

Indonesia

	2013	2014		
Internet Freedom Status	Partly Free	Partly Free	Population:	248.5 million
Obstacles to Access (0-25)	11	11	Internet Penetration 2013:	16 percent
Limits on Content (0-35)	11	12	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	19	19	Political/Social Content Blocked:	Yes
TOTAL* (0-100)	41	42	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2014 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: May 2013 – May 2014

- A Communications Ministry regulation could allow officials to block any online content they define as “negative,” without oversight (see **Limits on Content**).
- Charges filed under the defamation clause in the notorious Information and Electronic Transactions Law increased from 10 in 2012 to 18 in 2013 (see **Violations of User Rights**).
- In September 2013, the Defence Ministry reportedly spent \$5.6 million on surveillance equipment from UK-based security company Gamma TSE (see **Violations of User Rights**).

Introduction

May 2014 saw Indonesia's third election since the democratic transition in 1998 as 14 political parties competed for 500 legislative representative seats at the national level. In July, Jakarta Governor Joko Widodo was elected the country's seventh president.

The 1998 transition paved the way for stronger protection of human rights, including freedom of expression, through constitutional and legal reform. Vibrant civil society organizations continue to play a major role in democratization, and economic development has increased the middle class population.¹ Internet access continues to expand, though infrastructural challenges remain, while affordable smartphones have helped embed digital communication in daily life.

With an estimated 64 million Facebook accounts, 20 million Twitter users, and 5 million active bloggers, the internet is transforming the social and political landscape in Indonesia.² Social media political campaigns soared during the coverage period of this report, and were used for the first time to forecast the election result.³ Major internet companies expressed their support for free and fair elections. Twitter Director of Political Advertising Peter Greenberger visited Jakarta; Facebook created an election tracker;⁴ and Google designed an election theme for its Indonesian search page. Joko Widodo sought public input on the composition of his cabinet via an online poll, attracting nearly 70,000 participants.⁵

Awareness of the internet's potential to mobilize around social causes increased in the past year, with more initiatives undertaken by civil society groups. However, religious intolerance is also on the rise, and the internet was frequently exploited to spread hate speech.⁶

Digital expression also comes with possible criminal sanctions, especially for defamation, which is more heavily penalized online under the Information and Electronic Transactions Law (ITE Law) than it is under the penal code. Charges filed under the defamation clause increased from 10 in 2012 to 18 in 2013.

The Ministry of Communication and Information continues to intensify its control over content, despite mounting criticism from the public.⁷ In late 2013, the ministry proposed a draft regulation which would grant officials broad power to filter and block any "negative" content on the internet, which civil society groups observed can be loosely interpreted according to the interest of the au-

1 See <http://bit.ly/1dkqBfm>.

2 See, <http://bit.ly/MoisPK> and <http://bit.ly/1rQH06M> for numbers of Facebook users; also <http://bit.ly/1uJ0VXz> for the number of Twitter users as quoted by Peter Greenberger, June 2014. No official record is available for the number of active bloggers. The number cited in this report is based on data recorded by the community network ASEAN Bloggers Indonesia Chapter, <http://bit.ly/1n4WMTO>.

3 The private firm Politicawave produced an election forecast based on real time social media commentary on different candidates. See <http://bit.ly/1mWnYZ0>.

4 See, https://www.facebook.com/FacebookIndonesia/app_576556312461482.

5 For the online survey form, see <http://bit.ly/1s5Tq8H>.

6 Benedict Rogers, "Pluralism in Peril: The Rise of Religious Intolerance Across Archipelago," Christian Solidarity Network, 2014, <http://bit.ly/UCtG7O>.

7 A number of civil society groups have rejected the Ministerial regulation draft. See, <http://bit.ly/1bANnEn>.

thority.⁸ Other threats stem from warrantless interception of online data by the authorities and a lack of personal data protection.

In 2013, Indonesia hosted the Internet Governance Forum, attended by 2,632 participants from 111 countries. Its success was partly attributed to the major role played by civil society organizations in encouraging the government to adopt a multistakeholder approach to internet governance, both in preparing the event and as a core principle for future policy making, underscored by the adoption of an internet governance declaration.⁹

Obstacles to Access

Internet penetration continued to increase over the past year, though precise figures differed. The International Telecommunication Union cited 16 percent in 2013, up from 13 percent in 2012.¹⁰ The Indonesia ISPs Association, known as APJII, reported penetration at 28 percent.¹¹

Mobile penetration reached 121 percent in 2013.¹² Affordable devices are available, and phones with Android operating systems start at US\$30. Multiple SIM cards and devices are common, as people shop around for better signal quality and lower connection prices.¹³ Prepaid internet packages for smartphones range from \$0.50 a day to \$2.50 a month. As mobile phones became more popular, the number of fixed-line internet subscribers has decreased. In urban areas, most shops and cafes provide free Wi-Fi, as do public libraries and schools.

Competition among internet service providers (ISPs) has reduced the cost of connection and made internet use more accessible. In the past, access was concentrated among older urban residents. In 2013, however, 70 percent of Indonesia's online population was under 35.¹⁴

Despite this, internet access continues to be concentrated in major cities such as Jakarta and Sumatera due to poor infrastructure in rural areas, particularly in the eastern part of the archipelago.¹⁵ By 2012, there were 41 fiber-optic backbone cables, of which 60 percent were located in Java. Less than 2 percent reached Bali and the group of nearby Nusa Tenggara islands.¹⁶ In May 2013, a Moluccan

8 Draft of the Ministerial regulation, <http://bit.ly/1jrAbln>. It was adopted in July, outside the coverage period of this report. For text of the adopted decree see <http://bit.ly/UZIkY5>.

9 See, <http://id-igf.or.id/?p=127>.

10 International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2013," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

11 APJI, *Profil Pengguna Internet Indonesia*, 2012. E-marketer also reported penetration at 29 percent in 2013. See, <http://www.emarketer.com/Article/Indonesia-New-Digital-Class-Emerges/1009723>.

12 International Telecommunication Union, "Mobile-cellular Telephone Subscriptions 2000-2013."

13 See, <http://redwing-asia.com/market-data/market-data-telecoms/>.

14 Comscore Inc., "South East Asia Digital in Focus 2013: Key Insights and Digital Trends from South East Asia," July 2013, <http://bit.ly/1gtfqDj>.

15 Global Business Guide Indonesia, "Improving Internet Access in Indonesia," <http://bit.ly/1hkyBzU>.

16 Ministry of Communication and Information, "2012 Indonesia ICT White Paper," 2012, <http://bit.ly/1e5ZpFa>.

Ring cable system was launched to connect Papua and other parts of eastern Indonesia with the existing broadband network.¹⁷

This gap is even wider for high-speed 3G internet access, as most base transceiver stations (BTS) which facilitate the connections are built by private providers, who determine the number and location based on the market. The highest concentration is in West Java, where there are nearly 10,000 stations, followed by Jakarta with 6,800. There are less than 1,000 3G BTS in Papua, Kalimantan, and the Mollucan Islands combined.¹⁸ In Papua, less than 40 percent of the population owned a mobile phone in 2013, compared to 97 percent in Jakarta.¹⁹ A national 2012 survey put e-literacy in underdeveloped provinces such as Papua and Mollucan far lower than the national average.²⁰

The Ministry of Communication and Information (MCI) has made infrastructure a priority since 2010, developing subdistrict internet service provider (PLIK) and subdistrict internet service vehicle (MPLIK) programs to improve connections in the subdistricts that make up the regencies and cities in Indonesian provinces. Other programs, such as *desa berdering* (ringing villages), and *desa pintar* (smart villages), target villages without private internet providers.²¹ A 2012 ICT white paper set out to eliminate the digital divide by connecting 33,000 villages, though that target had yet to be reached by the end of 2013.²²

The infrastructure project was halted during the coverage period of this report over corruption allegations. In July 2013, the Attorney General's Office opened a criminal investigation naming government officials and private sector businessmen as suspects. It is not clear when the case file will be submitted for trial.

There are about 300 ISPs providers operating in Indonesia. However, 10 major providers dominate the market, and 3 retain the biggest market shares. Two of them are partly state-owned enterprises, PT Telkomsel, with a market share of 60 percent, and PT Indosat with 21 percent. A third, XL-Axiata, accounted for 19 percent.²³

Despite some individual allegiances to officials, Indonesian ISPs are a close-knit community thanks to the APJII, which was founded in 1996. In 1997, tired of routing local traffic through expensive and inefficient international channels—and wary of a government-led solution—they independently created the Indonesia Internet Exchange to allow member ISPs to interconnect domestically and to

17 Ardhi Suryadhi, "Tifatul Resmikan Pembangunan Palapa Ring Indonesia Timur," *detikinet*, May 28, 2013, <http://bit.ly/1eiA9qE>. The project is part of the Palapa Ring Program, which launched in 2011 to develop a backbone fiber-optic system. It comprises 7 small rings connecting 33 provinces and 460 regencies. See, *Kementerian Komunikasi dan Informasi*, "Palapa Ring Percepat Pembangunan KTI," accessible at <http://bit.ly/1laj8Pc>.

18 *Data Statistik Direktorat Jenderal Sumber daya Pos dan Telekomunikasi*, Semester I, 2013, 52-54.

19 *Statistic Indonesia*, Trends of Selected Economic Indicators of Indonesia, August 2013, 45.

20 Ministry of Communication and Information, "2012 Indonesia ICT White Paper," 22-23.

21 In July 2013, the ministry was questioned by the House of Representatives regarding alleged budget irregularities in the implementation of these programs. See, <http://www.thejakartapost.com/news/2013/07/11/graft-suspected-rp-40-trillion-it-project.html>.

22 Ministry of Communication and Information, "2012 Indonesia ICT White Paper," 39-40; Kominfo, "Laporan Akhir Tahun 2013," http://sdppi.kominfo.go.id/info_view_c_26_p_2097.htm.

23 *Global Business Guide Indonesia*, "An Overview of Indonesia's Telecommunication Sector," 2012, http://www.gbgingonesia.com/en/services/article/2012/an_overview_of_indonesia_s_telecommunication_sector.php; Oxford Business Group, "Big Three: A Battle for Subscribers and Profit," 2012, <http://www.oxfordbusinessgroup.com/news/big-three-battle-subscribers-and-profit>.

increase domestic traffic.²⁴ Although the peering was initially limited to member ISPs, since 2011 the service has been extended to non-members.²⁵ APJII also engages the government on behalf of providers regarding censorship, legal, and regulatory issues in ways that freedom of expression experts view as largely constructive.

In January 2013, the Attorney General's Office filed corruption charges against one ISP, IM2, for selling bandwidth under a public frequency licensed only to its parent company, Indosat.²⁶ IM2 was accused of avoiding a private tax rate on the frequency, causing state losses of IDR 1.3 trillion (\$134 million).²⁷ Since ISPs generally rent frequencies from other companies in Indonesia, the APJII condemned the investigation. The MCI agreed the practice was in line with ministerial regulations, and practiced by about 280 other ISPs.

In July 2013, however, a court sentenced IM2 CEO Indar Atmanto to four years in prison and ordered Indosat to pay IDR 1.3 trillion in compensation.²⁸ An appeal court rejected the defendant's appeal and increased the CEO's sentence to eight years imprisonment, although it removed the fine.²⁹ Both Indosat and the attorney general appealed to the Supreme Court.

The Directorate General Post and Telecommunication Resources and Directorate General Post and Informatics oversee internet services under the MCI. Their mandates include regulating the allocation of frequencies for telecoms and data communications, satellite orbits, ISP licenses, and overseeing private telecom providers. In January 2014, the Internet Defender Front (IFI) and APJII filed a constitutional review of the Law on Post and Telecommunication due to the high cost it prescribes for an ISP license.³⁰

In 2003, a more independent regulator, the Indonesia Telecommunication Regulatory Body (BRTI) was established to oversee fair competition among telecommunications business entities, to resolve industry conflicts, and to develop standards for service quality. The appointment of the head of the MCI's Directorate General Post and Telecommunication as chair raised concerns over its independence.³¹ However, the body has been seen as toothless. It is not equipped with executive power, but can only make recommendations, and as a result fails to intervene in relevant fraud or corruption cases.³²

24 Alam, Johar, "Indonesia Internet Exchange," http://www.iix.net.id/library/lix_history.pdf.

25 See, <http://inet.detik.com/read/2011/12/15/155758/1792092/328/indonesia-internet-exchange-membuka-diri>.

26 "IM2 Preparing Defense Ward Internet Doomsday," *Jakarta Post*, January 15, 2013, <http://bit.ly/15CrmNm>.

27 Conversion as of January 15, 2013, according to Oanda. The value of the rupiah plunged in 2013; as of July 19, 2013, when news reports announced the verdict, the same amount came to US\$128 million.

28 Mariel Grazella, "Telco Firms Rattled by IM2 Verdict," *Jakarta Post*, July 9, 2013, <http://www.thejakartapost.com/news/2013/07/09/telco-firms-rattled-im2-verdict.html>.

29 See, <http://bit.ly/1n57Ct8>.

30 See, <http://bit.ly/1nYlxSW>. Twelve ISPs were closed down by the government in 2012 after failing to produce the fee.

31 In November 2005, the MCI issued Ministerial Regulation no. 25/2005 justifying the appointment of a directorate general representing the government to chair the body. See, http://www.postel.go.id/downloads/40/20120120102410-Permenkominfo_No.pdf; Badan Regulasi Telekomunikasi Indonesia, <http://bit.ly/1cEejla>, and <http://bit.ly/1hdI1ON>.

32 Examples include a high profile case of SMS fraud involving the PT Colibri Network CEO and the vice director of Telkomsel Antara. See, "BRTI Surati Operator Untuk Meminimalisir SMS Penipuan," <http://bit.ly/1lbvki9>; <http://www.gresnews.com/berita/hukum/110123-kasus-pencurian-pulsa-mandeg-ini-penyebabnya/>.

Limits on Content

At the end of 2013, the MCI proposed a draft regulation on negative content supposedly targeting pornography. The draft spurred criticism from rights groups, concerned that the regulation will be used to expand the existing practice of filtering and blocking of online content without adequate oversight or an avenue of appeal. In April 2014, the Press Council formally objected to the draft in a letter to the MCI. Claiming to have been working on it for more than two years, however, the ministry appeared resistant to consultation on the content of the regulation during the coverage period of this report.

The MCI restricts content posted online by blocking and filtering access to certain websites. This power is granted by the Information and Electronic Transactions Law (ITE Law), provided that limitations are in the public interest and intended to maintain public order.³³ In practice, blocking tends to be arbitrary, as the wording of the article lacks clarity in its articulation of what is considered as “forms of disturbance,” “abuse of electronic information,” “public interest,” and “public order.” Another statute provides a legal framework to block content considered pornographic.³⁴

A ministerial regulation drafted in late 2013 threatened to introduce further blocks on any negative content, with the scope of “negative” to be determined by the MCI. Though introduced as a countermeasure to online pornography, the draft’s definitions were broader than those already outlined by the pornography law. If passed, it could result in limitations on freedom of expression far more extensive than those allowed under international standards. In addition, the regulation could allow nonstate entities to practice filtering and blocking independently. It lacks transparent procedures for complaints or remedies for the victims in the case of overblocking, and contains no requirement for judicial oversight. As of May 2014, the regulation was still in draft form.

Existing blocks predominantly target pornographic sites, sexual content, or gambling. The ministry is not known to systematically filter political content or antigovernment criticism, though other broad restrictions are in place. Encryption and circumvention tools are blocked, though in practice some remain accessible.³⁵ As of October 2013, they were “heavily filtered on Telkomnet’s IGF network while generally available on the other two networks.”³⁶ Sites that promote terrorism and file-sharing are also subject to restrictions. In 2012, the APJII mooted banning all websites that allow illegal downloads, but the restriction never emerged.³⁷

In 2010, the MCI introduced “Trust+”, a filtering application containing a database managed directly by the ministerial office, which is continuously updated. According to the annual MCI report, 9,894 sites were added to the total Trust+ list of 800,048 sites in 2013.³⁸ People can also request websites

33 See, Law No. 11/2008, Article 40.

34 Civil society and cultural groups challenged the law before the Constitutional Court in 2009 for its narrow and obscure definition of pornography and pornographic content, which includes LGBTI content and folk traditions which expose the female form, such as the Jaipongan folk dance from West Java and Papuan traditional clothes. The Court upheld the Law.

35 Ronald J. Deibert et al., “Indonesia,” in *Access Contested: Security, Identity, and Resistance in Asian Cyberspace*, (Massachusetts Institute of Technology, 2012).

36 Citizen Lab, “IGF 2013: Analyzing Content Controls in Indonesia (Part 2 of 4),” October 25, 2013, <https://citizenlab.org/2013/10/igf-2013-analyzing-content-controls-indonesia/>.

37 “Indonesia’s ISPs to Block Pirated Music Sites,” *Jakarta Post*, July 6, 2012, <http://www.thejakartapost.com/news/2012/07/06/indonesia-s-isps-block-pirated-music-sites.html>.

38 Ministry of Information and Communication, Siaran Pers No. 100/PIH/Kominfo/12/2013: Laporan Akhir Tahun, 2013, Kementrian Kominfo, http://sdppi.kominfo.go.id/info_view_c_26_p2097.htm.

be added via a public email address.³⁹ ISPs are obliged to implement ongoing blocks based on the database, which functions as a minimum list of required blocks, so each ISP can add more sites. As each ISP can employ different software for blocking, and create independent databases, content restrictions are inconsistent. In the past, researchers were unable to identify whether blocks implemented by three ISPs were based on “Trust+” or an independent list.⁴⁰ This creates uncertainty for users seeking redress when content is wrongfully blocked.

Since filtering relies on keywords, blocks can be overly broad. Some minority voices, particularly LGBTI groups, suffer from arbitrary filtering. In April 2013, the LGBTI group website Our Voice could not be accessed on the XL-Axiata network, though it was available through other providers, such as Telkomsel and First Media. After investigating the group’s complaint, the provider was unable to determine if the group’s domain fee had lapsed, or if it was formally blocked. In June, XL-Axiata’s customer service said on its company Twitter account that Our Voice was listed in the “Trust+” database, which the MCI denied. However, after the APJII intervened, the blocking was ultimately lifted in September. It apparently stemmed from the inclusion of keywords such as ‘gay’ and ‘lesbian’ in the database.⁴¹

Besides the MCI, the independent Nawala Foundation provides a free DNS server enabling service providers to block hundreds of thousands of websites for content including pornography and gambling. A 2013 news report said it had blocked 600 fraudulent online stores.⁴² Its database included 811,190 sites by January 2014.⁴³ Nawala provides a form for website owners subject to accidental blocking, though how it processes complaints.

Administrative requests to delete or take down content are less common. From January to June 2013, the government requested that Google remove six YouTube videos based on copyright complaints, but none were removed.⁴⁴ Overall, the government flagged 49 items for Google to remove, of which 40 involved alleged religious offenses.

The government has threatened service providers for failing to implement censorship in the past. In 2011, BlackBerry agreed to filter pornographic websites on their devices in Indonesia after the government regulator warned that the firm’s market access could be restricted if it failed to comply.⁴⁵

39 See, <http://trustpositif.kominfo.go.id>.

40 According to tests conducted by OpenNet Initiative in 2009 and 2010, three out of seven major ISPs in Indonesia filtered content through HTTP proxy blocking; the tests did not reveal whether or not they applied Trust+. See, OpenNet Initiative, “Indonesia,” August 9, 2012, <https://opennet.net/research/profiles/indonesia>.

41 Wahyudi Djafar and Zainal Abidin, *Membelenggu Ekspresi, “Studi Kasus Mengenai Praktik Pemblokiran Penyaring Konten Internet Dan Kriminalisasi Pengguna Internet di Indonesia,”* ELSAM, 2014, 23-25. For a detailed chronology of the blocking, see, <http://www.suarakita.org/2013/07/kronologis-pemblokiran-website-our-voice-oleh-provider-xl/>. The International Gay and Lesbian Human Rights Commission (ILGA) was also blocked by three ISPs, namely Telkomsel, Indosat, and Lintas Arta, in 2012.

42 “*Selain Situs Porno, DNS Nawala Hadang Toko Online Palsu*” [In Addition to Porn, DNS Nawala Blocks Fake Online Stores], *Detik*, April 22, 2013, <http://inet.detik.com/read/2013/04/22/082832/2226480/323/selain-situs-porno-dns-nawala-hadang-toko-online-palsu>.

43 See, <http://industri.bisnis.com/read/20130320/105/4429/keamanan-internet-nawala-targetkan-peningkatan-database-situs-negatif-tiga-kali-lipat>; and <http://bit.ly/Noziih>.

44 See, Google Transparency Report, <http://bit.ly/Mlu6Le>.

45 BlackBerry was formerly known as Research in Motion. Femi Adi, “RIM Says Committed To Indonesia, Will Block Porn on BlackBerrys,” *Bloomberg*, January 17, 2011, <http://www.bloomberg.com/news/2011-01-17/rim-says-committed-to-indonesia-will-block-porn-on-blackberrys.html>; Ardhi Suryadhi, “Sensor di Blackberry terus diawasi” [Censorship on Blackberry Continuously Observed], *Detik Inet*, January 21, 2011, <http://www.detikinet.com/read/2011/01/21/142056/1551687/328/sensor-di-blackberry-terus-diawasi>.

No self-censorship among journalists or internet users due to political pressure was reported during the coverage period of this report. While interference from state agencies has declined significantly compared to past years, social pressure often leads to self-censorship among journalists, and occasionally manifests online in relation to religion, sensitive political corruption charges, or potential defamation.⁴⁶ Religious hardliners threatened media practitioners during the coverage period. In June 2013, the Islamic Defender Front warned one media owner for its coverage, which was perceived to discredit the organization, and demonstrated against another company for broadcasting a Miss World contest.⁴⁷

Indonesia has enjoyed a thriving blogosphere since around 1999, though traditional media outlets—rather than blogs—typically cover important political developments and corruption investigations. Indonesians are also avid users of social media and communication apps, which are freely available. However, social media growth has produced new concerns about content manipulation. Analysts say anonymous or pseudonymous Twitter accounts circulating politically motivated rumors and attacks on politicians may be part of sponsored campaigns to influence online discourse, or even blackmail well-known figures seeking to protect their reputations.⁴⁸ Social media pages have also been used by religious extremists. In June 2013, an expert told the Associated Press that 50 to 100 militants had been recruited directly through Facebook in the past two years.⁴⁹

The internet has also strengthened grassroots mobilization. The Jalin Merapi network offered relief to communities affected by the Merapi volcano eruption in Central Java in 2010. Initiated by community radio stations, the response used the Twitter account @jalinmerapi to coordinate meals for 30,000 people in less than four hours, while the government was slow to react.⁵⁰ The Indonesia Breastfeeding Mothers Association (@aimi_asi) has embraced social media, circulating *kultwit*, or short Twitter lectures, on breastfeeding for new mothers and other reproductive health issues to reach women across the country. In more urban settings, community movements have used social media to maintain the spirit of volunteerism. The @idberkebun network, which promotes urban farming and conservation, has spread to 30 cities and 8 universities in four years,⁵¹ using digital forums to provide free classes and organize community farming on abandoned land. Similarly, the @akademiberbagi network facilitates learning and sharing between people and experts on different topics.⁵²

In a rare response to criminal proceedings on a defamation case in 2013, many netizens mobilized support under the hashtag #savebenhan after Benny Handoko was arrested for a tweet accusing a former legislator of corruption. Public pressure contributed to his release from pre-trial detention.

46 Interviews with Abdul Manan, senior journalist from *Tempo* newspaper, and Nezar Patria, managing editor of *Viva News*, 2013. There is no official data for threats against journalists, but cases of retaliation for news coverage are common. See, <http://www.beritametro.co.id/jawa-timur/kantor-redaksi-diserbu-massa>

47 See, <http://bit.ly/1h21Ed8>; <http://bit.ly/1fIS1He>.

48 “The Anonymous Denizens of the Indonesian ‘Twitterverse,’” *Jakarta Post*, May 7, 2013, <http://www.thejakartapost.com/news/2013/05/07/the-anonymous-denizens-indonesian-twitterverse.html>.

49 Niniiek Karmini, “AP Exclusive: Facebook Broke Indonesia Terror Case,” *The Associated Press*, June 21, 2013, <http://bigstory.ap.org/article/ap-exclusive-facebook-broke-indonesia-terror-case>.

50 “Indonesians Beat Slow Disaster Relief by Tweeting,” *Jakarta Globe*, November 22, 2010, <http://www.thejakartaglobe.com/archive/indonesians-beat-slow-disaster-relief-by-tweeting/407896/>.

51 See, <http://indonesiaberkebun.org/about/>.

52 See, <http://bit.ly/1pHu4dw>; <http://akademiberbagi.org>.

Violation of User Rights

While 18 criminal defamation charges were filed in 2013, the only sentence related to online content passed during the coverage period was the one year of probation handed down to Benny Handoko in relation to a tweet about corruption. In September 2013, the Defence Ministry reportedly spent \$5.6 million on surveillance equipment from UK-based security company Gamma TSE.

Freedom of expression was initially protected through the stipulation of the Law on Human Rights, shortly after the 1998 reformation, which was strengthened through the second amendment of the constitution in 2000. The third amendment guarantees freedom of opinion.⁵³ The constitution also includes the right to privacy and the right to gain information and communicate freely.⁵⁴ These rights are further protected by various laws and regulations.⁵⁵ Indonesia also ratified the ICCPR in 2005.⁵⁶

Other laws passed since then have infringed on user rights, despite legal experts' opinions that they conflict with the constitution.⁵⁷ The antipornography law introduced in 2008 contains a definition of pornography which can be loosely interpreted to ban art and cultural expression perceived as explicit.⁵⁸

Provisions of the 2008 ITE Law have been used repeatedly to prosecute Indonesians for online expression. The law's penalties for criminal defamation, hate speech, and inciting violence online are harsh compared to those established by the penal code for similar offline offenses. Sentences allowed under Article 45 can extend to six years in prison; the maximum under the penal code is four years, and then only in specific circumstances—most sentences are less than a year and a half.⁵⁹ Financial penalties show an even more surprising discrepancy. While the ITE law allows for fines of up to IDR one billion (\$80,000), the equivalent amounts in the penal code have apparently not been adjusted for inflation. Article 310, for example, allows for paltry fines of IDR 4,500 (US\$0.37) for both written and spoken libel.⁶⁰

In the five years since the ITE law was enacted, 35 people have been criminally prosecuted for online defamation. Cases increased from 10 in 2012 to 18 in 2013, according to Indonesian NGO ELSAM.⁶¹ Prosecution begins when the affected politician or official files a case with police. Defamation cases

53 Constitution of 1945, Article 28E(3).

54 Constitution of 1945, Articles 28F and 28G(1).

55 Among others, "Law No. 39 of 1999 on Human Rights," "Law No. 14 of 2008 on Freedom of Information," and "Law No. 40 of 1999 on the Press."

56 The ICCPR was ratified through Law No. 12/2005. However, to date the government has yet to review and reform laws to comply with the covenant's human rights standards.

57 Wahyudi Djafar et al., "Elsam, Asesmen Terhadap Kebijakan Hak Asasi Manusia dalam Produk Legislasi dan Pelaksanaan Fungsi Pengawasan DPR RI" [Assessment of the Human Rights Policy in Legislation and the Implementation of Parliament Monitoring], Institute for Policy Research and Advocacy, 2008.

58 See, <http://bit.ly/1pf1WRR>. An art installation in Yogyakarta was shut down for allegedly pornographic content. See, <http://www.merdeka.com/peristiwa/dianggap-porno-patung-akar-setengah-manusia-dibongkar.html>.

59 Human Rights Watch, "The Legal Framework: Criminal Defamation Law in Indonesia," in *Turning Critics Into Criminals*, May 4, 2010, <http://www.hrw.org/node/90020/section/6>.

60 "Kitab Undang-Undang Hukum Pidana" [Criminal Law], available at Universitas Sam Ratulangi law faculty, http://hukum.unsrat.ac.id/uu/kuhpidana.htm#b2_16.

61 For a detailed list of ITE law cases through 2014, see ELSAM, http://www.elsam.or.id/downloads/104168_KASUS_ITE_per_Maret_2014.pdf. No official data on the number of defamation cases is available. Safenet, a network of South East Asia bloggers and online activists reported 21 criminal cases related to online expression.

increasingly stem from social media status updates. On February 17, 2014, Fadlin Akbar, the son of a former mayor of Tangerang city, reported journalist Deni Irawan of the *Sindo* newspaper to police for allegedly defaming him in his Blackberry Messenger (BBM) status.⁶² Fadlin withdrew the report after the journalist publicly apologized. In August 2013, Kadir Khalid, a member of a local legislative body in Makassar, South Sulawesi, reported a man to police when his BBM status accused Nurdin Khalid, his brother and fellow politician, of corruption.⁶³ The man, M. Arsyad, was detained for 93 days while awaiting trial, and released after the court acquitted him on May 25, 2014.

In one high-profile case, a South Jakarta district court sentenced Benny Handoko to a year on probation on February 7, 2014 for comments posted on Twitter in December 2012 accusing a former Social Welfare Party legislative member of corruption in relation to a scandalous bailout of Century Bank.⁶⁴ His detention on September 5, 2013 spurred significant criticism on social media, since pre-trial detention should only apply in cases where there is substantial evidence that a suspect will destroy evidence, repeat a criminal act, or abscond. Handoko was released after one day. The prosecutor's office challenged the district court's decision and is appealing the sentence.

Observing the adverse impact of the application of the ITE law, particularly the disproportional criminal sanctions for defamation, civil society groups have called for it to be amended. However, the government has yet to propose a draft amendment for deliberation.⁶⁵

A 2011 State Intelligence Law introduced penalties of up to ten years' imprisonment and fines of over \$10,000 for revealing or disseminating "state secrets," a term which is vaguely defined in the legislation.⁶⁶ This framework provides authorities with a range of powers to penalize internet users, even though not all are regularly implemented. Some civil society groups challenged this law in the Constitutional Court, which rejected their petition in 2012.⁶⁷

Mobile phone users are technically required to register their numbers with the government by text message when they buy a phone, though this obligation has been ignored in practice since at least 2011. Some telecommunications companies are known to have complied with law enforcement agencies' requests for data. In 2011, amid concerns that Blackberry's encrypted communication network would hinder antiterrorism and anticorruption efforts, the company reportedly cooperated with the authorities in isolated incidents, and agreed to establish a local server.⁶⁸ When they developed this in Singapore instead of Indonesia, the government threatened to introduce a regulation requiring telecommunications companies to build local data centers, though this has yet to materialize.

62 See, <http://bit.ly/1hm2aBe>.

63 See, <http://bit.ly/1cdJHnc>.

64 For a detailed chronology of the case, see, http://pencemaranbytwitter.blogspot.com/p/blog-page_18.html.

65 See, <http://bit.ly/1e7qkJT>.

66 "Indonesian Parliament Passes Controversial Intelligence Bill," *Engage Media*, October 25, 2011, <http://www.engagemedia.org/Members/emnews/news/indoneisan-parliament-passes-controversial-intelligence-bill>.

67 The decision is available at, http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_7%20PUU%202012-%20telah%20baca%20%20lengkap.pdf.

68 Arientha Pramanita and Faisal Maliki Baskoro, "Pressure on BlackBerry Maker to Build Servers in Indonesia," *Jakarta Globe*, December 14, 2011, <http://www.thejakartaglobe.com/business/pressure-on-blackberry-maker-to-build-servers-in-indonesia/484588>.

There are 10 laws, including the ITE law, and 7 executive regulations which allow certain government or law enforcement agencies to conduct surveillance, including electronic surveillance over citizens.⁶⁹ The agencies include the Indonesia Corruption Commission, the National Narcotic Board, National Intelligence Service, and others. However, the laws do not clearly explain the scope of interception, despite the fact that the Constitutional Court issued a decision in 2010 requiring that detailed interception procedures be regulated by law.⁷⁰ In addition, the legal framework lacks judicial or parliament oversight, and does not provide a remedy for possible abuse.

In September 2013, the Defence Ministry reportedly spent \$5.6 million on equipment for surveillance, including encryption, decryption, and data communication surveillance tools, from U.K.-based security company Gamma TSE.⁷¹ Given Indonesia's weak privacy protections, this procurement has raised concerns that more user rights may be infringed. These increased in February 2014 when news reports said Jakarta Governor and presidential candidate Joko Widodo's home and office had been wiretapped.⁷² It was not clear who was responsible and there are no reports on whether the police carried out a criminal investigation.

In November 2013, documents leaked by former U.S. National Security Agency (NSA) contractor Edward Snowden revealed that the NSA and the Australian Signal Directorate (ASD) were monitoring mobile phones belonging to President Yudhoyono and his political associates.⁷³ The disclosure prompted widespread anger, and the president and parliament threatened to suspend bilateral cooperation with Australia. The ministry also investigated the alleged involvement of two domestic ISPs in the surveillance, though no criminal charges have been reported. Under Article 40 of the Law No. 46/1999 on Post and Telecommunications, everyone is prohibited from intercepting information transmitted through any form of telecommunications channel.⁷⁴

Cyberwarfare between anonymous hacking groups in both countries escalated following these reports. The group Indonesia Security Down hacked websites run by the Australian government, spurring a counter attack from Australian hackers who uploaded stolen data to the web, including details of frequent flyers with flagship airline Garuda, information on central Java's Adi Sumarmo Airport, and a Ministry of Education online database.⁷⁵ Politically motivated cyberattacks against civil society groups have not been reported in Indonesia.

There have been no reports of extralegal attacks, intimidation, or torture of bloggers or other internet users. In the past, police—and sometimes Islamic fundamentalist groups—have conducted

69 For a full list of the laws, see Supriyadi, W, "Komentar Atas Pengaturan Penyadapan Dalam Rancangan," KUHP, ICJR, policy paper, April 2013, <http://bit.ly/1fdXN7W>.

70 An excerpt of the decision is available in English at, http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_eng_Perkara%205-PUU-VIII-2010%20_ENG_.pdf. For the full decision (in Bahasa Indonesia), see, http://www.mahkamahkonstitusi.go.id/putusan/putusan%20%205_PUU_VIII_2010%20_edit%20panitera_.pdf.

71 See, <http://bit.ly/1pexmla>.

72 See, <http://bit.ly/1peuJ9a>.

73 "The Slides that Show Australian Attempts to Monitor Yudhoyono's Phone," *Guardian*, November 17, 2013, <http://www.theguardian.com/world/interactive/2013/nov/18/slides-australian-yudhoyono-phone-indonesia>.

74 See, <http://bit.ly/1laudZg>.

75 See, <http://www.beritateknologi.com/anonymou-mulai-balas-serangan-hacker-indonesia-bocorkan-data-penting-situs-indonesia-di-pastebin/>.

unannounced searches of cybercafes, which are perceived as promoting immoral conduct;⁷⁶ no incidents were documented during the coverage period.

76 "Shariah Police Arrest Five in Banda Aceh Punk Raid," *Jakarta Globe*, September 5, 2012, <http://www.thejakartaglobe.com/archive/shariah-police-arrest-five-in-banda-aceh-punk-raid/>.

"Police Bust High School Students for Cutting Class in Favor of Facebook," *Jakarta Globe*, March 3, 2010, <http://www.thejakartaglobe.com/home/police-bust-high-school-students-for-cutting-class-in-favor-of-facebook/361673>.