



SOUTH KOREA

	2012	2013
INTERNET FREEDOM STATUS	PARTLY FREE	PARTLY FREE
Obstacles to Access (0-25)	3	3
Limits on Content (0-35)	12	13
Violations of User Rights (0-40)	19	16
Total (0-100)	34	32

POPULATION: 49 million
INTERNET PENETRATION 2012: 84 percent
SOCIAL MEDIA/ICT APPS BLOCKED: No
POLITICAL/SOCIAL CONTENT BLOCKED: Yes
BLOGGERS/ICT USERS ARRESTED: Yes
PRESS FREEDOM 2013 STATUS: Partly Free

* 0=most free, 100=least free

KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- The Constitutional Court dismantled the infamous “Internet real-name system,” preventing most websites from collecting ID numbers, though mobile providers still require them (see **VIOLATIONS OF USER RIGHTS**).
- Political campaigns effectively used ICTs in 2012 after restrictions on online electioneering were lifted in 2011(see **LIMITS ON CONTENT**).
- Positive developments were offset when prosecutors said intelligence agents manipulated online content under false IDs to influence the presidential election, a first for South Korea (see **LIMITS ON CONTENT**).
- In January 2013, outgoing President Lee Myung-bak pardoned a former head media regulator convicted of accepting KRW 800 million in bribes (see **OBSTACLES TO ACCESS**).
- Lawmaker Roh Hoe-chan lost his National Assembly seat after the Supreme Court convicted him of posting official secrets online, though the “secrets,” which exposed political corruption, were already in the public domain (see **VIOLATIONS OF USER RIGHTS**).

INTRODUCTION

South Korea is one of the most wired countries in the world, as well as a vibrant fledgling democracy. However, recent years have been marked by sophisticated policing of the online environment. The UN Special Rapporteur on Freedom of Expression, international journalists, and human rights groups voiced concerns that the space for free expression in the country has diminished since 2008, after the government sought to contain public demonstrations.¹

Developments in 2012 and 2013, nevertheless, showcased a range of democratic checks and balances partially offsetting the negative trend. In August 2012, the Constitutional Court declared 44(5) of the Information and Communications Network Act—requiring users to verify their real names before posting comments on major domestic websites—unconstitutional, although other laws mandating real-name registration in specific circumstances remain in place.² Both parliamentary and presidential elections took place in 2012, in April and December, respectively. In past years, online campaigning was restricted in advance of polls, but another landmark Constitutional Court ruling in December 2011 re-interpreted election laws to allow online and social media campaigns throughout the year.³ Nevertheless, these positive developments have a possible flip-side. A scandal broke out a week before the presidential race involving intelligence agents and their alleged manipulation of online content during the campaign period.⁴

At the end of his term in office, outgoing President Lee Myung-bak issued dozens of pardons to political allies charged with corruption, including the former chairman of the regulatory Korea Communications Commission (KCC). Park Geun-hye replaced Lee as head of state in February 2013, having led Lee's conservative Grand National (*Hannara*) Party to win a majority of seats in the April 2012 National Assembly election under a new name, the New Frontier (*Saenuri*) Party. Park appointed a close aide as the new KCC chairman, perpetuating the impression that the supposedly independent regulator is under the president's direct control.⁵

¹ Frank La Rue, "Full Text of Press Statement Delivered by UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Frank La Rue, After the Conclusion of His Visit to the Republic of Korea," United Nations Office of the High Commissioner for Human Rights, May 17, 2010, <http://bit.ly/9JplWa>; Chico Harlan, "In S. Korea, a shrinking space for speech," *Washington Post*, December 22, 2011, http://www.washingtonpost.com/world/asia_pacific/in-s-korea-a-shrinking-space-for-speech/2011/12/21/gIQAmaHGBP_story.html; Reporters Without Borders, *Internet Enemies Report 2012* (Paris: Reporters Without Borders, March 12, 2012), http://en.rsf.org/IMG/pdf/rapport-internet2012_ang.pdf; Irene Khan, "Statement by Irene Khan, Amnesty International Secretary General, on the Completion of Her Visit to South Korea," Amnesty International, November 24, 2009, <http://www.amnesty.org/en/library/asset/ASA25/013/2009/en/81c8df37-c1d9-4d49-aa8c-825cd7ce9203/asa250132009en.pdf>.

² Sang-hun Choe, "South Korean Court Rejects Online Name Verification Law," *New York Times*, August 23, 2012, <http://www.nytimes.com/2012/08/24/world/asia/south-korean-court-overturms-online-name-verification-law.html>.

³ The National Election Commission formerly applied legal provisions banning the display and distribution of election-related paraphernalia for 180 days before elections to online content, with penalties of up to 2 years' imprisonment or a fine of up to KRW 4 million (US\$3,500). See, Yeon-Ok Lee & Han Woo Park, "E-Campaigning Versus the Public Official Election Act in South Korea: Causes, Consequences and Implications of Cyber-Exile," *Aslib Proceedings* 65(4), 2013, 388–405.

⁴ Hyung-Jin Kim, "South Korea Spy Scandal: Spies Caught in Website Posts Embarrass National Intelligence Service," *Huffington Post*, May 13, 2013, <http://huff.to/17ISaGj>.

⁵ Yonhap News Agency, "(2nd LD) Park Appoints Former Veteran Lawmaker as Communications Commission Chief," *Yonhap News*, March 24, 2013, <http://bit.ly/16DpUAK>.

In another negative development, opposition lawmaker Roh Hoe-chan lost his seat in the National Assembly after the Supreme Court convicted him of publishing online the full names of seven prosecutors implicated in wiretapped conversations exposing political corruption in August 2005, although the content was already in the public domain. Roh discussed the names in public before posting them on his blog, but the sanction was only for their online publication.⁶

Political tensions with North Korea are a significant motivation for online restrictions, and the government said it had traced a series of high-profile March 2013 cyber-attacks on major institutions to Pyongyang, the capital of the communist North. A handful of prosecutions against users who post pro-North Korean content online are ongoing.⁷ One Twitter user, for example, is appealing a November 2012 suspended 10 month prison term for reposting tweets from North Korea in 2011.

OBSTACLES TO ACCESS

South Korea is one of the most wired countries in the world, for both usage and connection speed. Approximately 84 percent of South Koreans used the internet in 2012.⁸ Counting access via mobile phones, televisions, and game consoles, an estimated 97 percent of households had access as of June 2012.⁹

Several factors have contributed to the country's high degree of connectivity. First, high-speed access is relatively affordable. Most residences have connections capable of reaching 100 Mbps for under KRW 30,000 (\$26) per month.¹⁰ Second, the population is densely concentrated in urban areas. Roughly 70 percent of South Koreans live in cities dominated by high-rise apartment buildings that can easily be connected to fiber-optic cables.¹¹ Finally, the government has implemented programs to expand internet access, including subsidies for low-income groups.¹² A series of state-led initiatives have been implemented since the 1990s, including Cyber Korea 21

⁶ David McNeill and Donald Kirk, "Tax Evasion, Bribery and Price-fixing: How Samsung Became the Giant that Ate Korea," *The Independent*, February 25, 2013, <http://www.independent.co.uk/news/world/asia/tax-evasion-bribery-and-pricefixing-how-samsung-became-the-giant-that-ate-korea-8510588.html>.

⁷ Seok Ahn, "11 Online North Korean Sympathizers Arrested. 5 Times More Social Networking Accounts Blocked [for Violating the National Security Act] Over the Past Year" (in Korean), *Seoul Shinmun*, May 18, 2012, <http://www.seoul.co.kr/news/newsView.php?id=20120518011015>; Junhee Park, "Violation of the National Security Act in increase. Already 70 Cases in the First Half of the Year" [in Korean], *Munhwa Ilbo*, July 9, 2012, <http://www.munhwa.com/news/view.html?no=2012070901071027216002>.

⁸ International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2012," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

⁹ South Korea has consistently led the 34 members of the international trade group the Organization for Economic Co-operation and Development for internet access since 2000. Organization for Economic Co-operation and Development, "Households with Access to the Internet in Selected OECD Countries," http://www.oecd.org/sti/ieconomy/Final_6.b_Internet%20Households_2012.xls.

¹⁰ John D. Sutter, "Why Internet Connections Are Fastest in South Korea," *CNN Tech*, March 31, 2010, http://articles.cnn.com/2010-03-31/tech/broadband.south.korea_1_broadband-plan-south-korea-broadband-internet?s=PM:TECH. The figures were still current as of April 2013.

¹¹ J. C. Herz, "The Bandwidth Capital of the World," *Wired*, August 2002, http://www.wired.com/wired/archive/10.08/korea.html?pg=1&topic=&topic_set.

¹² Sutter, "Why Internet Connections Are Fastest in South Korea."

(1999–2002), the e-Korea Vision 2006 (2002–2006), and the U-Korea Master Plan (2006–2010). Cyber Korea 21 was well received by the Korean public, partly because a foundation of computer-mediated communications had already been laid with a pre-internet, text-based online communication known as PC *tongshin* (“communication”).

Mobile phone penetration was at 110 percent in 2012—a sign that many users have more than one device.¹³ Smartphone users represented 62 percent of all mobile subscribers as of 2012.¹⁴ Wi-Fi coverage has also increased rapidly to accommodate smartphones and tablet computers. Free Wi-Fi services are offered in over 1,000 public spaces across the country, including train stations, airports, libraries, national public hospitals, community centers, and selected tourist spots.¹⁵

Omnipresent and affordable cybercafés have helped prevent a digital divide in South Korea. Known as PC *bang* (“rooms”), many offer broadband access for approximately \$1 per hour, and also serve as venues for social interaction and online gaming. There is no significant gap in access to ICTs with respect to gender or income level, although differences in computer literacy across generational and professional lines persist.¹⁶

The telecommunications sector in South Korea is relatively diverse and open to competition, with 118 internet service providers (ISPs) operating as of February 2013.¹⁷ Nevertheless, the market remains dominated by three companies: Korea Telecom (44 percent), SK Telecom (24 percent), and LG Telecom (15 percent). The same firms control equivalent shares of the country’s mobile phone service market, at 31 percent, 50 percent, and 19 percent respectively.¹⁸ All three companies are publicly traded (Korea Telecom was state-owned until privatization in 2002), but they are part of the country’s *chaebol*—large, family-controlled conglomerates connected to the political elite, often by marriage ties.¹⁹ This has given rise to speculation that favoritism was at play in the privatization process and in the selection of bidders for mobile phone licenses.²⁰

The conservative Lee Myung-bak government, which was in power from February 2008 to February 2013, restructured regulatory institutions dealing with ICTs. The ministry of information and communication and the Korean Broadcasting Commission merged to create the KCC in February 2008, tasked with overseeing both telecommunications and broadcasting to improve

¹³ International Telecommunication Union, “Mobile-cellular Telephone Subscriptions, 2000-2012.”

¹⁴ Korea Communications Commission, “Wire and Wireless Communication Service Subscribers in 2012” [in Korean], *IT Statistics of Korea*, March 5, 2013, http://www.itstat.go.kr/board/boardDetailView.htm?identifier=02-008-130306-000001&pub_code=5&page=1.

¹⁵ Jungyun Kwon, “Free Wi-Fi Now Offered at Public Areas Nationwide,” *Korea.net*, July 25, 2012, <http://www.korea.net/NewsFocus/Sci-Tech/view?articleId=101482>.

¹⁶ National Information Society Agency, *The 2011 Digital Divide Index* [in Korean], http://www.itstat.go.kr/board/boardDetailView.htm?identifier=02-008-120309-000001&pub_code=7&page=1.

¹⁷ Korea Internet & Security Agency, “ISP Statistics” [in Korean], accessed April 7, 2013, <http://isis.kisa.or.kr/sub01/?pageId=010302>.

¹⁸ Korea Communications Commission, “Wire and Wireless Communication Service Subscribers in 2012.”

¹⁹ Hyeok-cheol Kwon, “Is *Chojoongdong* One Big Family?” [in Korean], *Hankyoreh*, July 29, 2005, <http://www.hani.co.kr/kisa/section-002009000/2005/07/002009000200507291742668.html>.

²⁰ Hyun-ah Kim, “KMI Criticizes Selection Criteria for the 4th Mobile Operator and Sends Out Open Inquiry [to KCC]” [in Korean], *e-Daily*, February 18, 2013, <http://bit.ly/1fXe7y8>.

policy coherence.²¹ The KCC consists of five commissioners, with the president appointing two (including the chairman) and the National Assembly choosing the remainder. The KCC struggled to earn credibility, as its first chairman Choi See-joong was a close associate of then-president Lee, causing some observers to view the restructuring as a government effort to tighten control over the media and ICT sectors.²² Lee reappointed Choi as chairman in March 2011 over the objections of opposition lawmakers, who said that Choi's personnel choices politicized the agency and that his licensing decisions favored conservative-leaning media outlets. In January 2012, Choi resigned after prosecutors began investigating him in connection with several bribery scandals, including allegations that his former aide received nearly KRW 200 million (\$175,400) in bribes from the Korea Broadcasting and Art School in return for business favors.²³ Choi was arrested in April 2012 on charges of accepting KRW 800 million (\$701,700) from a real estate developer in return for influence peddling. He was sentenced to two and a half years in prison and a fine of KRW 600 million (\$526,300) in September 2012.²⁴ However, Lee issued 55 pardons marking the end of his term in January 2013, including Choi and other political allies.²⁵

In March 2013, the new president Park Geun-hye missed an opportunity to distance herself from this history of cronyism, naming her close aide and former four-term lawmaker Lee Kyeong-jae to head the KCC.²⁶ Park also transferred the KCC's policy and strategy-related responsibilities to the new Ministry of Science, ICT & Future Planning. The KCC retains its regulatory remit.

LIMITS ON CONTENT

South Korean censors blocked or deleted more than 57,000 sites or web pages in 2012, according to official figures. Law professor Park Kyung Sin, himself a member of the commission responsible for censorship, saw his own conviction and fine for re-posting censored content on his personal blog overturned in July 2012, while a Twitter user who criticized the ruling party in 2011 also saw his fine overturned under a revised interpretation of election laws. During the coverage period, these looser rules allowed online campaigning, diversifying discourse and encouraging the growth of online platforms ranging from independent, not-for-profit news outlets to far-right political forums.²⁷ In a first for South Korea, however, intelligence agents are currently under investigation

²¹ Jong Sung Hwang & Sang-hyun Park, "Republic of Korea," in *Digital Review of Asia Pacific 2009–2010* (London: Sage Publications, 2009), 234–240.

²² Ji-nam Kang, "Who's Who Behind Lee Myung-bak: Choi See-joong the Chairman of the KCC (Appointed)" [in Korean], *Shindonga* (583, 2008), 48–49, http://shindonga.donga.com/docs/magazine/shin/2008/04/12/200804120500019/200804120500019_1.html.

²³ Yonhap News Agency, "Ex-aide of KCC Chief Under Bribery Probe," *The Korea Herald*, January 4, 2012, <http://www.koreaherald.com/national/Detail.jsp?newsMLid=20120103000879>; Tae-gyu Kim and Jun-beom Hwang, "Choi See-joong's Protégé Jeong Yong-uk Bags a Huge Bribe and Flees to Canada?" [in Korean], *Hankyoreh*, January 3, 2012, http://www.hani.co.kr/arti/society/society_general/513250.html.

²⁴ Rahn Kim, "President's Mentor gets Prison Term," *The Korea Times*, September 14, 2012, http://www.koreatimes.co.kr/www/news/nation/2012/09/117_119968.html.

²⁵ BBC, "South Korean President Issues Controversial Pardons," *BBC News*, January 29, 2013, <http://www.bbc.co.uk/news/world-asia-21241376>.

²⁶ Yonhap News Agency, "(2nd LD) Park Appoints Former Veteran Lawmaker."

²⁷ James Pearson, "Conservatives Go on the Online Offensive," *Yonhap News*, April 30, 2013, http://english.yonhapnews.co.kr/n_feature/2013/04/29/45/4901000000AEN20130429006500315F.HTML; Seung-hye Yim,

for manipulating political discussion online under false IDs in advance of the December 2012 presidential election.

Although South Korean cyberspace is vibrant and creative, there are a number of restrictions on the free circulation of information and opinions. Technical filtering of websites and social media accounts and the administrative deletion of content are particularly evident. Technical filtering of blacklisted URLs focuses on content produced by, or otherwise sympathetic to, the North Korean regime. A series of tests conducted in 2008 and 2010 by the OpenNet Initiative found that a significant number of websites containing North Korean propaganda or writings promoting reunification of the two Koreas were explicitly and consistently blocked in South Korea.²⁸ The justification provided is that these violate the 1948 National Security Act, which classifies content that “praises, promotes, and glorifies North Korea” as “illegal information.”

Censorship is carried out on the orders of the Korea Communications Standards Commission (KCSC), which was established in 2008 to maintain ethical standards in broadcasting and internet communications. Technically an independent statutory organization, its nine members are appointed by the president.²⁹ Observers criticize its vaguely defined standards and wide discretionary power to determine what information should be censored.³⁰

A KCSC member outlined the censorship process for Freedom House.³¹ A team of 20 to 30 monitoring officers flag possible offenses, including obscenity, defamation, and threats to national security. Citizens can also submit individual petitions against content they believe has violated their privacy or harmed their reputation, or directly request service providers to temporarily remove the content in question for 30 days, effective immediately, under Article 44(2) of the Information and Communications Network Act. Commissioners meet every two weeks to deliberate over flagged cases—the minutes of which are available on the KCSC website³²—and then make recommendations to bulletin board operators or ISPs to implement corrective measures such as deletion or blocking designated URLs. Such recommendations are not legally binding, but noncompliant service providers face potential sanctions under Comprehensive Measures on Internet Information Protection issued by the KCC in 2008, so practically all providers conform. Some service providers and websites institute their own registration or content monitoring policies so as to preempt KCSC intervention, though no comprehensive data about the extent of these voluntary practices is available.

“Online Communities Keep Politicians Squirming,” *JoongAng Ilbo*, March 16, 2013, http://www.joongang.ca/bbs/board.php?bo_table=g900t400&wr_id=29.

²⁸ OpenNet Initiative, “Country Profile: South Korea,” August 6, 2012, <http://opennet.net/research/profiles/south-korea>.

²⁹ Six members are nominated by the president and the party with a parliamentary majority, while three are nominated by the opposition. Jeong-hwan Lee, “A Private Organization Under the President? The KCSC’s Structural Irony” [in Korean], *Media Today*, September 14, 2011, <http://www.mediatoday.co.kr/news/articleView.html?idxno=97350>.

³⁰ Jillian York and Rainey Reitman, “In South Korea, the Only Thing Worse Than Online Censorship is Secret Online Censorship,” *Electronic Frontier Foundation*, September 6, 2011, <https://www.eff.org/deeplinks/2011/08/south-korea-only-thing-worse-online-censorship>.

³¹ Author’s interview with Park Kyung Sin, one of the nine members of the KCSC, April 4, 2013.

³² Available at http://www.kocsc.or.kr/02_infoCenter/Records_List.php [in Korean].

The KCSC publishes quarterly statistics of content filtered or deleted.³³ These figures have shot up since 2008, its first year of operation, when it reported blocking 4,731 websites or pages,³⁴ and deleting another 6,442.³⁵ In 2012, it blocked 39,296 websites or pages and deleted 17,827.³⁶ The trend continued in the first quarter of 2013, when 11,396 items were blocked and 5,717 items were deleted.³⁷ Offenses cited for the censorship included “encouraging gambling,” “illegitimate food and medicine,” “prostitution and obscenity,” “violating others’ rights,” and “violating other laws and regulations,” the category that encompasses North Korean sympathies.

In 2011, law professor Park Kyung Sin, one of the KCSC’s nine members, challenged the institution’s criteria by posting some censored content—such as non-sexual images of human genitalia—on his personal blog for public discussion.³⁸ Fellow KCSC members began evaluating his blog for deletion and Park subsequently took the pictures down, but prosecutors indicted him for possible violation of obscenity laws in February 2012.³⁹ The court fined Park KRW 3 million (\$2,630) in July, but a higher court cleared him on appeal in October.⁴⁰ The prosecution has appealed to the Supreme Court and the case is currently being heard. Park’s blog is still available, and he continues to advocate publicly for freedom of expression.⁴¹

Park told Freedom House a major cause for concern is that authors of blocked or deleted content are never notified of the commission’s decision, nor given an opportunity to defend their right to publish. While they can challenge the commission directly if they learn about a ruling, there is no independent avenue for appeal. This allows the KCSC to make politically, socially, and culturally motivated judgments, often lacking legal grounds. In many cases, the KCSC blocks entire blogs, though only a small portion of posts are considered to be problematic. All this has contributed to an atmosphere of self-censorship, particularly on topics related to North Korea.

³³ Available at http://www.kocsc.or.kr/02_infoCenter/info_Communiton_List.php [in Korean].

³⁴ 3,816 for “encouraging gambling,” 549 for “disturbing social order,” and 366 for “obscenity.”

³⁵ 3,238 for “disturbing social order,” 1,460 for “obscenity,” 1,201 for “violating others’ rights,” 424 for “violence, cruelty and hatred,” and 119 for “encouraging gambling.”

³⁶ Among those blocked, 18,971 were for “encouraging gambling,” 13,065 for “illegitimate food and medicine,” 5,600 for “prostitution and obscenity,” 962 for “violating others’ rights,” and 698 for “violating other laws and regulations.” Among those deleted, 6,908 were for “illegitimate food and medicine,” 5,481 for “prostitution and obscenity,” 3,910 for “violating other laws and regulations,” 920 for “encouraging gambling,” and 608 for “violating others’ rights.”

³⁷ Among those blocked, 6,621 were for “encouraging gambling,” 2,875 for “illegitimate food and medicine,” 1,179 for “prostitution and obscenity,” 412 for “violating other laws and regulations,” and 309 for “violating others’ rights.” Among those deleted, 2,464 were for “violating other laws and regulations,” 1,665 for “illegitimate food and medicine,” 902 for “prostitution and obscenity,” 377 for “violating others’ rights,” and 309 for “encouraging gambling.”

³⁸ R. Jai Krishna and Evan Ramstad, “‘Offensive’ Web Content Targeted in Asia,” *The Wall Street Journal*, December 6, 2011, <http://online.wsj.com/article/SB10001424052970204770404577082080244171866.html>; York and Reitman, “In South Korea, the Only Thing Worse Than Online Censorship.”

³⁹ Evan Ramstad, “Prosecutors Target Censorship Critic,” *The Wall Street Journal*, March 8, 2012, <http://blogs.wsj.com/korearealtime/2012/03/08/prosecutors-target-censorship-critic/>.

⁴⁰ Jeongin You, “Professor Park Kyung Sin ‘Not Guilty’ in an Appellate Court. A Promising Ruling for Freedom of Expression” [in Korean], *Kyunghyang Shinmun*, October 18, 2012. <http://bit.ly/RfFmnp>.

⁴¹ K.S. Park’s Writings (blog), <http://blog.naver.com/kyungsinpark>.

In 2011, the KCSC sought to expand the scope of censorship to social networking sites, mobile phone applications, and podcasts.⁴² The commission created a team to systematically monitor social media and communication apps, such as Twitter and Facebook, for violations. Since selectively deleting posts is more challenging on social media than from static websites and blogs, the KCSC warns users to voluntarily delete posts containing false or harmful information. If they refuse, the commission can ask ISPs to block other users from accessing the disputed account altogether.⁴³ Social media cases amount roughly to 5 percent of the total considered by the KCSC, according to Park.

They sometimes lack tolerance for government criticism. In May 2011, the KCSC ordered the blocking of Twitter account “@2MB18nomA,” consisting of former President Lee’s nickname “2MB” and a phonetic reference to a common Korean curse word.⁴⁴ After the KCSC rejected an appeal challenging the block, the user turned to the Seoul Administrative Court, but lost his case in May 2012.⁴⁵ He was also fined KRW one million (\$877) for violating the election law through tweets posted in May 2011 criticizing the ruling party. That decision was overturned, however, when he successfully appealed in March 2012.⁴⁶

That success was the result of a change in restrictions on online expression surrounding elections in South Korea, which observers have criticized as more stringent than in other democracies.⁴⁷ Article 93(1) of the Public Official Election Act, adopted to ensure fair electoral competition, prohibits individual voters from distributing or displaying “an advertisement, letter of greeting, poster, photograph, document, drawing, printed matter, audio tape, video tape, or the like” during the 180 days prior to election day if it contains an endorsement of or opposition to a candidate or a political party. The National Election Commission (NEC) has historically applied this to blog posts, user comments on news websites, and user-generated content in social media, and could demand that websites or blog-hosting services remove such postings. However, the Constitutional Court ruled that interpretation was unconstitutional in December 2011.⁴⁸ The NEC allowed online campaigning as of January 13, 2012.⁴⁹

⁴² Matt Brian, “South Korea May Begin Censoring Social Networking, Mobile Apps from Next Week,” *The Next Web*, December 1, 2011, <http://thenextweb.com/asia/2011/12/01/south-korea-may-begin-censoring-social-networking-mobile-apps-from-next-week/>.

⁴³ Interview with Kyung Sin Park. See also, Ji-hyun Cho, “Criticism Escalates Over SNS Censorship,” *The Korea Herald*, January 29, 2012, <http://www.koreaherald.com/business/Detail.jsp?newsMLId=20120129000285>.

⁴⁴ Harlan, “In S. Korea, A Shrinking Space.” See also, Louisa Lim, “In South Korea, Old Law Leads To Crackdown,” *National Public Radio (NPR)*, December 1, 2011, <http://www.npr.org/2011/12/01/142998183/in-south-korea-old-law-leads-to-new-crackdown>.

⁴⁵ Jeong-min Yang, “Owner of the Twitter ID ‘Cursing MB’ Lost his Case, But Why?” [in Korean], *Money Today*, May 4, 2012, <http://www.mt.co.kr/view/mtview.php?type=1&no=2012050407583397741&outlink=1>.

⁴⁶ Seung-mo Kim, “Posting on Twitter a List of Candidates to be Rejected is Not Illegal, Says Court” [in Korean], *The Law Times*, March 20, 2012, <http://www.lawtimes.co.kr/LawNews/News/NewsContents.aspx?serial=63156>.

⁴⁷ Lee and Park, “E-Campaigning Versus the Public Official Election Act.”

⁴⁸ Yonhap News Agency, “Constitutional Court OKs Twitter for Election Campaigns,” *The Korea Times*, December 29, 2011, http://www.koreatimes.co.kr/www/news/nation/2011/12/113_101835.html; Akira Nakano, “S. Korea Allows Campaigning on Social Networking Sites,” *The Asahi Shimbun*, December 30, 2011, <http://ajw.asahi.com/article/asia/AJ201112300023>.

⁴⁹ Agence France-Presse, “S. Korea Lifts Ban on Internet for Electioneering,” *AsiaOne*, January 13, 2012, <http://www.asiaone.com/News/Latest%2BNews/Science%2Band%2BTech/Story/A1Story20120113-321714.html>; Yonhap News Agency, “Election Regulator Allows Internet Election Campaigns,” *The Korea Times*, January 13, 2012, http://www.koreatimes.co.kr/www/news/nation/2012/01/311_102798.html.

Perhaps the most troubling development stemming from this change came the following year when lawmakers revealed a National Intelligence Service (NIS) agent had published online comments under some 40 different IDs in an effort to influence the December 2012 presidential election. In March 2013, the main opposition party claimed that this manipulation extended to many more NIS agents and implicated NIS Director Won Sei-hoon.⁵⁰ In June 2013, Won was indicted on charges of interfering in the election.⁵¹ The prosecution said he also attempted to influence earlier elections in favor of the ruling conservative party.⁵²

While the overall media environment is partly restricted,⁵³ South Koreans continue to enthusiastically embrace online technology for civic engagement and political mobilization. In early 2012, journalists launched a series of strikes against government interference and censorship for the first time since the country's transition to democratic rule in 1987.⁵⁴ Born out of this was a variety of alternative and activist media outlets on the internet. The most thriving example is *Newstapa*, a user-funded investigative journalism platform, which reported over 28,000 regular donors and almost six million views of its YouTube content in April 2013. Filmmakers have also successfully solicited funding via social media for socially conscious films, such as “26 Years,” about the military crackdown on a democratic uprising in the southwestern city of Gwangju in 1980—which topped the box office in November 2012⁵⁵—and “Another Family,” which documents poor working conditions in Samsung semiconductor factories, and is due for release in late 2013.

VIOLATIONS OF USER RIGHTS

The year's most positive development for ICT users came in August 2012, when the Constitutional Court ruled South Korea's historically stringent internet real-name registration requirements violated the constitution. Website administrators are now banned from collecting national identification numbers, except where doing so is mandated by another law such as the Public Official Election Act and the Children and Youth Protection Act. It is not clear whether the court's ruling will also apply to mobile service providers, who still register customers and provided personal information to law enforcement agencies on 395,061 occasions in the first half of 2012, according to official statistics. As in past years, internet users were prosecuted for online activity. Twitter user Park Jung-geun is appealing a November 2012 suspended sentence for re-posting

⁵⁰ Yonhap News Agency, “Lawmaker Accuses Spy Agency Chief of Intervening in Politics,” *Yonhap News*, March 18, 2013, <http://english.yonhapnews.co.kr/northkorea/2013/03/18/0401000000AEN20130318006200315.HTML>; Chang-sup Lee, “National Intelligence Service Needs Overhaul,” *The Korea Times*, March 28, 2013, http://www.koreatimes.co.kr/www/news/opinion/2013/03/298_132922.html.

⁵¹ Chico Harlan, “In South Korea's Latest Controversies, Spy Agency Takes a Leading Role,” *Washington Post*, July 6, 2013, http://www.washingtonpost.com/world/asia_pacific/in-south-koreas-latest-controversies-spy-agency-takes-a-leading-role/2013/07/06/8b610c74-e3ca-11e2-aef3-339619eab080_story.html.

⁵² Dong-hyun Lee, “Won Sei-hoon Ordered Operations Against Opposition Candidates in Every Election, Says Prosecution” [in Korean], *JoongAng Ilbo*, June 6, 2013, <http://media.daum.net/issue/438/newsview?issueId=438&newsId=20130606003705675>.

⁵³ Freedom House, “Freedom of the Press 2012 – South Korea,” <http://www.freedomhouse.org/report/freedom-press/2012/south-korea>.

⁵⁴ “No News is Bad News: Reporters Complain of Being Muzzled,” *Economist*, March 3, 2012, <http://www.economist.com/node/21549008>.

⁵⁵ Erika Kim, “‘26 Years’ Tops Box Office in Its First Weekend,” *enewsWorld*, December 3, 2012, <http://enewsWorld.interest.me/enews/contents.asp?idx=22873>.

content from a North Korean Twitter account, and lawmaker Roh Hoe-chan was ousted in 2013 following a criminal conviction for exposing political corruption online. Another continuing trend was extensive cyber-attacks that crippled broadcast agencies and financial institutions, exposing millions of subscribers to possible fraud.

The South Korean constitution guarantees freedom of speech, the press, assembly, and association to all citizens, but it also enables restrictions by stating that “neither speech nor the press may violate the honor or rights of other persons nor undermine public morale or social ethics.” South Korea has an independent judiciary and a national human rights commission that have made decisions upholding freedom of expression. Nonetheless, the continued prosecution of internet users for online activities has generated a chilling effect and international criticism.⁵⁶

Several laws restrict freedom of expression in traditional media, as well as online. The 1948 National Security Act allows prison sentences of up to seven years for praising or expressing sympathy with the North Korean regime. In April 2010, the Ministry of Unification issued a notice reminding citizens that the 1990 Act on Exchanges and Collaboration Between South and North Korea applies to online communications as well as offline,⁵⁷ and that any visit to websites or pages maintained by people of North Korea must be reported to the government in advance.⁵⁸ Anyone failing to do so faces a fine of up to KRW 1 million (\$878).

National security prosecutions against individuals expressing North Korean sympathies increased while the previous conservative government was in power. Those stemming from online communications rose from 5 in 2008 to 82 in 2010, a trend which looks set to continue: Amnesty International reported 41 people had been either detained or charged under national security provisions in freedom of expression related cases in 2012, some involving online activity.⁵⁹ In September 2011, police raided the studio of photographer Park Jung-geun after he retweeted posts from a North Korean Twitter account (@uriminzok).⁶⁰ Park said his reposts made fun of the regime. Nevertheless, police interrogated him five times and in January 2012, jailed him for one month before releasing him on bail. A court sentenced him to a suspended 10-month prison term in November 2012, and he is currently appealing his conviction in a higher court.⁶¹

⁵⁶ La Rue, “Full Text of Press Statement.”

⁵⁷ Ministry of Unification, “Notice on the Use of North Korean Internet Sites” [in Korean], April 8, 2010, http://www.unikorea.go.kr/CmsWeb/viewPage.req?idx=PG0000000346&boardDataId=BD0000186451&CP0000000002_BO0000000033_Action=boardView&CP0000000002_BO0000000033_ViewName=board/BoardView&curNum=12.

⁵⁸ Such reports are to be made through an online system at <http://www.tongtong.go.kr/>.

⁵⁹ Sang-hun Choe, “Sometimes, It’s a Crime to Praise Pyongyang,” *New York Times*, January 5, 2012, <http://www.nytimes.com/2012/01/06/world/asia/06iht-korea06.html?pagewanted=all>; Ahn, “11 Online North Korean Sympathizers Arrested” [in Korean]; Park, “Violation of the National Security Act in Increase” [in Korean]; Amnesty International, “Republic of Korea,” *Amnesty International Report 2013: The State of the World’s Human Rights*, http://files.amnesty.org/air13/AmnestyInternationalAnnualReport2013_complete_en.pdf, 150-152.

⁶⁰ Lim, “In South Korea, Old Law Leads To New Crackdown;” Sang-hun Choe, “South Korean Law Casts Wide Net, Snaring Satirists in a Hunt for Spies,” *New York Times*, January 7, 2012, <http://nyti.ms/GB6dNJ>; Agence France-Presse, “Amnesty Urges Release of S. Korean Twitter User,” *Google News*, February 1, 2012, <http://bit.ly/1dSvfTA>.

⁶¹ Paula Hancocks, “South Korean ‘Joke’ May Lead to Prison,” *CNN*, July 4, 2012, <http://edition.cnn.com/2012/07/03/world/asia/south-korea-north-joke/index.html>; Sang-hun Choe, “South Korean Gets Suspended Sentence in Twitter Case,” *New York Times*, November 21, 2012, <http://nyti.ms/Quetmz>.

More prosecutions could result from a cyber-attack allegedly orchestrated by the transnational hacking collective Anonymous, who released details of over 15,000 subscribers of North Korean government websites and social media accounts in April 2013. South Korean law enforcement agencies used the data to investigate citizens violating South Korean law, but many of the subscribers used false names, news reports said.⁶²

Within South Korea, such pseudonymous registration has been compromised by the infamous “internet real-name system” adopted in 2004 as part of an amendment to the Public Official Election Act.⁶³ Users were required to verify their identities by submitting their Resident Registration Numbers (RRNs) to join and contribute to web portals and other major sites. An RRN is a 13-digit number uniquely assigned to a Korean citizen at birth. In 2007, the real-name system was expanded to apply to any website with more than 100,000 visitors per day under Article 44(5) of the Information and Communications Network Act.

Beyond its chilling effect for online expression, the risk of such widespread real-name registration became evident in July 2011 when a cyberattack, allegedly originating from China, targeted the popular portal Nate and its social networking service Cyworld. The hackers reportedly stole the personal details of 35 million users, equivalent to 70 percent of the country’s total population. The stolen data included users’ real names, passwords, RRNs, mobile phone numbers, and e-mail addresses. The portal’s parent company, SK Communications, said RRNs and passwords were encrypted,⁶⁴ but the incident renewed public concern about internet users’ right to privacy.⁶⁵

In August 2012 the Constitutional Court ruled against the internet real-name system, citing vulnerability to cyberattacks, among other factors.⁶⁶ As of February 18, 2013, website administrators are prohibited from collecting users’ RRNs, and required to destroy those already on record by 2014.⁶⁷ Although much welcomed, this ruling does not entirely abolish real-name registration. The recently amended Children and Youth Protection Act, for example, enhanced the requirements for online identity verification from September 2012 to protect young people online (RRNs contain digits from the user’s birth date that reveal their age).⁶⁸ Some companies use other methods for linking users’ identities to their online profiles, and the KCC is also exploring registration options beyond RRNs, such as Internet Personal Identification Numbers (i-PINs),

⁶² Chosun Ilbo, “More Details of N.Korean Website Subscribers Released,” *Chosun Ilbo*, April 8, 2013, http://english.chosun.com/site/data/html_dir/2013/04/08/2013040801418.html.

⁶³ The amendment became Article 82, Provision 6.

⁶⁴ “Nate, Cyworld Hack Stole Information From 35 Million Users: SKorea Officials,” *Huffington Post*, July 28, 2011, http://www.huffingtonpost.com/2011/07/28/south-korea-nate-cyworld-hack-attack_n_911761.html.

⁶⁵ Eric Pfanner, “Naming Names on the Internet,” *New York Times*, September 4, 2011, <http://www.nytimes.com/2011/09/05/technology/naming-names-on-the-internet.html>.

⁶⁶ Park Kyung Sin, “Korean Internet Identity Verification Rule Struck Down Unconstitutional; 12 Highlights of the Judgment,” *K.S. Park’s Writings* (blog), August 25, 2012, <http://blog.naver.com/kyungsinpark/110145810944>.

⁶⁷ Yunji Kang, “Hide your RRN Away! Ban on Online Collection of User RRNs” [in Korean], *Sympa Korea*, February 21, 2013, <http://reporter.korea.kr/reporterWeb/getNewsReporter.do?newsDataId=148755878>.

⁶⁸ Ki-bon Lee, “Effective from September 16, 2012, the New Youth Protection Law” [in Korean], *Pol in Love* (Police Agency official blog), September 3, 2012, <http://polinlove.tistory.com/4371>; Yoo Eun Lee, “South Korea’s Child Porn Law Blasted for Restricting Freedom of Expression,” *Global Voices Online*, May 24, 2013, <http://globalvoicesonline.org/2013/05/24/south-koreas-child-porn-law-blasted-for-restricting-freedom-of-expression/>.

authenticated certificates, and SMS verification. In the meantime, mobile service providers still require users to provide their RRNs.

Service providers are expected to make individual users' personal information available on request to investigative agencies, including police, prosecutors, and the National Intelligence Service, under Article 83(3) of the Telecommunications Business Act. According to KCC statistics,⁶⁹ mobile phone operators fulfilled 395,061 such requests in the first half of 2012, a 21 percent increase over the number they executed during the same period in 2011.⁷⁰ The KCC has not published more recent data.

Defamation, including written libel and spoken slander, is a criminal offense in South Korea punishable by up to five years' imprisonment or a fine of up to KRW 10 million (\$8,800), whether the contested statement is true or not; insults are punishable by a maximum KRW 2 million (\$1,751) fine or a prison sentence of up to one year. Defamation committed via ICTs draws even heavier penalties—seven years in prison or fines of up to KRW 50 million (\$43,900)—under the 2005 Information and Communications Network Act, which cites the faster speed and wider audience of online communication as a basis for the harsher sentencing.⁷¹

In February 2013, Roh Hoe-chan, a lawmaker from a minor opposition party, lost his seat in the National Assembly after being convicted in the Supreme Court for publishing wiretapped conversations online in 2005 in violation of the 1993 Protection of Communications Secrets Act. The conversations, illegally recorded by intelligence agents in the 1990s, documented representatives of The Samsung Group paying regular bribes to prosecutors, politicians, and presidential candidates. The Supreme Court explained its ruling against Roh by stating, “the internet delivers unfiltered information to the public, while the media select what to publish with responsibility.”⁷² Observers noted that the conviction appeared to have been pushed through in advance of pending revisions to the 1993 Act, which may have led to a different outcome.⁷³

A copyright law that restricts file sharing was passed in May 2009 and came into effect two months later. Often referred to as the “three strikes rule,” it allows the Minister of Culture, Sports and Tourism, acting through the Korean Copyright Commission, to shut down an entire online bulletin board after a third warning to take down pirated content. Within a year, the ministry had issued

⁶⁹ Published twice a year at <http://www.kcc.go.kr/user.do?boardId=1030&page=A02060400&dc=K02060400> [in Korean].

⁷⁰ Na-young Shim, “Last Year, 390,000 Users Subjected to ‘Telecommunication Surveillance’” [in Korean], *Asia Economy*, January 9, 2013, <http://www.asiae.co.kr/news/view.htm?idxno=2013010813361388756>. The KCC reported 326,785 requests in the first half of 2011.

⁷¹ See “Article 61: Republic of Korea,” *Act on Promotion of Information and Communications Network Utilization and Data Protection, etc.*, Amended December 30, 2005, <http://www.worldlii.org/int/other/PrivLRes/2005/2.html>.

⁷² The Associated Press, “MP Loses Seat Over Samsung Wiretaps,” *MSN News*, February 17, 2013, <http://news.uk.msn.com/world/mp-loses-seat-over-samsung-wiretaps>; Sam Byford, “Korean Lawmaker who Exposed Samsung Corruption Forced from Office,” *The Verge*, February 15, 2013, <http://www.theverge.com/2013/2/15/3991338/samsung-x-file-tapes-lawmaker-roh-hoe-chan-loses-government-seat>.

⁷³ Yonhap News Agency, “Song Ho-chang: Ruling on Roh Hoe-chan’s Case Should Wait Until the Amendment,” [in Korean], *OhmyNews*, February 8, 2013, http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0001832963.

over 450 warnings and disabled 11 accounts for sharing copyrighted materials.⁷⁴ Internet companies and civil liberties advocates say the law threatens fair use and free expression.⁷⁵

There have been no reports of physical violence against online users. Technical violence is more common. A notable increase in such technical disruptions in the past two years has highlighted vulnerabilities in the country's ICT infrastructure. Reported violations of electronic data tripled between 2010 and 2012 from 54,832 incidents to 166,801, according to official figures.⁷⁶ Whether politically or financially motivated, these breaches affect a significant proportion of the population, yet ordinary users are barely protected or compensated.⁷⁷ Recent investigations revealed that over 15 million voters had their electronic information illegally obtained and traded for use in mobile SMS campaigns prior to the April 2012 general election.⁷⁸

Major incidents during the coverage period include a massive cyberattack against three major South Korean banks and the country's two largest broadcasters on March 20, 2013.⁷⁹ The government announced on April 10 that it had traced the attacks to six computers in North Korea, concluding that the military intelligence agency in Pyongyang was responsible.⁸⁰ In May 2012, the state-run educational TV station EBS, reported hackers had accessed personal data belonging to more than four million of its website subscribers, and one of the three telecommunication companies, KT, estimated 8.8 million of its customers' personal information was stolen between February and July.

⁷⁴ Maekyeong, "First Three-strikeouts for 'Heavy Uploaders,' 11 Accounts Ordered Suspended" [in Korean], *MK News*, <http://news.mk.co.kr/newsRead.php?year=2010&no=596419>

⁷⁵ Cory Doctorow, "South Korea Lives in the Future (of Brutal Copyright Enforcement)," *Boing Boing*, March 30, 2013, <http://boingboing.net/2013/03/30/south-korea-lives-in-the-future.html>; Open Net Korea, "International Human Rights Organisations in Support for the Abolition of the Three-strike Rule," *Open Net Korea*, April 1, 2013, <http://opennet.or.kr/1529>.

⁷⁶ Statistics Korea, "Incidents of Personal Information Violation" [in Korean], *e-National Indicators*, accessed July 2013, http://www.index.go.kr/egams/stts/jsp/potal/stts/PO_STTS_idxMain.jsp?idx_cd=1366&bbs=INDX_001&clas_div=C&rootKey=1.48.0#.

⁷⁷ Soon-taek Kwon, "KT's Penalty as Small as [US\$613,000] After Having Lost Personal Information of 8.73 Million Customers" [in Korean], *MediaUs*, December 13, 2012, <http://www.mediaus.co.kr/news/articleView.html?idxno=30287>.

⁷⁸ Joonho Choi et al., "Voters' Personal Information Floating Around During Elections—One Agency Sends Out as Many as 40 Million Texts" [in Korean], *JoongAng Ilbo*, July 5, 2012, http://article.joins.com/news/article/article.asp?total_id=8665527&ctg=1200.

⁷⁹ Laura Sciuto, "South Korea Hit Hard by Massive Cyber-Attack," *PBS NewsHour Extra*, April 1, 2013, <http://www.pbs.org/newshour/extra/2013/04/south-korea-hit-hard-by-massive-cyber-attack/>.

⁸⁰ Agence France-Presse, "S. Korea probe says North behind cyber attack," *The Straits Times*, April 10, 2013, <http://www.straitstimes.com/breaking-news/asia/story/s-korea-probe-says-north-behind-cyber-attack-report-20130410>.