (ITU):	78.8 percent
Limits on Content (0-35)	16	16	Social Media/ICT Apps Blocked:	Yes
Violations of User Rights (0-40)	20	20	Political/Social Content Blocked:	Yes
TOTAL* (0-100)	45	44	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2017 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- Internet penetration and average connection speeds increased (see **Key Access Indicators**).
- Several websites remain blocked for reporting on a billion dollar corruption scandal implicating Prime Minister Najib Razak, including the publishing platform Medium (see **Blocking and Filtering**).
- Prosecutions were initiated based on a news video criticizing the Attorney-General and social media posts about leaders; a Facebook user was sentenced to one year in prison in June 2016 (see **Prosecutions and Detentions for Online Activities**).

Introduction

Internet freedom improved slightly in 2017 as a result of increasing internet penetration and speed. Officials embattled by allegations of government corruption continued to prosecute critics for online speech.

Growing internet use has fueled popular political mobilization and a challenge to the government's decades-long rule. The Barisan Nasional coalition has a mandate until mid-2018, and the anticipated general election could intensify pressure on internet freedom. Past elections have seen increasing manipulation of content online, and the Umno party, which dominates the coalition and the government, was already ramping up its social media activities during the coverage period.

No websites were newly blocked in the past year, but several popular websites and blogs were still banned for publishing corruption allegations linked to Prime Minister Najib Razak. Internet users faced fresh criminal charges under a problematic communications and multimedia law for online comments about ruling politicians and Malay rulers. The government has said it may amend that law to combat "false news," and many people were skeptical about a new a state-led initiative to encourage users to verify news and information they read online.

Obstacles to Access

Internet access is considered excellent for the region, despite a digital divide between rural and urban areas. Government policies that promote access high mobile phone penetration is reducing this gap. An open market allows fierce competition among providers, resulting in attractive pricing and high quality service.

Availability and Ease of Access

Key Access Indicators		
Internet penetration (ITU) ^a	2016	78.8%
	2015	71.1%
	2011	61.0%
Mobile penetration (ITU) ^b	2016	141%
	2015	144%
	2011	127%
Average connection speeds (Akamai) ^c	2017(Q1)	8.9 Mbps
	2016(Q1)	6.4 Mbps

^a International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2016," <http://bit.ly/1cblxxY>.

^b International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2016," <http://bit.ly/1cblxxY>.

^c Akamai, "State of the Internet - Connectivity Report, Q1 2017," <https://goo.gl/TQH7L7>.

Internet penetration and average connection speeds increased during the coverage period (see Key Access Indicators), though the benefits remain concentrated in developed or urban areas.

Government statistics show that the highest internet penetration in 2016 was in the highly developed Klang Valley area, which comprises the capital city Kuala Lumpur (99.9 percent) and the nation's most developed state of Selangor (99.7 percent). Free Wi-Fi connections are available in

many urban spaces, including malls, restaurants, hotels and tourist destinations. Penetration rates remained low in the underdeveloped, less populated states of Sabah (43.3 percent) and Sarawak (51.8 percent), situated in East Malaysia where most residents belong to indigenous groups.¹ Cybercafes play an important role in providing access outside cities. In 2016, the minister in charge of multimedia and communications, Salleh Said Keruk, said the government's aim was to provide internet access to at least 95 percent of the population.² The minister has also promised improve access in Sabah and Sarawak.³ Government and local councils have introduced schemes to provide free or inexpensive Wi-Fi nationwide.⁴

Government figures reveal a slight gender imbalance in access rates, with men representing 59.4 percent of both internet and mobile users. The most prolific users were aged 20 to 24 (22 percent). However, the average age of internet users (32.4 years old) and non-users (50.7 years old) showed an incremental increase over the 2014 average, indicating that older age groups are joining the online community.⁵

During this review period, the most affordable broadband service, at RM59 (US\$13) per month, was offered by Webe, a new provider owned by the state telecommunications company Telekom Malaysia.⁶ Other providers offer fixed internet access at about MYR120 (US\$27) per month.⁷ The average monthly income was US\$880 in 2016.⁸

The average internet speed is still comparatively slow, and many users complain of inefficient service.⁹ Malaysia ranked 74th in the world in 2016 when it came to internet speeds, having fallen one place since 2015. In the Asia Pacific, Malaysia was 9th among 15 countries.¹⁰ In the national budget for 2017, Prime Minister Najib Razak announced that ISPs would increase fixed-line broadband internet speed without raising prices. The Malaysia Communication and Multimedia Commission (MCMC) was slated to invest heavily to improve broadband coverage and quality, aiming to achieve connection speeds of 20 Mbps throughout the country. The government will also launch an initiative to increase the internet speed in public universities to 100 Gbps.¹¹

Restrictions on Connectivity

There were no reported cases of government-imposed restrictions on access to the internet during this coverage period.¹² However, a partially state-owned company dominates the network infrastructure.

1 Malaysian Communications and Multimedia Commission statistics, Q3 2016, <http://bit.ly/2oBIohM>.

2 Malaysian Communications and Multimedia Commission, "Annual Report 2015," <http://bit.ly/2ouIKXf>.

3 R Shalini, 'Push for faster, cheaper Internet access in Sabah', *Borneo Post Online*, March 24, 2017, <http://bit.ly/2pwnYnx>.

4 Stephanie Lee, 'Free WiFi in Kota Kinabalu starting from November', *The Star Online*, Oct 6, 2016, <https://www.thestar.com.my/metro/community/2016/10/06/free-wifi-in-kota-kinabalu-starting-from-november/>.

5 Malaysian Communications and Multimedia Commission, "Internet Users Survey 2016," <http://bit.ly/2o8caaQ>

6 The Webe rate was an introductory offer for a basic package: <http://bit.ly/2oalcYc>

7 Author's market survey. See, <http://bit.ly/2o8d47r> and <http://bit.ly/2p00VoZ>.

8 World Bank, "GDP per capita, PPP (current international \$)," International Comparison Program Database, <http://data.world-bank.org/indicator/NY.GDPPCAPPPCD>.

9 'MCMC Network Performance Report 2016: More Than Half Of Streamyx Users Experience Poor Service', Lowyat.net, Jan 31, 2017, <http://bit.ly/2p96BwR>

10 Adam Abu Bakar, 'Internet speed to double in 2 years', *FMT*, March 12, 2017, <http://bit.ly/2pbm4JU>

11 Malaysian Budget 2017, <http://bit.ly/2pwoWAd>

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

In 2016, the government said it had issued 181 licenses to network facilities providers (up from 171 in 2015).¹³ But Telekom Malaysia, the largest telecommunications company, retains a monopoly over the fixed-line network and owns the nation's last mile connections.¹⁴ Other providers must lease infrastructure from the company on its own terms, resulting in higher prices.¹⁵ The government retains a 29 percent share in Telekom Malaysia, which was formerly state-owned.¹⁶

The non-profit Malaysia Internet Exchange allows service providers to exchange local traffic more efficiently.¹⁷ Malaysia has several connections to the international internet, making the network more resilient to disconnection.¹⁸

ICT Market

The government said it had issued 170 network service provider licenses in 2016 (up from 159 in 2015),¹⁹ but Telekom Malaysia subsidiary TMNet enjoys a virtual monopoly of the broadband market.²⁰

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.²¹ Newer mobile phone providers like YTL Communications and Umobile are ostensibly unrelated to the government, but observers believe they benefit from political connections.

Fiber home broadband service is provided by Astro IPTV. Other providers of broadband and mobile internet service include Celcom, DiGi, Time Internet, Tune Talk, and Yes, a wireless 4G provider.²² Webe, the latest entrant into the mobile and internet provider market, is owned by Telekom Malaysia.

Some local authorities have introduced restrictions on cybercafes to curb illegal online activities, particularly gambling.²³ In 2017, officials said cybercafes in federal territories could not operate on the second floor or behind tinted windows.²⁴ Cafe operators in some areas have separately

13 Malaysian Communications and Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics H1 2016*, <http://bit.ly/2o9wCYj>

14 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/>.

15 G. Sharmila, "Why Broadband is Slower and Costlier in Malaysia," *Kinibiz*, September 8, 2014, <http://www.kinibiz.com/story/issues/106653/why-broadband-is-slower-and-costlier-in-malaysia.html>.

16 Summary of shareholding in Telekom Malaysia, <http://bit.ly/290zliY>.

17 "A Glimpse At How Malaysia Internet Exchange Helps Shape The Country's Internet Experience," *Lowyat*, January 26, 2017, <https://www.lowyat.net/2017/123979/a-glimpse-at-how-malaysia-internet-exchange-helps-shape-the-countrys-internet-experience/>.

18 Michael Ruddy, "Broadband Infrastructure in the ASEAN Region," Terabit Consulting, presentation, <http://www.unescap.org/sites/default/files/1%20Broadband-Infrastructure-in-the-ASEAN-9-Region.pdf>.

19 Malaysian Communications and Multimedia Commission, *Communications and Multimedia Pocket Book of Statistics H1 2016*, <http://bit.ly/2o9wCYj>

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

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

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

23 Peter Boon, "Cyber cafe licences not issued anymore—Ministry," *Borneo Post Online*, October 15, 2012, <http://bit.ly/1wj-3DiD>.

24 Anith Adilah, "No more licences for clubs, new rules for cyber cafes, says ministry," *Malay Mail Online*, January 23, 2017, <http://www.themalaymailonline.com/malaysia/article/no-more-licences-for-clubs-new-rules-for-cyber-cafes-says-ministry#6kuaeUmxPh2B6Mct.99>.

complained of high license fees.²⁵

Regulatory Bodies

The national regulator, the Malaysian Communications and Multimedia Commission (MCMC), is government run. Despite its multistakeholder advisory board, it has a poor record of upholding internet freedom.

The Ministry of Communications and Multimedia oversees the MCMC. The 1998 Communication and Multimedia Act (CMA) gives the ministry a range of powers, including licensing the ownership and operation of network facilities.

The CMA directs the ministry to appoint the MCMC chairman and three government commissioners, plus more from nongovernmental entities.²⁶ In 2017, there were six commissioners from the private sector. The process for appointing members of the MCMC advisory board is more transparent and participatory, involving consultations with diverse stakeholders and the inclusion of civil society members on the board. Yet the MCMC has taken steps to curtail online speech (see Blocking and Filtering).

Limits on Content

Facing a high profile corruption scandal, the government started to block popular news sites and critical blogs for the first time last year; many remained blocked in 2017. The ruling party urged members to master the use of the social media to win the war of perception ahead of the general election in 2018, and officials took steps to combat fake news.

Blocking and Filtering

The government blocked news websites in relation to political corruption allegations for the first time in 2015 and 2016. No new blocks were reported in 2017, but most of the blocked sites remained inaccessible.

At least three international websites remain blocked in relation to corruption reporting implicating Prime Minister Najib. In July 2015, 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. The government claimed the articles were detrimental to national security.²⁷ The blog-publishing platform Medium was blocked in January 2016, after it refused to take down *Sarawak Report* articles.²⁸ The Hong Kong-based commentary site *Asia Sentinel* was also blocked in January for “violating national laws” after it

25 Melizarani T. Selva, “DBKL’s new licence fees too high, say cybercafe owners,” *The Star*, May 23, 2015, <http://www.thestar.com.my/metro/community/2015/05/23/dbkls-new-licence-fees-too-high-say-cybercafe-owners/>

26 Malaysian Communications and Multimedia Commission Act 1998, <http://www.agc.gov.my/Akta/Vol.%2012/Act%20589.pdf>.

27 Human Rights Watch, “Malaysia: End Website Blocking, Politicized Investigations,” July 22, 2015, <http://bit.ly/1EoEoFL>.

28 “Spurned by Medium, MCMC strikes back, users suffer,” Digital News Asia, January 27, 2016, <http://bit.ly/1TLbYuG>; <https://medium.com/medium-legal/the-post-stays-up-d222e34cb7e7#z1yom7jzk>.

published an article about Prime Minister Najib.²⁹ All three remained inaccessible in early 2017.

Local content was targeted for the same reason. Two local news portals, *Malaysia Chronicle* and the now-defunct website *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.³⁰ Officials described the content as “obscene, indecent, false, menacing or offensive,” and a threat to national security.³¹ The government also blocked a handful of prominent blogs which were critical of the government, such as *Din Turtle*, which publishes socio-political commentary, and *Syed Outsied The Box*, a blog that had reposted content from *Sarawak Report*.³² Those blocks remained in place too, though websites supporting the Bersih rally were accessible again after a temporary block (see Digital Activism).³³

Prior to 2015, there were limited reports of content blocked apart from websites which violate national laws governing pornography,³⁴ although many government-linked companies and public universities restrict access to the *Malaysiakini* news website and others perceived as politically sensitive. A provision of the CMA 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 member ICT businesses there will be no censorship.³⁵

Transparency about blocking is limited. Blocks are implemented on the authority of the MCMC, which reports to the government (see Regulatory Bodies). No list of affected sites is available. Site owners can appeal directly to the MCMC if mistakenly blocked, though they are not guaranteed to be heard. 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 cause of the service disruption remains unclear.³⁶ At least two outlets filed a complaint with the MCMC, which never responded.

Figures illustrating the number of sites blocked for breaking local laws are periodically reported in response to questions in parliament, but without further detail. The MCMC said that 1,375 websites had been blocked in 2016 and 2017 for “false content.”³⁷ A campaign against “false news” was launched in 2017 (see Media, Diversity, and Content Manipulation). In March 2017, the government said it has blocked 10,962 websites found to be involved in online fraud between 2008 and January 2017.³⁸

29 “Putrajaya blocks access to Asia Sentinel, says portal,” *FreeMalaysiaToday*, January 21, 2016, <http://bit.ly/1RcLOex>.

30 “Malaysia Chronicle website blocked in Malaysia,” *FreeMalaysiaToday*, October 24, 2015, <http://bit.ly/1TKUUVN>; “The Malaysian Insider news portal blocked by government,” Channel News Asia, Feb 25, 2016, <http://bit.ly/1T935LQ>.

31 “Salleh Said Keruak: TMI breached Communications Act,” *The Star Online*, February 26, 2016, <http://bit.ly/1LNKhtD>.

32 “Several blogs blocked for alleged violation of the laws,” *The Mole*, January 28, 2016, <http://bit.ly/1TfgYlo>.

33 ‘Malaysia blocks Bersih rally websites’, August 28, 2015, *Straits Times*, <http://bit.ly/1NKDhS2>.

34 “Internet providers need time to block porn site RedTube, says MCMC,” *The Malaysian Insider*, December 22, 2014, <http://bit.ly/1LWqjG>.

35 Malaysia National ICT Initiative, “MSC Malaysia 10-Point Bill of Guarantees,” <http://bit.ly/1UZZ6xb>; Malaysian Communications and Multimedia Commission, “Communications and Multimedia Act 1998,” <http://bit.ly/1zKzZ7k>.

36 Oiwan Lam and Leila Nachawati, “Malaysia: News Sites Face Attacks on Eve of Elections,” *Global Voices Advocacy*, May 4, 2013, <http://bit.ly/1AvO2KY>.

37 ‘MCMC: 167 cases of Internet abuse investigated till Feb’, *Bernama*, March 8, 2017, <http://bit.ly/2nNdCDs>.

38 ‘10,962 phishing sites blocked’, *Bernama*, March 23, 2017, <http://bit.ly/2p9tJay>.

Content Removal

The MCMC periodically instructs websites to remove content, including some perceived as critical of the government.³⁹ Some blog owners and Facebook users have been told to remove content touching on sensitive issues involving race, religion, and royalty. 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 in 2016 after refusing a government request to remove content (see Blocking and Filtering).

Companies risk liability for some content posted by users, though it's not clear if this leads them to remove more content. 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.⁴⁰ This would include hosts of online forums, news outlets, and blogging services, as well as businesses providing Wi-Fi services.⁴¹ The amendment also holds individuals 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.⁴² The change was pushed through hurriedly, but garnered significant public backlash after its passage.⁴³

Media, Diversity, and Content Manipulation

The climate for digital media outlets remained challenging in 2017. Some blogs and news portals were inaccessible after they were blocked during the last review period (see Blocking and Filtering). Defamation suits filed by politicians against digital journalists remain pending, and outlets were raided during the coverage period of this report (see Prosecutions and Detentions for Online Activities). However, no new websites were newly blocked.

Digital media represents an increasingly serious challenge to traditional media, which is restricted by the state.⁴⁴ More established sites such as *Malaysiakini* and *Malay Mail Online* have been joined by smaller platforms that contribute to the diversity of information online.⁴⁵ Several digital media platforms are among the nation's most popular websites.⁴⁶

Online news outlets have withstood attempts to restrict them in the past. In 2013, a judge ordered the home ministry to grant *Malaysiakini* the right to reapply for a print license.⁴⁷ The ministry had repeatedly refused to grant the license, and challenged a 2012 appeals court ruling which

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

40 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>.

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

42 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](http://www.federalgazette.agc.gov.my/outputaktap/20120622-A1432_BI_Act%20A1432%20BI-evidence%20(amendment)%20(no.%202).pdf).

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

44 Freedom House, "Malaysia," in *Freedom of the Press 2016*, <https://freedomhouse.org/report/freedom-press/2016/malaysia>.

45 List of news portals in Malaysia, <http://bit.ly/294nuQ7>.

46 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, <http://bit.ly/1JQCKOt>.

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

characterized *Malaysiakini's* right to publish a newspaper as fundamental.⁴⁸ Cyberattacks against news portals have declined since 2013, when many reported content disruptions or possible censorship (see Blocking and Filtering). Some digital journalists have been subject to informal, inconsistent bans from select government press conferences.⁴⁹

Yet many platforms struggle to stay economically viable, and government restrictions contribute to difficult market conditions. A handful of news websites are fighting defamation charges from political leaders, and face significant damages if they are defeated (see Prosecutions and Detentions for Online Activity). In 2016, the eight-year-old outlet *The Malaysian Insider* was shut down shortly after it was blocked, though it cited commercial reasons for doing so.⁵⁰ Other news portals downsized in 2016,⁵¹ though new ventures also started during the same period.⁵²

International blog-hosting and social media services were freely available in 2017, with the exception of Medium, which was blocked in January 2016 (see Blocking and Filtering). During the review period, 20.6 million internet users were reported to be active on social media.⁵³ Expanded internet access has led to the emergence of a vibrant blogosphere. English and Malay are the dominant languages, and many civil society groups, including those representing ethnic minorities, have a dynamic online presence. Websites in Chinese and Tamil are also increasing.

Prime Minister Najib has his own blog and several million followers on Facebook and Twitter.⁵⁴ Other government representatives are embracing ICTs, including Communications and Multimedia Minister Salleh Said Keruak, who counters criticism of the government on his personal blog.⁵⁵ The police force provides updates on social media, and occasionally responds to accusations of abuse from members of the public.⁵⁶ Khalid Abu Bakar, a former police inspector general, has come under fire for threatening to charge government critics on Twitter.⁵⁷ Threats published on his personal account continued to cause controversy before he retired in October 2017.⁵⁸

Both government and opposition figures are known to pay online commentators or cybertroopers to generate favorable content and denigrate their opponents.⁵⁹ The battle between opposing cybertroopers continued during this coverage period. Prime Minister Najib's Facebook page was

48 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>.

49 "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>.

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

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

52 For example: Malaysia Outlook, <http://bit.ly/2phMJoo> and The Malaysian Insight, <http://bit.ly/2nMQZ3J>

53 2016 Malaysia Digital Landscape, <http://bit.ly/2jkJ6KN>

54 Najib Razak, Facebook page, accessed April 14, 2017, <http://bit.ly/2ft2nb0>; *NajibRazak* (blog), accessed April 14, 2017, <http://bit.ly/2p36Dqe>

55 Salleh Said Keruak, <http://sskeruak.blogspot.my/>.

56 Polis Diraja on Facebook, <http://on.fb.me/1yWkBtd>.

57 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>.

58 Dawn Chan, "I didn't post that, says Jamal Yunos on 'May 13' Facebook status," *New Straits Times*, October 9, 2016, <http://www.nst.com.my/news/2016/10/179207/i-didnt-post-says-jamal-yunos-may-13-facebook-status>; 'IGP: Jamal to face action for seditious remarks on Facebook', October 9, 2016, *Free Malaysia Today*, <http://bit.ly/2of7T4M>.

59 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>.

flooded with comments urging him to step down. Users aligned to him responded with messages of support.⁶⁰

Partisan manipulation is likely to increase on social media ahead of the general election, which is due to take place in 2018. In January 2017, the ruling party, Umno, urged all its members to master the use of the social media to win the war of perception ahead of the elections.⁶¹ In March, the party called on local divisions to activate newly-formed IT bureaus to “counter the slander” on social media.⁶²

The government took steps to combat what it characterized as “false news” in 2017. The SEBENARNYA portal, launched by the communications ministry in March, encouraged social media users to verify the content of all news reports shared on popular platforms with the slogan, “not sure, don’t share.”⁶³ Officials said the portal was nonpartisan.⁶⁴ Comments by Prime Minister Najib, however, highlighted how easily a government campaign against inaccurate content can become politicized when he accused “the government’s opponents” of spreading “false propaganda.”⁶⁵

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

Digital Activism

Digital tools have been used effectively for political mobilization and have helped expose and undercut the government’s control over traditional media. 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 5.0 political rally in November 2016. During the 2013 general election, digital campaigns encouraging citizens to vote contributed to a record 80 percent turnout of registered voters, in what observers described as the most closely fought election since independence.⁶⁶

Digital activists periodically campaign to defend online speech. In February 2016, 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.”⁶⁷ The artist was subsequently prosecuted (see “Prosecution and Detentions for Online Activities”).

60 K Pragalath, ‘Netizens swamp Najib’s Facebook to object fuel hike’, *Berita Daily*, February 3, 2017, <http://bit.ly/2oeRRbc>.

61 Razak, Ahmad, ‘Zahid: Umno should master use of social media’, *The Star Online*, January 22, 2017, <http://bit.ly/2oyR8Vt>.

62 ‘Umno divisions told to activate IT bureaus for GE14’, *The Star Online*, March 17, 2017, <http://bit.ly/2oyFFm>

63 Sebenarnya.my, <http://bit.ly/2oc8ll8>.

64 ‘Govt launches portal to check fake news’, *Bernama*, March 14, 2017, <http://bit.ly/2ofhYP1>.

65 ‘Be mindful of fake news, Malaysians told’, *Berita Daily*, Jan 11, 2017, <http://bit.ly/2oHb756>, and ‘Najib slams Opposition’s false propaganda’, *Berita Daily*, March 22, 2017, <http://bit.ly/2nN0Qoz>.

66 Jonathan Head, ‘Malaysia election sees record turnout’, *BBC News*, May 5, 2013, <http://bbc.in/1JQFTxN>.

67 ‘Malaysian Police Threaten Internet Users for Sharing Clown Memes of Prime Minister’, *Global Voices Advocacy*, February 13, 2016, <https://advox.globalvoices.org/2016/02/13/malaysian-police-threaten-internet-users-for-sharing-clown-memes-of-prime-minister/>.

Violations of User Rights

The government continued to charge social media users, civil society activists, and politicians for online remarks, and a teenage laborer was sentenced to 12 months' imprisonment for insulting a member of the Malaysian royal family on Facebook. A news outlet was raided over a video criticizing the Attorney-General.

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,⁶⁸ others show more independence. The government exercises tight control over 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.

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 law, allowing the government to block electronic content considered seditious.⁶⁹ The penalty for sedition is now seven years in prison, up from three years before the amendment. A new provision allows for up to 20 years in prison for seditious activities that result in physical harm or destruction of property.⁷⁰ In October 2015, the Malaysian Federal Court rejected a constitutional challenge to the Sedition Act.⁷¹

Defamation is a criminal offense 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 content is accurate and was published without malice;⁷² lacking this protection, bloggers risk punitive damages.

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. Amendments to the CMA and the related Communications and Multimedia Commission Act (CMCA) 1998 were expected to be presented in late 2016,⁷³ including measures to curb the use of social media to inflame "religious and racial sensitivities," or support the "recruitment of terrorists."⁷⁴ Critics say

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

69 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>.

70 Mong Palatino, "Malaysia strengthens Sedition Act," *The Diplomat*, April 13, 2015, <http://bit.ly/1UcBJg>.

71 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/.

72 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>.

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

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

the intention is to restrict criticism of the government.⁷⁵ A minister said the amendments were not designed to limit free speech, but to “create a mechanism to detect irresponsible individuals who cause false news and slanderous allegations.”⁷⁶ They had yet to be brought to parliament during this review period.

Prosecutions and Detentions for Online Activities

Internet users are frequently arrested and prosecuted for online speech. New cases in the review period involved a news video criticizing the Attorney-General and social media posts about Malay rulers or the prime minister. A Facebook user was sentenced to one year in prison in June 2016.

The number of reported cases increased after 2015, when dozens of people were arrested under the Sedition Act during a crackdown on dissent. Charges under the CMA are also increasing, according to local activists. A total of 37 cases were reportedly filed in 2016 under Section 233 of the CMA (“improper use of network facilities or network service”), with 181 alleged social media abuses recorded during the same period.⁷⁷ The MCMC separately said it was investigating 167 cases of “internet and social media abuse” in 2016 and early 2017, including CMA violations involving “false content and information spread through WhatsApp, Facebook, Twitter, and other platforms.”⁷⁸

Cases involving online speech were filed under both the sedition law and the CMA in the past year. Targets included: A number of people for Facebook posts considered offensive towards the crown prince of the southern state of Johor (Sultans constitutionally rule nine of the country’s sixteen states and federal territories);⁷⁹ a youth for allegedly insulting the Terengganu Sultan;⁸⁰ seven individuals, including a student, for comments about a dead politician;⁸¹ two members of a civil society group who mentioned the Sultan of Johor while criticizing environmental issues in the area;⁸² and an opposition activist who mocked the prime minister and his wife.⁸³ All cases were pending in mid-2017.

While many such cases are dropped before going to trial, at least one person was sentenced during the review period. In June 2016, 19-year-old laborer Muhammad Amirul Azwan Mohd Shakri was sentenced to one year in prison on fourteen counts of posting Facebook comments considered insulting to the Sultan of Johor.⁸⁴ News reports said he was unrepresented in court. His family filed an appeal.⁸⁵

75 S. Neishasa, “Proposal to register online news portals ridiculous,” *Berita Daily*, August 6, 2015, <http://bit.ly/1N2cCkb>.

76 “We are not planning to censor free speech,” *Berita Daily*, August 14, 2015, <http://bit.ly/1TgO1fh>.

77 G Surach, ‘Govt should review and amend CMA 1998 in accordance with international standards’, *The Sun Daily*, March 24, 2017, <http://bit.ly/2oc29tq>

78 ‘MCMC: 167 cases of Internet abuse investigated till Feb’, *Bernama*, March 8, 2017, <http://bit.ly/2nNdCDs>

79 Low Sock Ken, ‘Man arrested for offensive Facebook post against Sultan Johor’, *The Sun Daily*, January 18, 2017, <http://bit.ly/2nMYQg1>.

80 Low Sock Ken, ‘Man arrested for insulting Sultan of Johor in Facebook posting’, *Astro Awani*, March 24, 2017, <http://bit.ly/2ouHz8w>. Low Sock Ken, ‘Woman held for offensive statement against Johor Sultan’, *The Sun Daily*, April 12, 2017, <http://bit.ly/2p3yUNy>

81 ‘Police arrest youth for allegedly insulting Terengganu Sultan’, *Malay Mail Online*, April 13, 2017, <http://bit.ly/2oc7ZLg>.

82 ‘Student arrested over Facebook posting about Adenan’, *Malay Mail Online*, January 14, 2017, <http://bit.ly/2pBf1tb>.

82 Alfian ZM Tahir, ‘Two activists arrested for FB posting, remanded 3 days’, *Berita Daily*, December 23, 2016, <http://bit.ly/2oc8RQ2>.

83 ‘Superman’ Hew remanded for four days’, *Berita Daily*, March 21, 2017, <http://bit.ly/2nNaHuC>.

84 “Teenager gets one-year jail sentence for insulting TMJ,” *Malaysiakini*, June 7, 2016, <https://www.malaysiakini.com/news/344372>;

85 “Maximum jail for insult of Johor prince ‘excessive’, says lawyer,” *Malay Mail*, June 8, 2016, <http://bit.ly/28NuRkr>.

85 ‘Family of youth appeals against jail sentence for Facebook insult’, *Star Online*, June 13, 2016, <http://bit.ly/28QcLvj>.

A news outlet was also prosecuted. The MCMC raided *Malaysiakini* offices on November 8, 2016 and seized two computers over a video uploaded on its subsidiary KiniTV in July 2016.⁸⁶ The video showed an opposition leader criticizing the Attorney General at a press conference. KiniTV and its two directors were charged with improper network use under the CMA on November 18. In January 2017, a judge upheld the charges, and the case was pending in mid-2017.⁸⁷ The charge carries a jail term up to one year or a fine up to MYR 50,000 (US\$12,000_ or both and a further fine of MYR 1,000 (US\$250) for every day that the video remains available after conviction.

News websites have also been subject to defamation charges. In 2014, Prime Minister Najib and his party Umno sued *Malaysiakini* for defamation, followed by three additional news websites in 2015.⁸⁸ Minister Abdul Rahman Dahlan 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.⁸⁹ All suits were pending in mid-2017. In April, Prime Minister Najib also threatened to sue an opposition lawmaker for defaming him in a Facebook video.⁹⁰

Several high profile criminal cases from previous review periods were ongoing in 2017. In one example from 2016, artist and activist Fahmi Reza was charged with improper use of network facilities for publishing a caricature of Prime Minister Najib Razak as a clown on Facebook, alongside a comment on the use of sedition charges to suppress free expression. A legal case challenging the criminal charge was also pending in mid-2017.⁹¹

Surveillance, Privacy, and Anonymity

The extent of government surveillance of ICT content is not known, but privacy protections are generally poor.⁹² There are legal provisions allowing for the police, public prosecutor, and even the communications and multimedia minister to intercept communication online and from mobile phones. While oversight is sometimes required, in practice the courts usually grant requests for interception warrants, and these provisions are generally interpreted to mean that network operators and service providers should assist law enforcement and intelligence agencies even where clear procedures are lacking. A court order is not required for emergency interception in cases involving security offences. Under the Security Offences (Special Measures) Act 2012, a police officer under the rank of Superintendent of Police may intercept communications without the authorization of the Public Prosecutor in urgent cases.⁹³

Since 2007, mobile phone owners, including customers using prepaid service, are required to register as part of an effort to decrease rumor mongering.⁹⁴ The rule appears to have been weakly

86 P Divakaran, 'MCMC raids Malaysiakini', *The Star Online*, November 8, 2016, <http://bit.ly/2nN7BH6>.

87 Maizatul Nazlina, 'KiniTV and directors fail to get charges against them dropped', *The Star Online*, January 20, 2017, <http://bit.ly/2piG5hE>.

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

89 "Minister to sue Malaysiakini over 'reverse migration' report," *Malaysiakini*, December 8, 2015, <http://bit.ly/1n7IDfO>.

90 'Najib demands Tony Pua apologise, retract defamatory statements', *Bernama*, April 11, 2017, <http://bit.ly/2ozgoLp>.

91 Mohamad Fadli, 'Fahmi Reza granted leave to challenge charge against him', *Free Malaysia Today*, January 18, 2017, <http://bit.ly/2ocjUbX>.

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

93 Telecommunications Industry Dialogue, "Malaysia Country Profile," <http://www.telecomindustrydialogue.org/resources/malaysia/>.

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

enforced. Real-name registration is not required for participation in Malaysia's blogosphere, or to use a cybercafe. In 2016, the government threatened to revisit an old proposal to require 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."⁹⁵ In early 2017, the proposal had yet to be brought to parliament.⁹⁶ In April 2017, the Home Ministry separately denied reports on social media that it was passing new laws to spy on internet users.⁹⁷

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.⁹⁸ 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.⁹⁹

Some official agencies may have obtained equipment enabling them to monitor digital activity without oversight. 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.¹⁰⁰ The software potentially allows the server to steal passwords, tap Skype calls, or record audio and video without permission from other computers.¹⁰¹ Citizen Lab later identified "a Malaysian election-related document" they characterized as a "booby-trapped candidate list" containing surveillance spyware.¹⁰² 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.¹⁰³ In 2016, the Prime Minister's Office denied having purchased this spyware, but could not confirm whether other government agencies had or not.¹⁰⁴

Intimidation and Violence

Physical violence sporadically affects traditional and online journalists. In October 2016,

95 "Bloggers registration can prevent defamation, disunity – experts," *Bernama*, February 22, 2016, <http://bit.ly/1WFGPHj>.

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

97 'Home Ministry: No new law on phone, internet surveillance', *Berita Daily*, April 14, 2017, <http://bit.ly/2peDFn1>.

98 Barry Ooi, "How the Personal Data Protection Act Impacts the Market Research Industry," *The Star*, December 29, 2012, <https://www.thestar.com.my/business/business-news/2012/12/29/how-the-personal-data-protection-act-impacts-the-market-research-industry/>.

99 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>.

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

101 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/1G2XS0v>.

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

103 Bill Marczak et al, "Mapping Hacking Team's 'Untraceable' Spyware," Citizen Lab, February 17, 2014, <http://bit.ly/1kPD00Y>.

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

progovernment protesters intimidated three journalists, including one from a Bahasa Malaysia news portal, while covering a Bersih 5.0 convoy to promote free and fair elections (see Digital Activism). Three people were arrested for criminal intimidation in connection with the incident.¹⁰⁵

Technical Attacks

No severe or crippling attacks to suppress political information were reported by during this review period. In the past, independent online news outlets and some opposition-related websites faced intense distributed denial-of-service (DDoS) attacks. DDoS 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. *Malysiakini* was one of many sites which were subjected to an apparently coordinated assault before the 2013 elections.¹⁰⁶

105 'Three Red Shirts nabbed for assaulting journalists', *Berita Daily*, October 17, 2016, <http://bit.ly/2ocu0d1>

106 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/1wx dabx>.